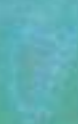


TACKLING CRIME



DISCUSSION PAPER

THE DEPARTMENT OF JUSTICE



TACKLING CRIME

DISCUSSION PAPER

Department of Justice, May, 1997

Strategic Management Initiative

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THE CRIMINAL
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Foreword by Minister for Justice



This is a time of fundamental change throughout the criminal justice system.

- The Courts are moving towards a new form of management
- A Prisons Agency will be in place to administer all the State's prisons
- A wide-ranging review of the Garda Síochána is approaching conclusion
- Major new legislative powers to tackle serious criminals have been enacted or are being put in place.

While these and other visible reforms are coming on-stream and achieving results, there is a widespread realisation that tackling crime is a much broader matter impinging on almost every element of public policy.

As Minister for Justice, I am pleased to be making this first ever document of its kind available for public discussion and I commend all those in the Department of Justice who have been involved in its preparation.

This document is not a compendium of measures to be introduced in the coming months. Neither does it pretend to be a blueprint for the eradication of crime. Rather it gets right back to a starting point — a firm set of foundations upon which future policies will sit. In the course of this, we have looked at some of the most fundamental questions facing our criminal justice system — things which we have come to take for granted.

I have already announced my intention to establish a Crime Council which will draw on a wide range of expertise and opinion. Such a Council must be more than a debating chamber. There is a body of work for it to undertake. It will get down to this work more effectively if it has a framework and if core issues are set out clearly before it. This document will provide such a framework.

"Tackling Crime" will involve challenging our attitudes to areas such as access to education, housing policy, access to employment, treatment of minorities etc., if we are to be serious about lowering our crime rates.

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While the lack of complete information emanating from reliable statistical bases is not the most pressing public concern, long-term policy on crime as opposed to the "sticking-plaster syndrome", has been inhibited by the lack of it. At this time of fundamental review, it is an absolute prerequisite in the formulation of sound policies that we really do have up-to-date reliable facts about crime in Ireland. We can learn from the experience of other countries, many with far higher levels of crime than ourselves, if we really understand our own. "Tackling Crime" addresses this fault head-on. Availability of technology is now being utilised to improve our facts bases, but more is required, including more research on crime.

We are entitled, as law abiding citizens, to be protected from criminals. This document is aimed at all forms of crime in society, from the most minor to the most serious. Every crime has adverse consequences for our society and those consequences are heightened for any specific victims. The measure of an effective criminal justice system is whether the rights of a victim are adequately protected whilst at the same time the rights of an accused are not ignored. That is the kind of sensible workable balance we are entitled to expect. This document is a further valuable step along the road towards tackling crime.

I am confident that this document, and the public debate which it will encourage, will lead to the formulation by the Department of Justice of detailed and effective strategies for one of the most important challenges facing our society — that of crime.



Nora Owen, T.D.
Minister for Justice

PART I

INTRODUCTION AND SUMMARY

Chapter 1 — Introduction

Chapter 2 — Guiding Considerations

Chapter 3 — Role of the Department of Justice

Chapter 4 — Summary

Chapter 1

Introduction

Background

1.1 This paper represents the first attempt by the Department of Justice, since the foundation of the State, to provide, in a single document, a statement of goals and strategies for tackling crime. It has proved to be a difficult task, not only because of the complexity of the crime issue itself, but also because of the very considerable differences of opinion on the subject amongst various groups and individuals within society ("expert" and non-expert alike). For this reason, the Department considers it right to issue the document initially as a discussion paper rather than a "blueprint" for future action. Our hope is that, by proceeding in this way, some useful public debate on crime can be encouraged.

1.2 The paper is in four Parts:

Part I — Introduction and Summary, includes material on:

- The "Guiding Considerations" which underlie the Department's approach to crime.
- The "Role of the Department of Justice" which outlines the Department's thinking as to its overall responsibilities in tackling crime.
- A "Summary" which contains a statement of goals and related strategies to tackle crime — these are discussed in more detail in Part IV of the Paper.

Part II — Facts and Analysis, includes material on:

- The information currently available about the incidence and make-up of crime.
- Why the issue of subversive crime requires separate consideration.
- The cost of crime, both financial and other costs.
- The need for more and better information and for research.
- The role of the media.
- The causes of crime.

Part III — Current Responses includes material on:

- Criminal law reform, developments in recent years, future plans, the question of codification, the inquisitorial system
- Resourcing and effectiveness of the Gardai
- Substance abuse and serious (non-subversive) crime, measures to tackle the drugs problem, "organised" crime
- The prosecution of offences and criminal legal aid
- The Courts, independence of the Judiciary, sentencing policy

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- The Prisons
- Community Sanctions, alternatives to custody, Probation and Welfare Service
- Victims of Crime, Publication of a Victims Charter, financial support for victims
- International Cooperation, Achievements of Ireland's recent EU Presidency.

Under many of these headings various shortcomings are identified. Proposals to rectify these shortcomings are outlined in Part IV.

Part IV — Future plans, includes discussion on:

- Broadening public debate on crime, through the establishment of a Crime Council.
- Strengthening inter-agency cooperation and participation of the community at large in the task of tackling crime.
- *Goals* to be achieved under a variety of headings including law reform, restructuring and strengthening of various agencies (for example the Garda Síochána, the Courts, the Prisons) and the *strategies* which are proposed to achieve those Goals.

The various "goals and strategies" set out in the paper are quite broadly stated. The intention is to develop these in more specific form, later, in the light of comments that may be received and, in particular, to specify action plans as well as timeframes for strategy implementation.

Conflicting views about crime

- 1.3 Criminals are not members of a separate species of being and immediately identifiable as such. While it is the case that a high proportion of them come from depressingly similar backgrounds (long-term family unemployment, experience of childhood neglect, poor school record, substance abuse etc.), it is equally true that the great majority of people with quite similar backgrounds are well-adjusted, law-abiding citizens. And it is true, also, that a smaller number of people, despite the fact that they may have had positive childhood experiences, may have known the so-called "comforts" of life, have had concerned, law-abiding and caring parents, will, nevertheless turn to a life of crime.
- 1.4 Not only is it impossible to predict, by reference to the circumstances of their birth or upbringing, who all of tomorrow's offenders will be, there is no way either of assessing the precise extent to which tomorrow's society will share today's thinking as to what should or should not be classed as criminal behaviour. Even as matters stand, there is a degree of ambivalence on the subject. There would (and almost certainly will) be widespread agreement that what are classed as the major offences against the person or against property with violence (murder, rape, armed robbery etc.) should be regarded as serious crimes. There is some ambivalence, however, when it comes to other forms of wrongful behaviour, despite the fact that existing law may define such behaviour as serious criminal activity and prescribe penalties to match that categorisation. Some examples are driving while under the influence of drink, tax evasion and fraud. Driving while under the influence of drink provides a particularly good example of this

ambivalence. Although the indications are that this form of offending probably claims more lives than most others there is, at times, a tendency to look upon those who offend not so much as offenders, but as victims of unfortunate circumstances, especially if no harm is caused to person or property.

- 1.5 There is no general agreement, either, as to how those who offend should be dealt with. For some, the solutions lie in the way of more prisons, harsher sentences and more draconian laws. Others point out that the universal experience is that this approach, on its own, does not provide lasting solutions and that it is necessary, also, to consider and attempt to address factors which may pre-dispose individuals towards crime, such as poverty, lack of education and so on.
- 1.6 When one looks at individual cases — rather than criminals as a whole — it becomes evident that it is necessary to have in place a multi-faceted response to offending. A prison sentence would be widely regarded as appropriate in the case, for example, of a thief who had served several previous sentences for similar offences but would be widely questioned where the perpetrator was a deserted wife, in poor financial circumstances, with a young family and no previous criminal record.
- 1.7 The fact that there are differences of view *within society itself* as to what should be regarded as serious offending, how offending should be punished, the degree of emphasis to be placed on addressing the causes of crime etc. can result in disagreement as to what does or does not constitute sound and effective crime policy. Because the State's response — not just in this country, but internationally — tends to vary by reference to the circumstances generally in which offending takes place, the proponents of more hardline methods and those opposed to such methods will both tend to argue that the policy is ill-judged and incoherent.
- 1.8 While the Department of Justice, as will be evident from this document, fully acknowledges that there are and have been gaps in strategies which need to be bridged, it recognises also that, as long as there are differences of opinion *within society* on the subject of crime, it is likely that any crime policy or strategy statement will, if it argues for a multi-faceted response to offending, be condemned by individuals on one side or another for its lack of coherence.
- 1.9 However, no policy or strategy statement on crime would ever be produced if the fear that it might provoke debate were allowed to halt the project even before it began. Public debate on crime is not something to be avoided, but actively encouraged; it is essential to the longer term viability and success of any crime strategy.

Chapter 2

Guiding Considerations

Background

- 2.1 Different individuals and groups have different ideas as to what considerations or principles ought to guide crime policy and strategy formulation. The difficulty of reaching consensus in this regard has been referred to in Chapter 1.
- 2.2 The basic considerations which have guided the Department of Justice in preparing this paper can be summarised briefly under three headings — rights, duties and necessary actions.

Rights

- 2.3 It is beyond dispute that society has the right to protect itself from the activities of criminals. The exercise of that right is a prerequisite for the maintenance of social order.
- 2.4 While it is necessary to take account of the fact (well supported by research) that circumstances of their upbringing can have a significant bearing on the way in which people behave in later life and that offenders may advance arguments of this kind to explain their wrongdoing, this does not mean — even if the substance of the argument advanced is accepted — that the wrongdoer must automatically go free. The public is not obliged to carry the risk of attack simply because the would-be attacker's tendency to misbehave has been exacerbated by negative personal experience or other personal failings.
- 2.5 Society is not at liberty, however, to secure its protection by visiting injustice on some of its members; the case for "balance" in the law and for the protection of fundamental rights and freedoms is addressed and fully supported in this paper. It is essential, however, to bear in mind that the underlying purpose of the rights and freedoms in question is to protect the innocent, not shield the guilty. If there are grounds for believing that legal protections are being widely used for the latter purpose rather than the former, society has an absolute right to expect that legislative measures will be introduced to eliminate the abuse.
- 2.6 The individual victims of crime have rights which, certainly in the past, were quite often either "played down", or simply ignored. Considerable progress has been made in this regard in recent years (there is further information on this subject in Chapter 15). This is clearly as it should be; a crime strategy cannot reasonably be described as comprehensive — and certainly not progressive — unless it contains provision for practical, ongoing recognition and development of victims' rights.
- 2.7 Clearly there are various other rights which are not being addressed at this point — for example, the right of prisoners to safe and secure containment. These are addressed (and supported) elsewhere in this paper. However, for the purpose of briefly describing the basic thinking which underlies the paper, the focus is on

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the position of the law-abiding majority whose rights are, without any justification, put in jeopardy day-in-day-out by a relatively small minority, some of whom will literally stop at nothing to achieve their criminal purposes.

Duties

- 2.8 As well as having rights, members of society also, of course, have duties. While it would be possible to identify a long list of such duties, the Department considers it sufficient, for the purpose of outlining the fundamentals of its whole approach, to focus on three.
- 2.9 The first is the duty on all citizens to comply with the law in a non-selective manner. This issue is addressed elsewhere in the paper, but the core point is that selective compliance on the part of individuals or particular groups of people — especially those who are considered generally to be “privileged” — is not only unacceptable in principle but also sends a very negative signal to young people in general and to those who may be less privileged, in particular. The wealthy, well-educated tax cheat, for example, sets a poor example — indeed provides a form of moral “comfort” — for the underprivileged burglar.
- 2.10 The second is the duty on all citizens to report wrongdoing and reasonable suspicions of wrongdoing to the lawful authorities. Suggestions are made from time to time that, for historical reasons, there is a certain reluctance in this country to report wrongdoing, particularly where the person in possession of the information is not the victim and the offence falls within certain offence categories — for example fraud. The duty to report wrongdoing or reasonable suspicions of wrongdoing is, however, one of paramount importance for effective law enforcement.
- 2.11 The third is the duty to exercise a reasonable level of care in relation to personal safety and the protection of personal property. It is a fact of life — confirmed by universal experience — that no matter what measures are taken by the State to tackle crime, a certain level of offending will, nevertheless, occur. Common sense suggests, therefore, that it is prudent, to say the very least of it, for people to take reasonable precautions in relation to their personal safety and the protection of personal property. Different individuals will of course have different views as to what is meant by “reasonable” precautions. It is impossible to provide a precise definition, but the Department believes that most people would rightly subscribe to the view that it does not, for example, include, leaving one’s car or home unattended and unlocked for long periods nor, at the other extreme, living in fortified conditions with the capacity and intent to take violent action whenever a threat presents itself.
- 2.12 The duty to act with care is not confined to individuals. The manufacturers and suppliers of goods — for example cars — and services also have the obligation to take account of security considerations in product design and so on.

Necessary actions

- 2.13 The primary instruments employed by society to secure protection consist of a system of Police, Courts and Prisons, functioning within a set of laws, which, in democracies, are for the most part laid down by the elected representatives of the people.

Guiding Considerations

- 2.14 The common experience is that, over time, these laws may prove to be inadequate. Inadequacy can arise on several grounds, for example, failure of the law to meet the level or type of threat currently posed by criminals, the fact that the law may be addressing forms of behaviour no longer occurring or prescribing penalties belonging to a bygone age. The effectiveness of the other instruments — Police, Prisons, Courts — may also be called into question from time to time on the general ground that they are incapable of meeting the level of threat currently faced. The adequacy of all of these instruments must, therefore, be kept under constant review and strengthened if the level of threat to society warrants it. In looking at what needs to be done, however, it is necessary to have particular regard to our own circumstances and culture — it cannot be assumed that solutions which may be deemed suitable in one country would automatically be suitable or would produce beneficial results in another.
- 2.15 It is of particular importance that the impact on crime of disadvantage in all its forms should be recognised and mechanisms put in place to address it. This requires a significant level of well-coordinated inter-agency cooperation. The absence, as things stand, of effective inter-agency cooperation is a major weakness.
- 2.16 An associated, but separate, weakness is the absence of structured arrangements for well-informed public discussion on crime and the lack of adequate and quality research and statistical data. This paper proposes that a broadly-based "Crime Council" be established for this purpose.
- 2.17 As well as fostering well-informed public discussion, there is need to secure community *involvement* and *support* for anti-crime measures, so that effective *partnerships* are forged between the general public and the relevant statutory and voluntary agencies in the fight against crime. In this connection the Department strongly supports the findings of the 1992 Interdepartmental Group on Urban Crime and Disorder (PL 9478 — Stationery Office):
- "Consultation with local interests is vital for a number of reasons, including the encouragement of local voluntary effort and discouragement of the notion that all responsibility for improvement rests with the Government or other outside agencies."*
- 2.18 Finally, it is essential that action to tackle substance abuse (the *demand* as well as *supply* sides) should remain a top Government priority. There is no disputing the fact that a significant level of criminal activity is motivated by the need to feed drug habits. Although the significance of alcohol abuse tends, by comparison, to be under-stated, research demonstrates that excessive alcohol consumption features in a significant proportion of violent crimes.

Role of the Department of Justice

Department SMI Strategy Statement

- 3.1 In December 1996 as part of the Government's Strategic Management Initiative the Department of Justice published a statement of its aims and objectives in a document entitled "Community Security, Challenge and Change". (For ease of reference the text of this Statement is reproduced as an Appendix to this Paper). In the Statement the Department described itself as being:

"at the hub of the law and order system, being the agency through which relations between the Government (in the person of the Minister for Justice) and the law and order agencies (Garda Síochána, Prisons, Courts) are mediated".

The document went on to outline a wide-ranging programme of organisational change in the general justice area, most of which is now well in course of implementation. The document stated that a "Business Plan" would be prepared within the Department which would outline, in detail, how the various strategies would be implemented. This plan, which will be completed in Spring 1997, will in effect constitute a work programme for the Department for the years ahead.

Department's role — crime policy and strategy

- 3.2 The role of the Department in relation to crime policy and strategy derives from the Constitution and the law which provide, in essence, that the Minister for Justice shall exercise responsibility for the administration and business generally of public services in connection with the maintenance of public order (while recognising the distinct and quite separate function of the judiciary under the Constitution). This responsibility is discharged through various functional relationships which exist between the Department of Justice and what are generally referred to as the "law enforcement" agencies (principally the Garda Síochána, Courts and Prison Service). The precise nature of these relationships can change over time. As explained in the Department's SMI statement, a process of wideranging change in that regard is currently underway. The purpose of this change, however, is not to diminish the fundamental responsibility of the Government, through the Minister for Justice, for overall crime/law enforcement policy but to enable the Minister and Government to discharge that responsibility more effectively.
- 3.3 In practical terms, the changes will mean that the Department of Justice, instead of being totally immersed in the day-to-day delivery of various services (for example day-to-day administration of Prisons and providing support services for the Courts), will have a much greater focus on policy formulation, setting down and monitoring general performance indicators and generally ensuring that there is cohesion within the system. That does not mean that the Department will — or can — seek to "break free" of all the responsibilities currently exercised on a day-to-day basis for the way in which the law enforcement system functions. It is both reasonable and right in principle that the Minister for Justice should continue to be answerable to the Dáil when serious concerns arise about law enforcement issues. That can be achieved, however, by ensuring that the *quality*

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of the daily *contact* between the Department and the law enforcement agencies is maintained and, if necessary, enhanced — it does not mean that the Department has to be involved in the minutiae of day-to-day delivery of services by law enforcement agencies.

Vision for the future

- 3.4 One of the most persistent criticisms of the law enforcement system as a whole is that, overall, it lacks a sense of clear direction or vision, and also that there is a lack of cohesion both within the system and between that system and others. Chapter 2 contains an outline of the Department's basic thinking on crime and law enforcement under various headings. It describes where the Department is "coming from", so to speak, on the issue of crime and recognises not only the need for strong and effective law enforcement machinery, but also for better and more broadly based consultation arrangements, for more public engagement generally on the subject and for more focused attention to the underlying causes of crime. Chapter 18 focuses on the issue of Inter-Agency cooperation.
- 3.5 In terms of an overall vision or sense of direction for crime strategy, the Department subscribes to the views expressed in the Report of the 1992 Interdepartmental Group (referred to at paragraph 2.17) i.e.:
- To take whatever measures can reasonably be taken to encourage the vast majority of law abiding citizens in their efforts to build more orderly and caring communities.
 - To adopt measures designed to wean those who have already offended — or as many of them as possible — away from the path of crime.
 - To focus special care and attention on young children who appear to be at risk.
 - To ensure, in the case of the small hard core who show no inclination to desist from criminal behaviour, that adequate resources are in place to enable the due process of law to operate effectively.
- 3.6 It is quite clear that these aims, which seek to address both long term and more immediate crime concerns cannot be delivered by the Department of Justice acting entirely on its own. Other agencies, particularly in the health and education spheres, will also have a major role to play. It is the task of the Department of Justice, however, to take the lead role in ensuring that the necessary linkages (both State and voluntary) are developed to fight crime in an effective, multi-faceted and cohesive way.

Chapter 4

Summary

Department's overall position

- 4.1 Chapters 2 and 3 attempt to describe, in a very broad way, how the Department of Justice views the problem of crime and how the problem should be tackled. Very briefly, in terms of rights, duties and necessary actions the Department would emphasise the following:
- Society has the *right to protect itself* from the activities of criminals.
 - The right to self protection prevails, *irrespective of any explanation* that may be offered by the offender for his criminal conduct.
 - While the *fundamental rights and freedoms* of individuals must be protected, it is essential to bear in mind that these rights and freedoms exist to *protect the innocent, not shield the guilty*.
 - No crime policy can be described as progressive unless it contains provision for *practical, ongoing recognition and development of victims' rights*.
 - *Non selective compliance* with the law is a *duty on all citizens*.
 - All citizens have a duty to *report wrongdoing* and reasonable suspicions of wrongdoing to the *lawful authorities*.
 - Citizens have a duty to take *reasonable precautions* in relation to their personal safety and the safety of their possessions. (*Manufacturers* have duties in this regard also).
 - The *effectiveness* of the instruments through which society's protection is secured (the Criminal Law, Garda Síochána, Prisons, Courts) need to be *kept under constant review*.
 - The *impact on crime of disadvantage* in all its forms needs to be recognised and mechanisms put in place to *address it*. This requires a significant level of *well-coordinated, inter-agency cooperation*.
 - Well-informed public discussion on crime should be fostered and encouraged especially with the aid of adequate and quality research and statistical data.
 - There is a particular need to secure *community involvement and support* for anti-crime measures.
 - It is essential that measures to tackle *substance abuse* (demand as well as supply) should remain a *top Government priority*.
- 4.2 The Department of Justice has responsibility for ensuring that all relevant agencies — those directly concerned with law enforcement (e.g. Gardaí, Courts, Prisons) as well as others (e.g. Health and Education authorities) — are brought to function in a cohesive way to tackle crime, so that the following aims are achieved:

Tackling Crime

- To take whatever measures can reasonably be taken to encourage the vast majority of law abiding citizens in their efforts to build more orderly and caring communities.
- To adopt measures designed to wean those who have already offended — or as many of them as possible — away from the path of crime.
- To focus special care and attention on young children who appear to be at risk.
- To ensure, in the case of the small hard core who show no inclination to desist from criminal behaviour, that adequate resources are in place to enable the due process of law to operate effectively.

Goals and Strategies

- 4.3 The Department's "overall position", briefly summarised above, has to be supported by specific *goals* and *strategies*. In Chapters 5 to 18 various shortcomings in the criminal justice system are identified and on that basis a series of *goals* and *strategies* are set out and briefly discussed in Chapter 19. These Goals and Strategies are summarised here.

Goal 1

Information on crime is comprehensive, quality crime research is on-going, properly resourced, structured and focused and arrangements are in place to ensure that the public are properly informed about crime.

Proposed Strategies

1. Proceed with discussions with research bodies, the Universities and other third level Institutions, with a view to deciding,
 - (a) how best to engage the services of an independent agency or agencies to monitor official crime data and to carry out research on an agreed range of issues related to crime;
 - (b) on the stimulation of research by Crime/Criminology faculties in third level institutions to promote quality study of crime issues.
2. Seek resources to strengthen the Garda Research Unit.
3. Ensure that current and future computerisation planning within the various law enforcement agencies (Garda Síochána, Prisons, Courts etc.) are properly co-ordinated and capable of producing comprehensive crime statistics.
4. Devise and put into effect, after consultation with outside agencies/bodies (including those referred to at 1 above) a plan to maintain public awareness of *facts* about crime.

Goal 2

There is widespread understanding and agreement that a comprehensive approach towards tackling crime requires effective cross-agency cooperation between the Department of Justice (and the Garda Síochána) and the

Summary

Departments of Education, Health, Social Welfare, Environment, Local Authorities and other bodies and there are effective mechanisms in place to ensure that this cooperation actually functions and is maintained.

Proposed Strategies

1. More research to be carried out in relation to the impact of various forms of social disadvantage on crime and on the relative significance of particular forms of disadvantage, one to another.
2. Structures to be in place to ensure that agencies within the law enforcement system communicate on a regular and well structured basis with each other. Support to be provided also for the development of structures for effective cross-agency action against crime.
3. The Department strongly supports the establishment of high level Groups to examine and make recommendations on the crime situation in areas which are particularly associated with crime problems. The 1992 inter-Departmental Group (see paragraph 2.17) could serve as a model. A level of funding would need to be provided to implement recommendations made, within a reasonable timeframe, and structures put in place to see the implementation process through to completion.
4. Examine the way in which public funds are employed to support families which experience particular disadvantage, including involvement in criminal activity so as to establish whether those families would be better served if the same resources were used in a more efficient manner.

Goal 3

The criminal law addresses wrongdoing in a way that is effective but proportionate and there are effective arrangements in place for the continuous review and updating of the criminal law.

Proposed Strategies

1. Ensure that the staff resources available for law reform work will continue to be used with maximum efficiency, in order to maintain the high priority which law reform has received within the Department. The Department will press for further resources to accelerate this reform programme, while recognising the realities of general Government policy in relation to public expenditure and personnel "numbers" containment. Any increase in the pace of reform by the Department would probably have staffing implications also for the Attorney General's Office.
2. While recognising the merits of arguments for codification of the criminal law the Department will, having regard to the size of that task, continue to prioritise the reform of the law as it stands — a process which, in any event, achieves at least some of the aims of a codification programme (e.g. elimination of legal "deadwood") — and will examine the possibility of allotting resources to the consolidation of existing statutes. If however additional resources were made available for a codification programme, the

Tackling Crime

Department would recommend that the first step should be a "scoping" study of the kind undertaken for this purpose in the UK.

3. Although the Department does not favour the adoption of the Continental Inquisitorial system, for reasons advanced in this paper, it will, nevertheless, continue to examine other systems, including the Inquisitorial system, and will propose that any elements of those systems likely to increase the overall efficiency and effectiveness of our legal system should be introduced.
4. While recognising the difficulty of the task and the need to keep the protection of society to the forefront, the Department will continue to strive for balance between the competing rights of accused, victims and society generally in all of the legal reforms it proposes.

Goal 4

The Police Force is adequately resourced and the available resources are used in an efficient and cost effective manner.

Proposed Strategies

1. Provide maximum support in implementing any Government decisions for which the Department will have a responsibility, as a result of the SMI Review of Garda Efficiency and Effectiveness.
2. Without prejudice to 1 above, ensure, in consultation with the Commissioner, that a well-focused strategic plan for policing is in place and is kept up to date, that appropriate criteria to measure efficiency and effectiveness are identified, and that arrangements are in place by which the criteria may be fully assessed on an on-going basis.
3. In consultation with the Commissioner, promote such measures as are justified, including resourcing, restructuring and reorganisation in order to maintain/enhance Garda effectiveness.

Goal 5

There are effective strategies in place to deal with substance abuse and serious crime, including so-called "organised" crime.

Proposed Strategies

1. Continue to accord top priority to legislative and other measures designed to curb the activities of the more serious offenders.
2. Continue, also, to participate in work at the EU and wider international levels in relation to criminal activities which are organised at an international level.

3. Ensure that the problem of alcohol abuse is taken, as a matter of course, to be within the ambit of what is meant by "substance" abuse.
4. Support in every way possible, the Government's work in prioritising the fight against drugs.

Goal 6

There is an effective prosecution and legal aid system in place.

Proposed Strategies

1. Complete the fundamental review of Criminal Legal Aid Scheme now underway.
2. Implement decisions taken on foot of that review.

Goal 7

The Courts are adequately resourced and they operate in a speedy, efficient and cost-effective manner.

Proposed Strategies

1. Proceed with measures necessary to establish an independent Courts Service on the basis of decisions made in this regard by the Government.
2. Pending establishment of this service, provide the best possible support service for the Courts (acknowledging of course that necessary budgetary disciplines place a limit on available resources).
3. Proceed with the accelerated Courts building and refurbishment programme already underway.

Goal 8

The Prison Service meets the community's expectations and is justifiable in its day-to-day operations.

Proposed Strategies

1. Continue to accord priority to the extensive Prisons expansion and refurbishment programme already underway.
2. Proceed to establish an independent Prisons Board on the basis of decisions made in this regard by the Government, taking into account the Report of the Expert Group on the Prisons Board.
3. Pending the establishment of a Prisons Board, continue to administer the Prisons as efficiently and effectively as possible within available resources.
4. Examine the recommendations made by the expert group on Prisons Costs (when available) and consider what action is necessary in that regard.

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5. Advance the implementation of the plans outlined in the document published by the Department in 1994 which was entitled "Management of Offenders -- a Five Year Plan".

Goal 9

There is a well-developed and effective system of custody alternatives in place and the Probation and Welfare Service, which is principally responsible for the proper functioning of custody alternatives, has the resources necessary to discharge its task.

Proposed Strategies

1. Accord priority to the development of custody alternatives, as it is a much less expensive and, in many cases, a more effective way of managing offenders. As part of this, ensure that those granted early release from prison are, as a general rule, under the supervision of the Probation and Welfare Service.
2. Provide the resources necessary for the Probation and Welfare Service to ensure that custody alternatives function effectively and in a manner that inspires public confidence.

Goal 10

There is provision for a well-structured broadly-based and well informed discussion on crime issues as an aid to crime policy and strategy formulation.

Proposed Strategies

1. Consider any submissions made in relation to the establishment of a Crime Council on the general lines indicated in this paper.
2. Complete consideration of the proposals submitted by the Dublin Chamber of Commerce and the Garda Síochána for the establishment of a Crime Council.
3. Establish a Crime Council as soon as possible.

Goal 11

There are proper State-assisted supports in place for the victims of crime.

Proposed Strategies

1. Examine, on an ongoing basis, further means by which the criminal justice system can support victims of crime, with the advice and assistance of the Irish Association for Victim Support.
2. Complete the review of the scheme for the payment of compensation for criminally inflicted injuries.

Goal 12

The role and functions of the Central Government agency with primary responsibility for matters relating to crime (i.e. the Department of Justice) are clearly defined and known, and there are adequate resources in place to discharge those functions in a satisfactory manner.

Proposed Strategies

1. Proceed with the structural and organisational changes within the justice system which were outlined in the Departments SMI Statement — “Community Security — Challenge and Change”.
2. Produce, on the basis of comments received on this paper, a more detailed and developed statement of strategy for tackling crime, including where possible and appropriate, timeframes for the delivery of specific elements of the strategy.

PART II

FACTS AND ANALYSIS

Chapter 5 — Facts about Crime

Chapter 6 — Improving Information — Role of media

Chapter 7 — Causes of Crime

Chapter 5

Facts about Crime

Data available

5.1 In examining available statistical data on crime it is important to note, first, that there is sometimes debate about their accuracy. The data is essentially that contained in the Garda Síochána Annual Report on Crime. Claims are made from time to time that this data does not reflect the true level of crime because of:

- (a) possible under-reporting by victims of crime,
- (b) possible under-recording by the Garda Síochána,
- (c) perceived inconsistency with the results of victim surveys,
- (d) a general public feeling that the figures simply do not match perceptions based on personal experience, or on crime levels as portrayed in some news media,
- (e) "hidden" or supposedly "victimless" crime which does not come to official notice and is not, therefore, counted.

5.2 Before discussing the data it would be desirable, obviously, to clear up all misgivings about the accuracy of the data and, if errors were found, to correct them. A survey of available literature in recent years suggests that such a task would be extremely difficult and time-consuming, with no assurance that it would, in the end, be conclusive, given the practical and theoretical uncertainties involved. It must, nevertheless, be attempted (this issue is addressed in Chapter 6). In the meantime an analysis of the data which is available provides a reasonably accurate information base concerning the problem of crime and enables us to focus on certain key issues which clearly require urgent attention.

Crime classification

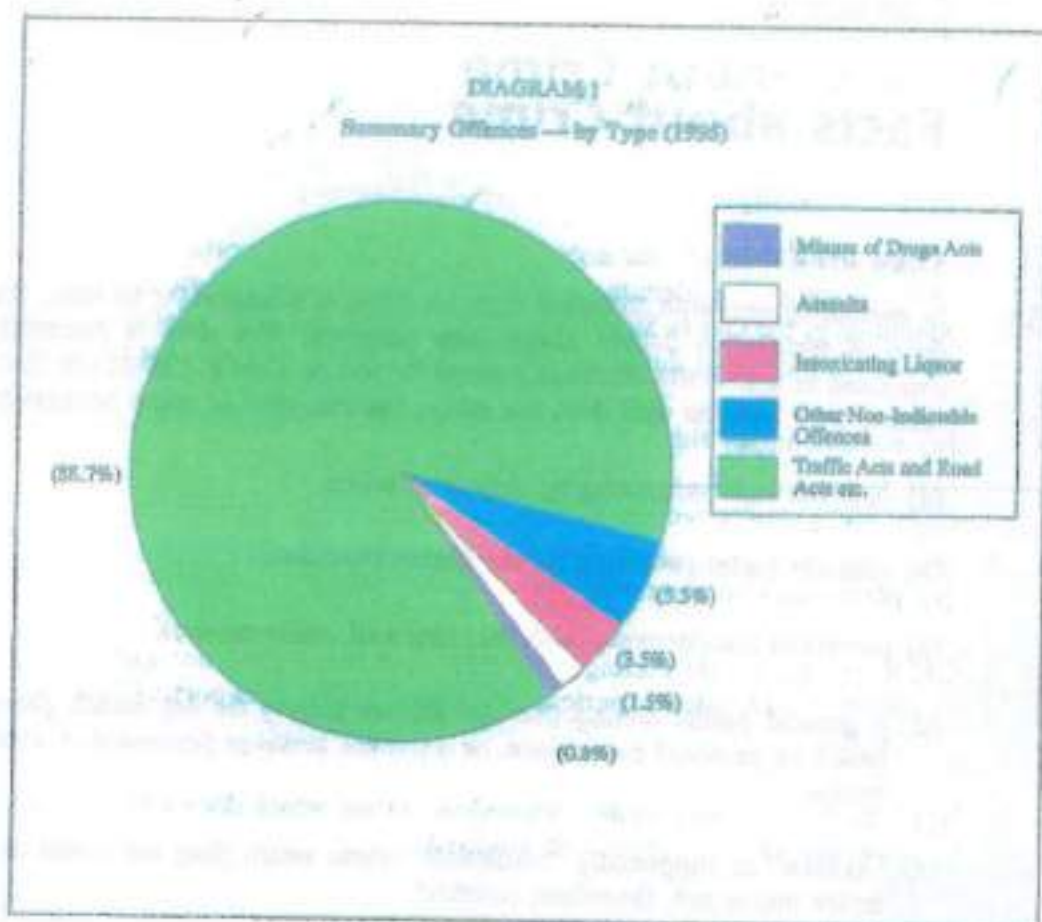
5.3 The Garda Síochána Annual Report classifies crime into two main categories, i.e. Summary and Indictable. Summary crimes are, generally speaking, less serious in nature.

Summary offences

5.4 Approximately half a million summary offences are recorded each year. Diagram 1 shows the make-up of recorded summary offences by type in 1995 and Diagram 2 shows trends in recorded summary offences from 1971 to 1995.

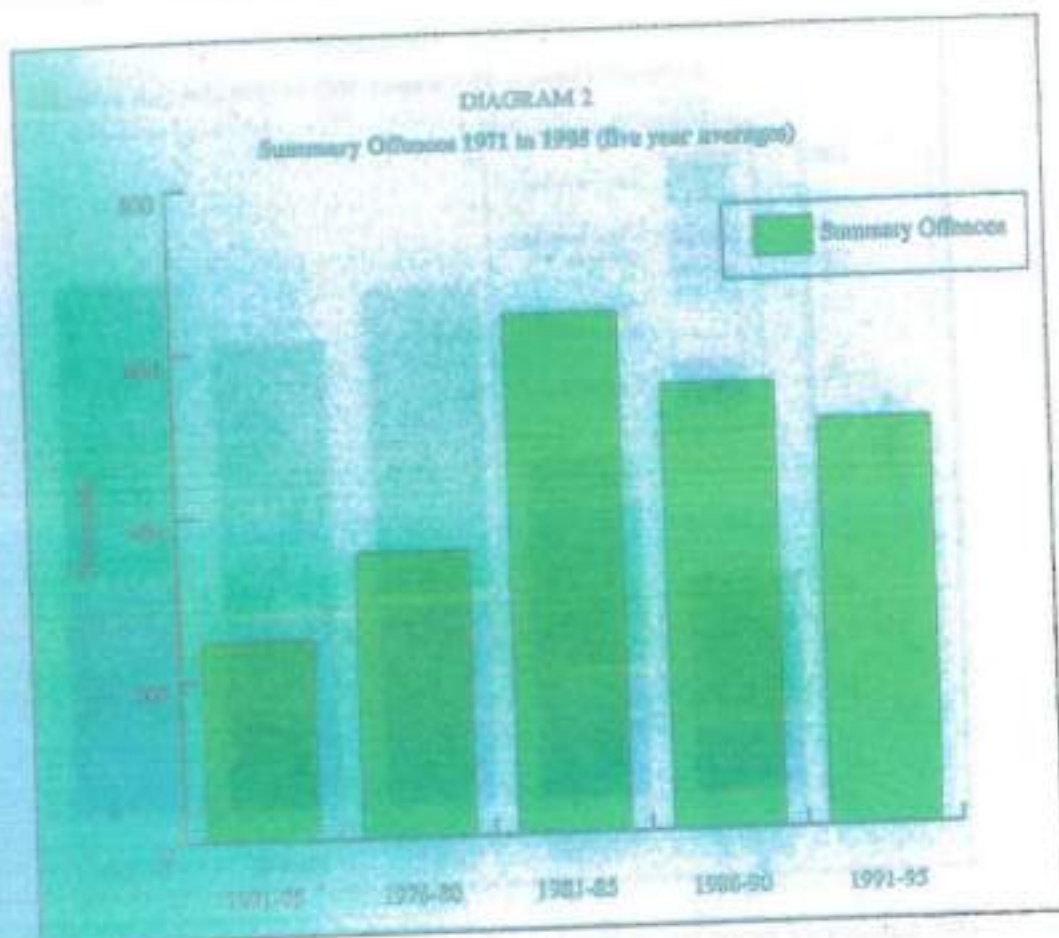
5.5 Over 68% of summary offences arise under the Road Traffic Acts. The balance comprise offences under the Intoxicating Liquor Acts, minor assaults, and a range of other miscellaneous offences. Even if one allows for the fact that single incidents of wrongdoing by an individual can result in several charges (and

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convictions) the number of recorded summary offences is still relatively high. On the assumption that the same people are not involved year after year, it would appear that the number of people who come into conflict with the law at one time or another may be higher than is generally realised — though, in the vast majority of cases, the breach will not be of a very serious kind.

Summary Offences	
Year	Number of offences
1990	452,088
1991	466,603
1992	487,348
1993	562,260
1994	500,747
1995	478,733

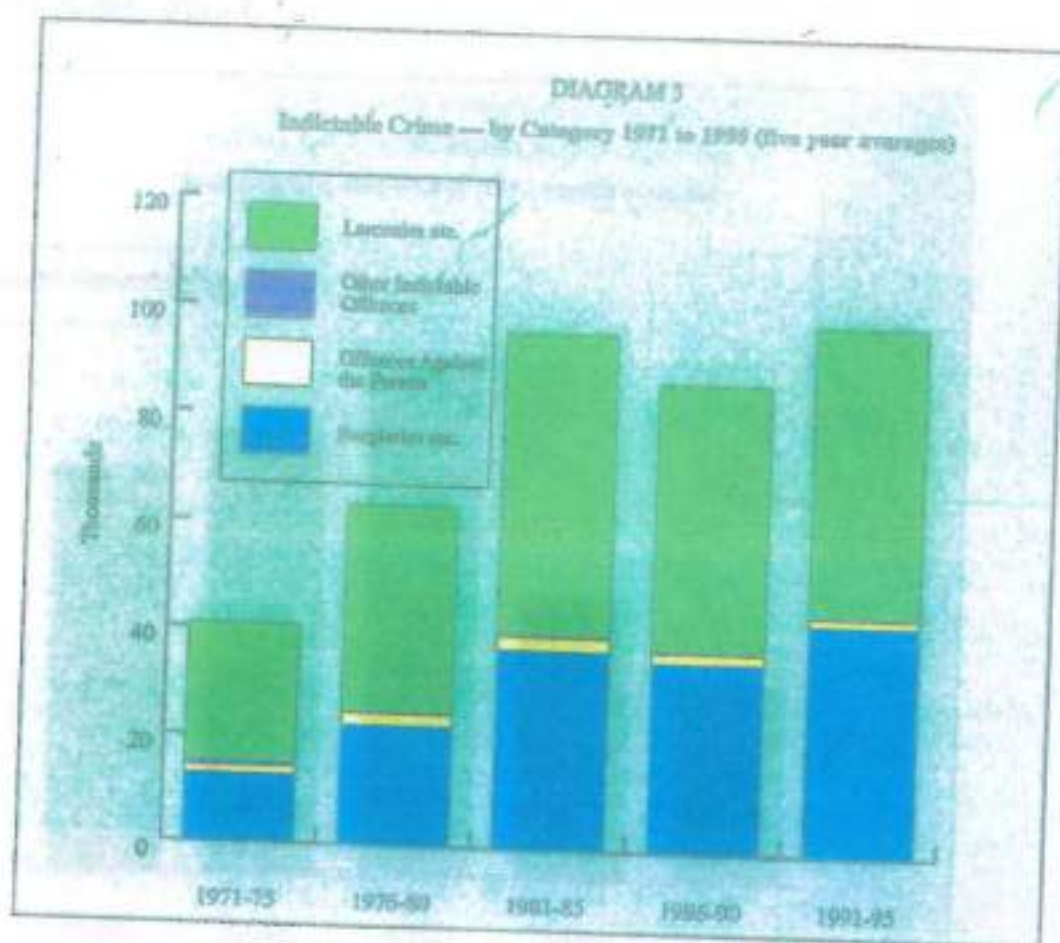


Indictable offences

5.0 It is usual to judge the level of what has been described as "real crime within society" by reference to recorded *indictable* offences i.e. those offences which are classified in law as sufficiently serious as to warrant trial by jury. Official analyses of crime figures and trends, and analyses by commentators, usually relate to offences in this category.

Indictable Crimes	
Year	Number of crimes
1990	87,658
1991	94,406
1992	95,301
1993	98,979
1994	101,036
1995	102,484
1996	100,894 (provisional)

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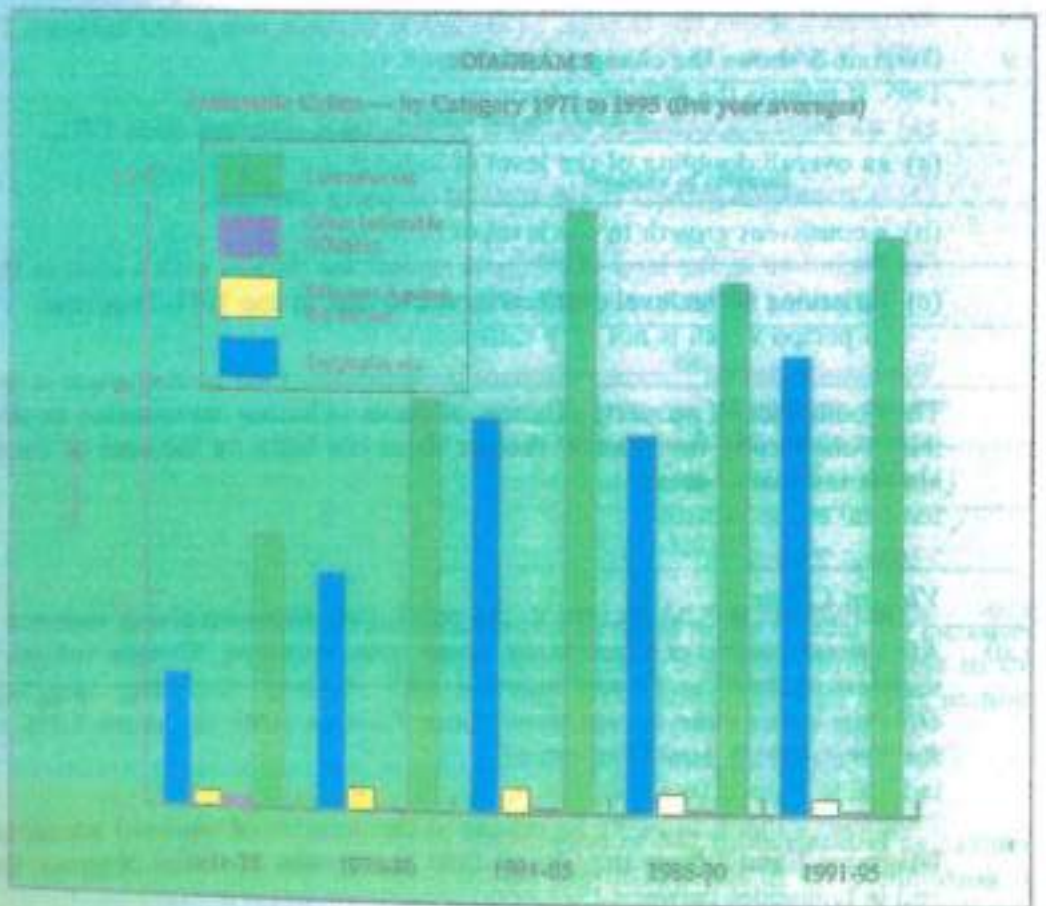
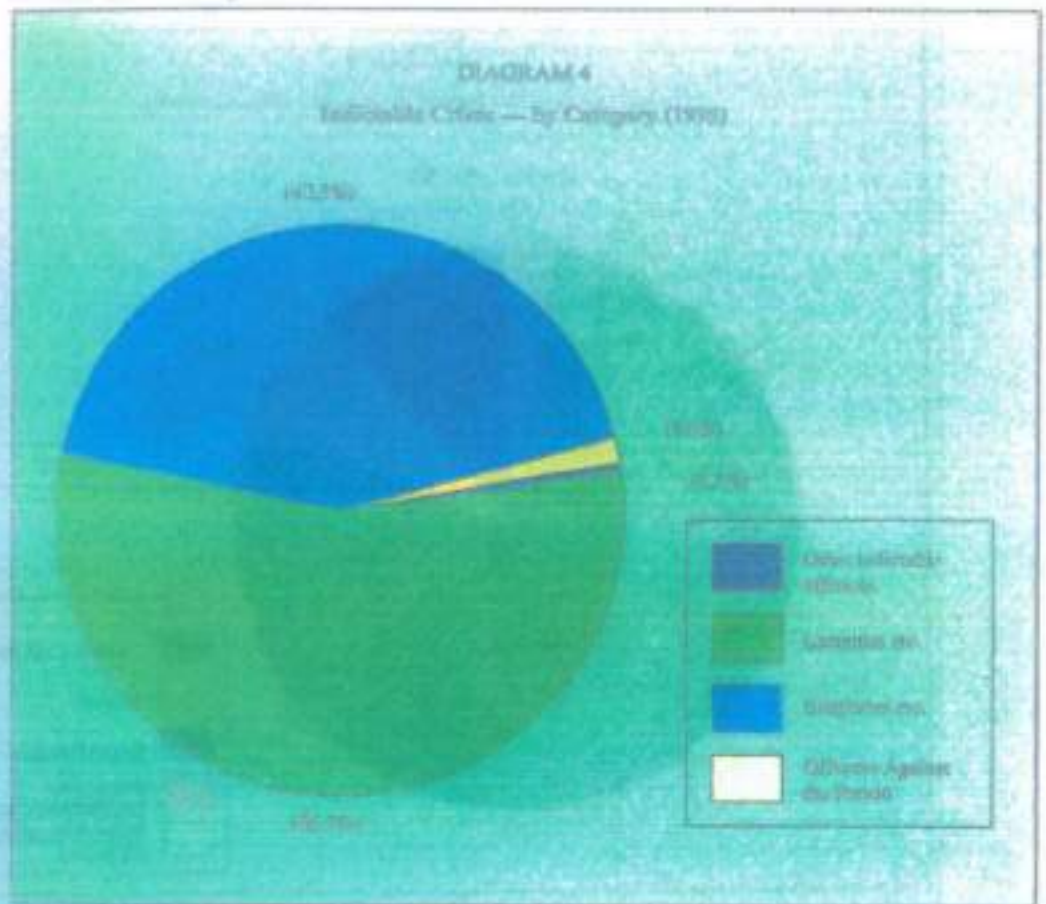
- 5.7 The number of recorded indictable offences has been in or around 100,000 per year in recent years. The actual number in 1995 was 102,484. (Present indications are that the indictable crime figure dropped in 1996 by about 2% — the final figures will be available later in the year.)

Diagram 3 shows the overall growth in recorded indictable offences between 1971 and 1995.

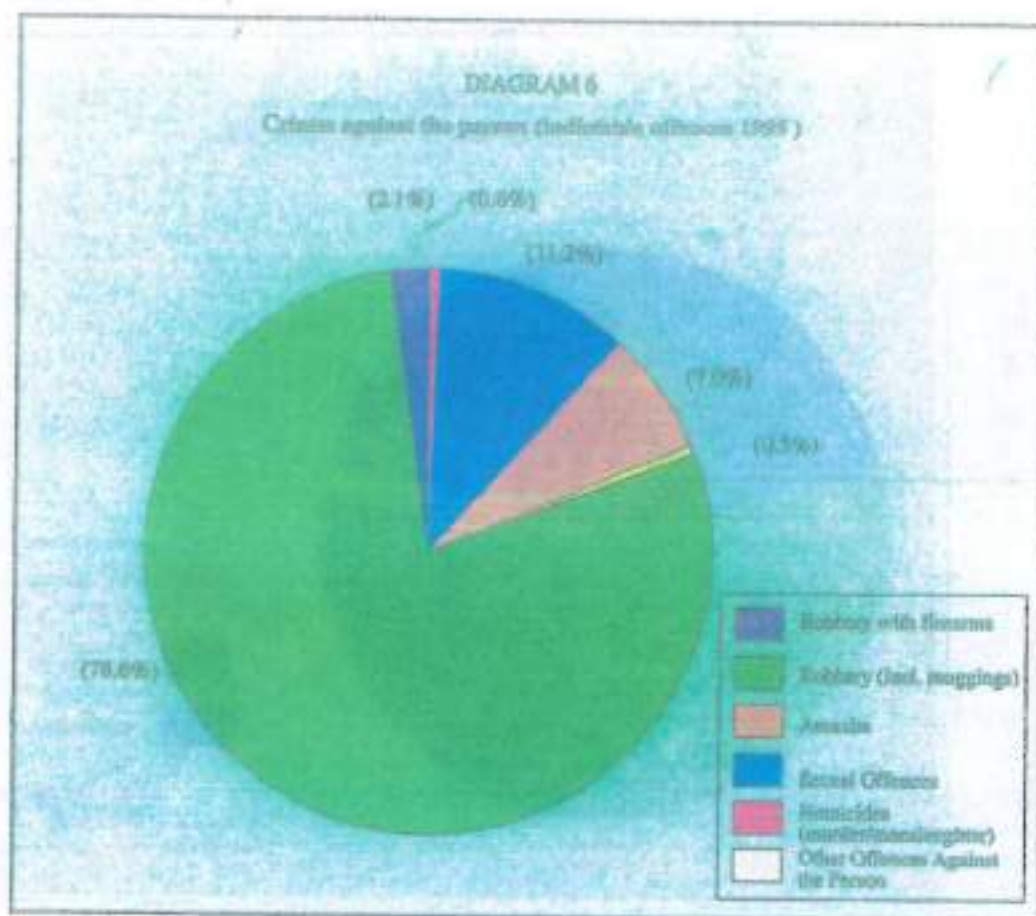
Breakdown of indictable offences

- 5.8 Diagram 4 shows the main constituents of indictable offences in 1995. It reflects the following make-up of indictable crime (the breakdown used traditionally in the presentation of these statistics):

(a) Larcenies etc. (i.e. offences against property without violence)	57,123
(b) Burglaries etc. (i.e. offences against property with violence to property and/or persons)	43,391
(c) Offences against the person	1,663
(d) Other miscellaneous offences	307
	102,484



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5.9 Diagram 5 shows the changes in the levels of these categories between 1971 and 1995. It reflects the following features:

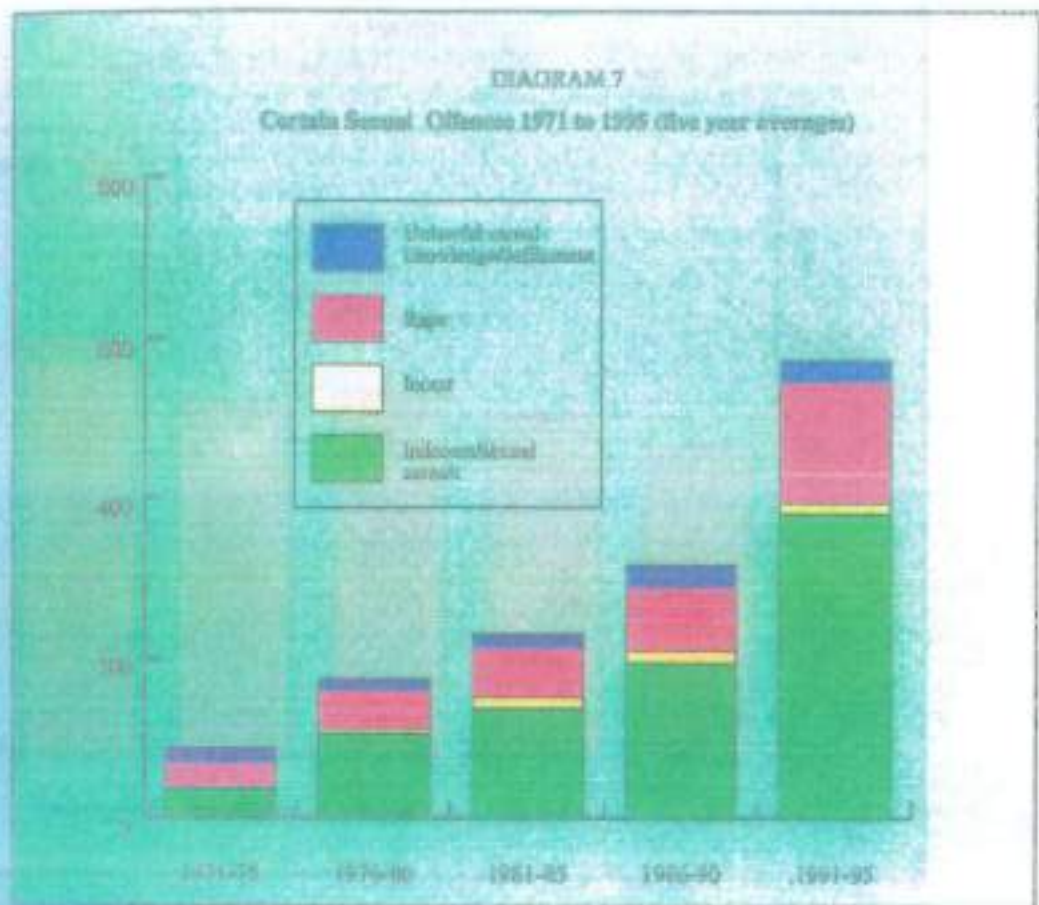
- an overall doubling of the level of indictable offences since 1971,
- a consistent growth in the level of property offences,
- variations in the level of offences against the person with a level in the 1991-95 period which is not very different to that in the 1971-75 period.

The dominance of property offences is significant. One consequence is that even minor changes in the level of these offences (whether an increase or decrease) almost invariably determines whether there has been an increase or decrease in national crime statistics.

Violent Crime

5.10 All serious crime is of concern to the public but crimes involving violence against the person quite understandably cause most concern. Crimes categorised as *Offences against the Person* together with *Robbery (including muggings)* and *Robbery with Firearms* numbered some 7,381 in 1995 i.e. about 7.2% of total indictable crimes. (see Diagram 6)

Diagrams 7 and 8 show the variations in the number of reported sexual offences and in homicides between 1971 and 1995. In the case of sexual offences, Diagram



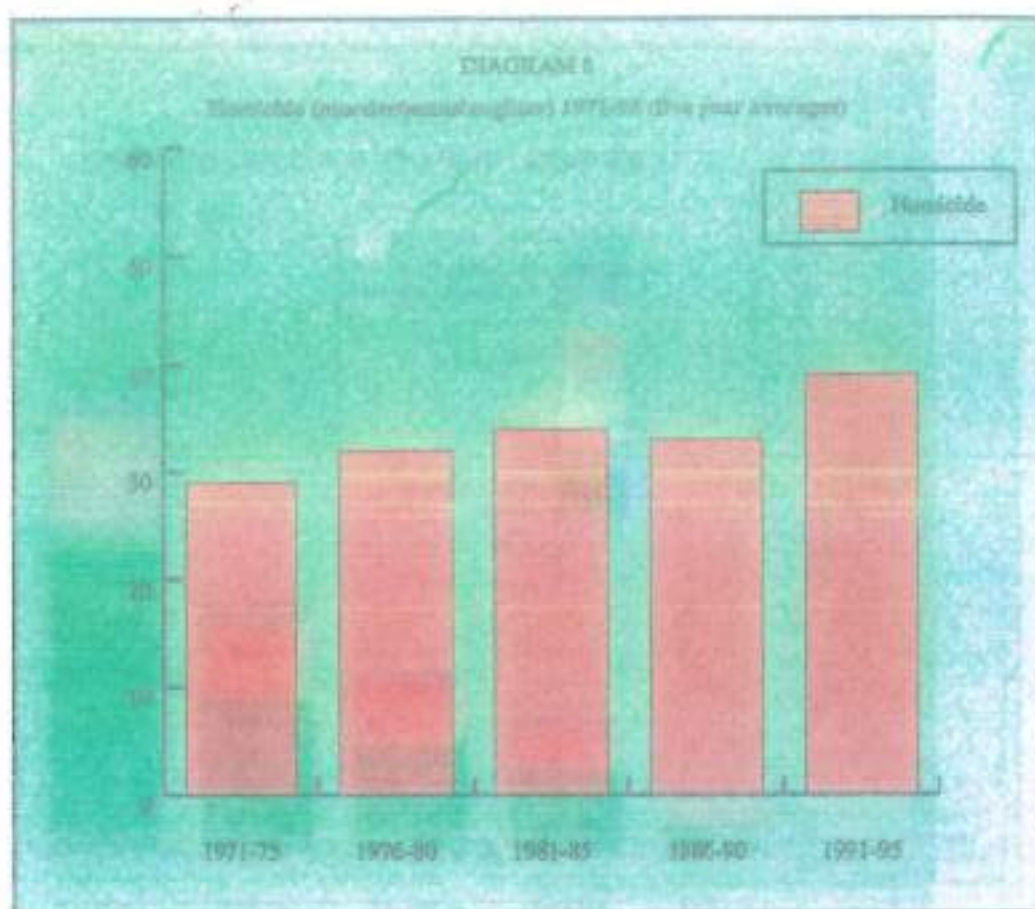
Certain Sexual Offences	
Year	Number of offences
1990	349
1991	391
1992	466
1993	532
1994	599
1995	650

It shows that the number of sexual offences reported to the Gardai has increased more than six fold over the period. This increase is mostly attributable to the categories of sexual assault and rape. Diagram 8 shows the trend in the number of homicides.

Firearms

In 1995 firearms were used in the commission of 542 robberies and aggravated burglaries. In Diagram 9 changes in the use of firearms in the commission of robberies and aggravated burglaries since 1984 are illustrated. It shows that in

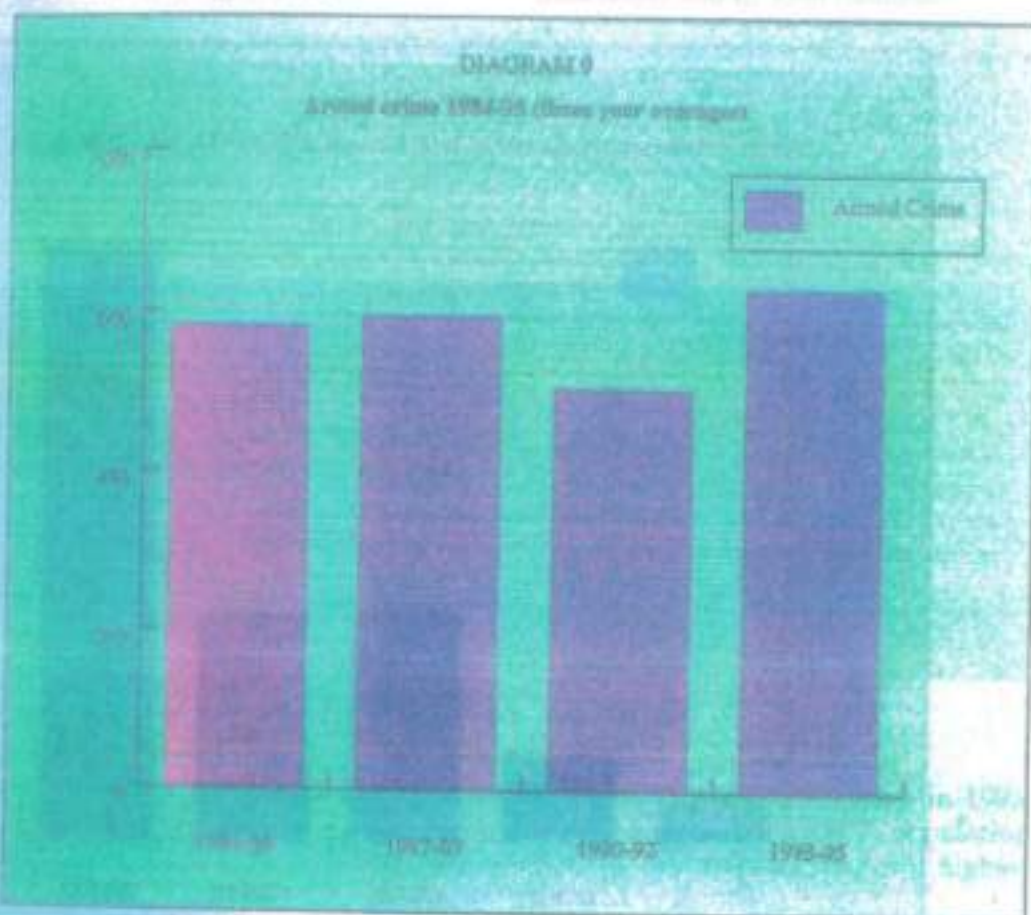
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Homicide	
Year	Number
1990	32
1991	32
1992	42
1993	32
1994	33
1995	54

overall terms there has not been a significant increase in the the use of firearms during the period (although there was a noticeable drop in the number of such crimes in the 1990-92 period and the figures for the 1993-95 period are higher than those for the other periods). For most of the period surveyed (1984-95) there has been a campaign of violence associated with the Northern Ireland situation. It would be wrong, however, to suggest that the use of firearms in furtherance of criminal objectives can all be put down to paramilitary offenders. Other offenders have, to an increasing extent, been resorting to the use of firearms in furtherance of their objectives. The fact that non-paramilitary criminals are resorting more

frequently to the use of lethal weapons is a concern not only here but internationally. At the root of the problem is the unfortunate reality that high-calibre weapons can now be sourced more easily by criminals through their international connections. It is a problem which has to be — and is being — addressed at an international level. (The subject of international co-operation is discussed at Chapter 16.)



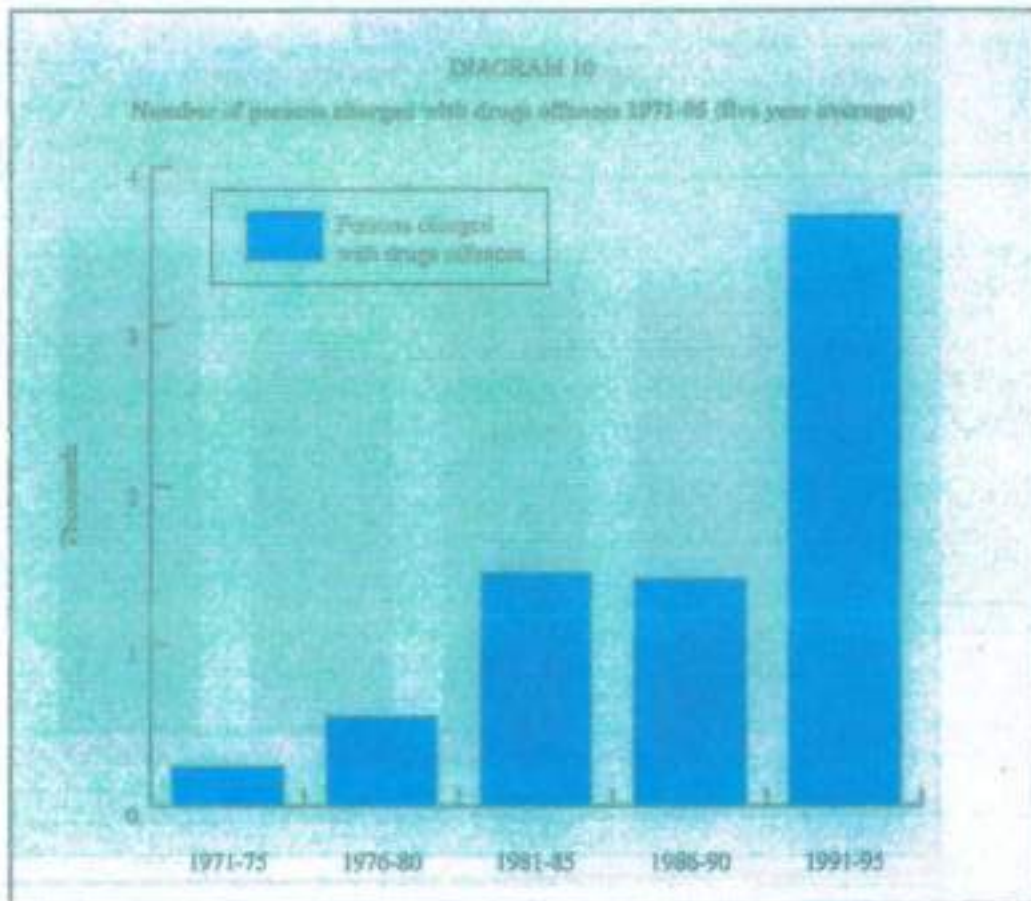
Armed Crime	
Year	Number
1990	459
1991	452
1992	599
1993	723
1994	582
1995	582

Drugs

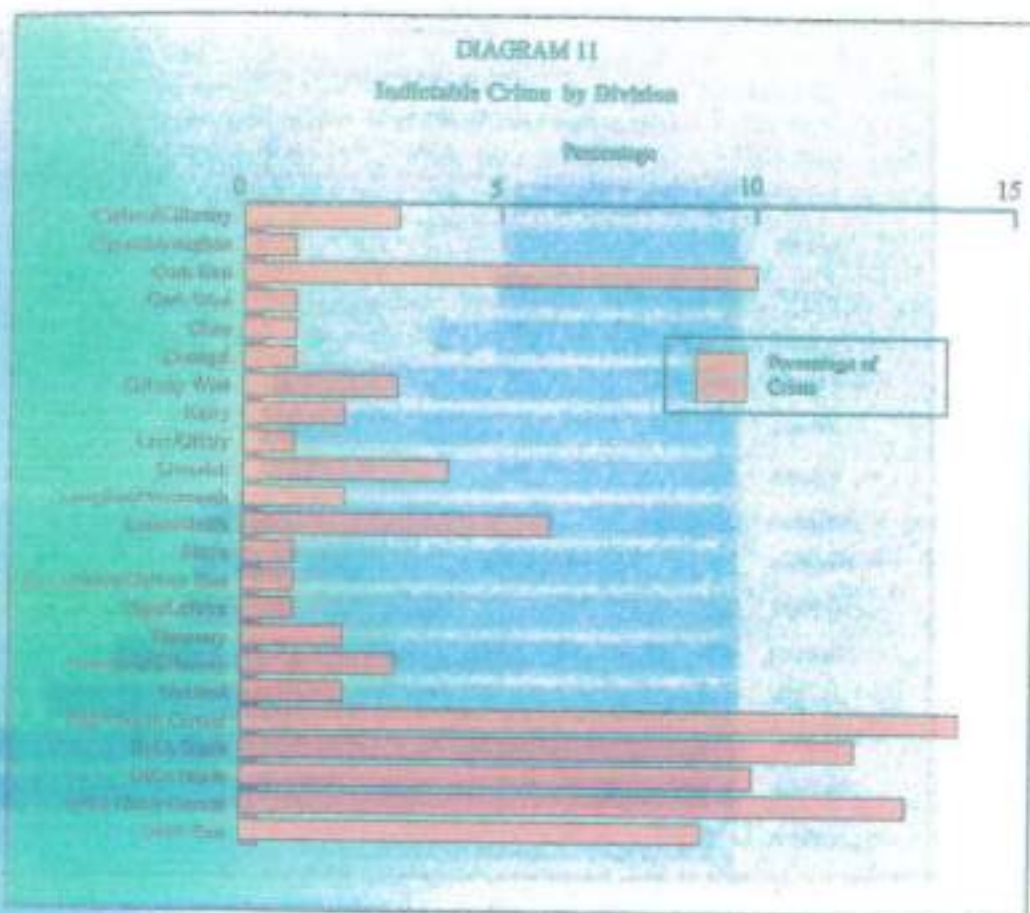
5.12 The influence of drugs/substance abuse on the level of crime is undoubtedly quite considerable, though difficult to assess precisely. In 1995 there were 4,021 persons charged with offences under the Misuse of Drugs Acts (the corresponding figure

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for 1990 was 2,071). Diagram 10 illustrates the growth in the number of charges since 1971. Many other offences are also, however, drugs-related in the sense that they were committed to obtain cash to pay for drugs, or that misuse of drugs may have predisposed the offender to commit another offence. There is no full research data available, however, to show the extent of the connection. It is one of the specific issues which would benefit from the improved research plans outlined later in this document,



Number of persons charged with drug offences	
Year	Number
1990	2,071
1991	3,088
1992	3,404
1993	3,833
1994	4,053
1995	4,021



Geographical Distribution of crime

5.13 Diagram 11 shows the overall distribution of crime by Garda Division in 1995. As might be expected those Divisions which have the highest population concentrations (Dublin, Cork, the East Coast and Limerick) have the highest crime levels.

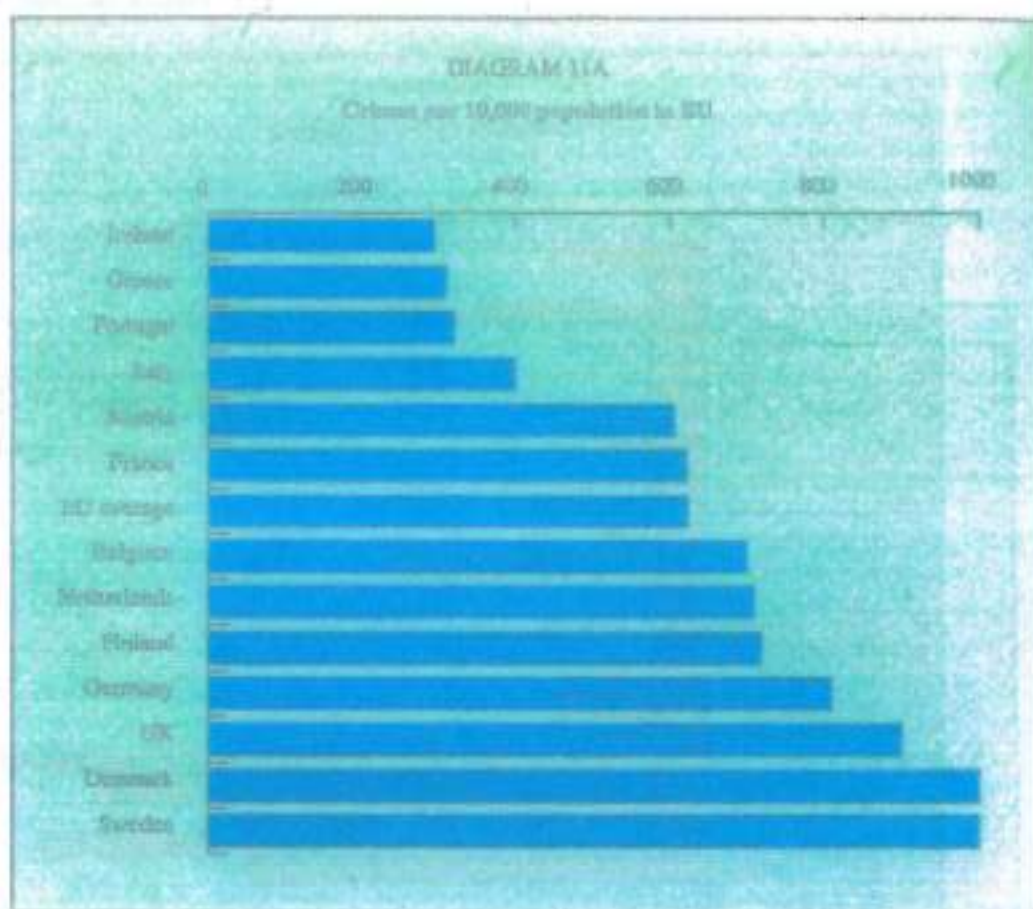
International Comparisons

5.14 It is obviously useful to compare the level of crime in our society with that in other countries, particularly those in Europe, to help us to set the level of criminality in our society in context. There are difficulties in making precise comparisons because differing legal systems, traditions, demographic factors, definitions, reporting, recording practices, data presentation and so on combine to influence the situation. However, data which is available suggests that our crime level is the lowest in Europe, as Diagram 11A shows.

5.15 Because of similarities between our criminal justice system, description of offences etc. and that in the United Kingdom, more confident comparisons can be made between overall crime levels in the two jurisdictions. The data suggests that the level of crime in Britain is some three times higher than it is here. However, given developmental and demographic differences between the two jurisdictions it would be unwise to draw too many conclusions from this comparison.

5.16 One of the objectives of the improved research plans recommended later would be to produce more reliable international comparisons.

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Serious Hidden Crime

- 5.17 While, as already indicated, Garda Annual Crime statistics provide a reasonably accurate account of the actual crime level in this country, it is generally recognised that certain types of offences are probably under-reported. Some of the unreported offending is referred to as "white-collar" crime. There are, for example, many offences committed in financing (wittingly or unwittingly) the procurement of illegal goods, including drugs. On a more general level, there is in-house institutional fraud (which institutions sometimes prefer not to report for business reasons), unlawful activity in the "black economy", tax evasion, abuse of companies' legislation to evade payment of lawful debts, business sharp practice, abuse of the social welfare system, general insurance frauds, financial abuses connected with the agricultural sector and many others. Because it is "hidden" it is impossible to quantify precisely the economic cost of such crime but there are indications of costs running to hundreds of £ millions a year.
- 5.18 On top of these there is the phenomenon of transnational crime to which our society is not immune. There are estimates suggesting that the economic cost (or "value" to criminals) of transnational crime worldwide is not far below the value of the world's legitimate economic output.
- 5.19 Hidden and so-called "victimless" crime occurs in every stratum of our society. It serves to underline the point made earlier (paragraph 5.5) that disregard for the law is perhaps more widespread than we care to acknowledge and that it is less than balanced to seek to scape-goat particular groups within society as being

responsible for all crime. There appears to be a tendency on the part of people who are more educated, articulate or affluent to think of crime as the wrongdoing mainly of those generally in less advantaged situations. There tends to be a certain ambivalence, therefore, in relation to the significance of offences such as drink driving, fraud, tax evasion and other forms of "white collar" crime. One of the problems about this, of course, is that the ambivalence does not go unnoticed by those who cannot afford cars and are in poorer circumstances, which in turn has the effect of lowering confidence in and respect generally for the law and the criminal justice system as a whole. The Department considers that this is an issue which needs to be brought within the scope of public debate on crime.

- 5.20 Other offences which are most likely to be under-reported are so-called "crimes of shame" which include, in particular, sexual crimes, child abuse in its various forms and domestic violence. While certain trends under this general heading — for example the increased number of rape cases — is a source of particular concern, what is not clear is the extent to which this increase is due to a greater willingness on the part of victims to report crimes of this kind. This is, therefore, yet another area in which research is very clearly warranted.

Violence against women

- 5.21 As indicated in paragraph 5.10 the number of sexual offences has increased six-fold in the past 25 years. This development reflects a trend of increasing violence towards women, calling for special measures to halt it. Statistical information on the incidence of domestic violence is now published in the Garda Annual Report on Crime. The 1995 Report shows that Gardai were called to nearly 4,000 domestic violence incidents. Statistical data supplied from the Courts in a four month period in 1996 suggests that the annual number of applications to the Courts for Safety Orders, Protection Orders and Barring and Interim Barring Orders is running at about 2,000, 4,000 and 6,000 respectively. In November, 1995, the Department of Justice and Women's Aid jointly hosted a conference on the subject of developing an effective response to violence against women in intimate relationships with men. The need to tackle domestic violence in a comprehensive and integrated way was highlighted at the conference. In 1996, the Government established a Working Group on Violence against Women, under the auspices of the Office of the Taoiseach. Membership of the Group includes relevant Government Departments and agencies together with other interested parties. The Working Party's Report is due to be published shortly.

- 5.22 The Garda authorities, for their part, are dealing with domestic violence through the specialist Domestic Violence and Sexual Assault Investigation Unit established in 1995. The Unit is staffed by Gardai who are trained and experienced in dealing with domestic violence and sexual assaults. The functions of the Unit include overseeing the investigation of offences of domestic violence, child sexual abuse and other violent and sexual offences committed against women and children. Enforcement practices in respect of protection and barring orders are also kept under review. The Unit works in close contact with the Garda Community Relations Section and liaises with organisations, both statutory and voluntary, which deal with violent or sexual crime against women and children. Outside of the Dublin Metropolitan Area, the Garda authorities have designated an Inspector in each Garda Division to have overall responsibility for this area

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and to ensure a uniform and consistent approach. This plan of action was implemented in April, 1994 and is the subject of ongoing review by the Garda authorities.

Subversive Crime

- 5.23 Subversive or terrorist related crime differs from so called "ordinary" crime in a number of respects — the nature of the threat it poses to society as a whole, the motivation and organisation of those involved, and the character of offences perpetrated in furtherance of their activities. There can, of course, be overlaps between both types of crime — and some individuals may indeed have an involvement in both.
- 5.24 The strategies employed to combat subversive related crime differ, therefore, in important respects from those which have application to crime generally although the strategies employed to each can be mutually reinforcing. Strategies to combat subversive crime involve a distinct approach in terms of legislative provisions, Garda intelligence and evidence gathering, court arrangements and custodial policy. Those strategies can also involve the deployment of the Defence Forces in aid of the civil power and the maintenance of a high level of technical competence to detect and deal with the increasingly sophisticated devices used by subversive groups.
- 5.25 While this paper does not address strategies for dealing with subversive crime, it has to be said that the impact of subversive activity on Garda resources and indeed on the criminal justice system as a whole has been enormous and has significantly reduced the capacity of the system to deal with other forms of crime. It is important also to record that the battle against subversive or terrorist type activity has always been accorded the highest priority — and very significant commitment of resources — in this jurisdiction, because of its recognised seriousness. This will continue while the terrorist threat remains.

Cost of crime

- 5.26 In this Chapter it is appropriate to include an attempt at costing the effects of crime on society. It is, of course, difficult to assess its effects with complete accuracy but there are three main headings under which cost can be considered i.e.:
- (a) the human cost, mainly for the victims of crime but not excluding those members of society who, although not immediate victims, are so conscious of the reality of crime as to experience real fear for their safety and well-being,
 - (b) the direct financial cost including the value of stolen property, and
 - (c) the effects on the National Economy.

Human Cost

- 5.27 The victims of crime bear a cost in terms of mental and often physical suffering which is incalculable. In many cases lives may be blighted permanently. The reality of crime also touches the lives of many others in society who, although not actual victims, live in fear for their safety and well-being. For many, this fear may be all-pervading. Senior citizens, especially those living alone and

particularly in isolated areas, families in isolated locations or in areas of high risk of crime, women and children, employees in vulnerable occupations, and many others, can all be affected by that fear. The UN Commission on Crime Prevention points to the need to remove this fear in asserting that "to feel safe from crime is as important to a person as access to food, shelter, education and health".

Direct Financial Cost

- 5.28 This includes the direct cost to the Exchequer and the cost to individuals and business interests in the form of actual loss through, for example, theft, burglary and fraud and also the cost of protective measures (alarm systems, private security etc.) In assessing the direct financial cost to the State, and consequently the taxpayer, of the response to crime it is important to record, first, the contribution of the general public not just in the assistance and co-operation which they provide to law enforcement agencies but also the direct help and sympathy they provide on a daily basis to the victims of crime and those at risk. That contribution cannot be costed in monetary terms but its value is immense.
- 5.29 The most easily measured cost element is the direct cost to the Exchequer of the *criminal justice system* as a whole. The revised Estimates for the Public Service, 1996 shows that cost within the Justice Group of Votes alone to be of the order of £616m broken down as follows:

<i>Department of Justice (including Forensic Science Laboratory, Criminal Legal Aid, and Compensation Payments for Personal Injuries Criminally Inflicted)</i>	£ 29,039,000
<i>Garda Síochána</i>	£440,327,000
<i>Prisons and Places of Detention</i>	£118,920,000
<i>Courts</i>	£ 27,886,000
Total	<u>£616,172,000</u>

It should be explained that not all of this expenditure is crime-related — the Courts, for example, handle civil as well as criminal cases — but it is reasonable to say that well over 90% of the cost (about £550m) is crime-related.

- 5.30 Other Departments of State also incur costs which are crime related. These costs arise in the Departments of Defence, Education, Health, Social Welfare, Finance (including Revenue) and others. While no precise costings have been carried out — this, again, is an area which would benefit from research — the direct cost of crime to the Exchequer alone is probably of the order of £600m per annum.

Stolen Property

- 5.31 The additional direct cost to individuals and business interests is difficult to quantify. The value of stolen property not recovered in 1994 and 1995, was approximately £51 million and £48 million, respectively, according to the Garda Síochána Annual Reports (the corresponding figure for 1990 was £36m). The value of stolen property, of course, represents only part of the total direct cost to private individuals and concerns. The very substantial cost of preventative measures, increased insurance costs etc. etc. would need to be added in order to

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calculate total cost. No detailed attempt has been made to calculate the latter costs, for the purpose of preparing this document, but on the basis of very rough estimates it would seem that the total direct cost of crime (including both Exchequer costs and those incurred by private individuals and concerns) is, at a conservative estimate, in the region of £1bn per annum.

Effects on National Economy

5.32 This paper does not attempt to assess the full cost (as distinct from direct cost) of crime to the National Economy. Any such assessment would, however, include the following:

- the direct cost to the Exchequer which, if saved, could contribute in many ways to the improvement of the State's finances and/or improvement in State support for other essential services,
- the investment of human resources in crime prevention in the private sector which could be better employed in productive activity,
- the diversion of private sector financial resources to crime prevention which could be used otherwise to create wealth in the economy,
- the effects in discouraging productive investment, domestic or foreign, in areas where crime is a special problem, leading to higher than average unemployment and social deprivation in those areas which the Exchequer must alleviate directly.

Chapter 6

Improving information – role of media

Verification and Research

6.1 It is critical to the formation and the execution of policy in relation to crime that information on crime should be demonstrably accurate and comprehensive, and backed up by quality research. Up to now:

- (i) there has been no mechanism in place for independent monitoring of the available data, whether to confirm the data or to draw attention to errors of significance,
- (ii) there has been no linkage between the statistical outputs of the various criminal justice agencies (Garda Síochána, Prisons, Courts, Probation and Welfare Services) though some preliminary work in this regard has commenced, and
- (iii) the production of statistical information has not had a high priority and has — partly though not exclusively for that reason — been too slow. The speedy production of statistics has been given much higher priority elsewhere (for example in New York) because of its value as an instrument for an effective operational response to crime. One of the arguments made for having quicker statistical output is that it demonstrates sooner rather than later that a particular pattern of offending has become prevalent in a particular area, which means that police managers are in a better position quickly to devise appropriate counter-strategies.

The Department of Justice believes that mechanisms must now be put in place to ensure that available crime data is both accurate and speedily produced.

6.2 Even with fully accurate data there is, of course, the further need for more information on factors influencing the data, on changes within society that may have a bearing on the data, on the projection of trends etc. In other words, quality research is also needed.

6.3 A Research Unit was established within the Garda Síochána in 1994. It is involved in a range of quality research projects relating to both the Garda Síochána and crime. It is, however, under-resourced (with a total of five staff comprising a Head of Research, two researchers and two members of the Garda Síochána) and must, to be fully effective, be resourced sufficiently to enable it to function to its full potential.

6.4 The Department of Justice is convinced, however, that there is also need for a more broadly-based corpus of research into all aspects of crime. Options include research by independent consultants (e.g. the Economic and Social Research Institute and like bodies), by individual experts financed by the State and by the universities and other third-level institutions. The best policies in relation to

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crime, and the best means of implementing policies, will be assured only with the support of that kind of research.

- 6.5 There is need for research also as an input to decision-making on law reform proposals. This matter is mentioned again at Chapter 8.

The Role of the Media and Public Awareness

- 6.6 It is extremely important that the public should be properly informed about crime. As things stand this is not always the case and a level of anxiety can be created by some of the information in circulation which would not be warranted if there was better information and more objective analysis of the facts. Independent monitoring, independent research and independent analysis, published and disseminated in the news media and elsewhere, would go a long way towards eliminating misinformation and allaying public anxiety. It is basic to ensuring that responses to crime will be well-judged, measured and free from pressures brought about by demands which are based on misinformation rather than reality.
- 6.7 It would be unrealistic, of course, to expect that a stage would ever be reached when public perceptions and public debate about crime would be characterised by total objectivity. Most discussion on crime takes place in the aftermath of a particularly shocking or sensational crime and, therefore, tends to be narrowly focussed. In these circumstances, the need to vent quite understandable anger can obscure the need for the informed, reasoned and balanced discussion that is essential if worthwhile progress is to be made in developing effective strategic responses. Because crime is an issue of high public interest, there is a particular temptation to engage in public debate that could reasonably be described as point raising and opportunistic.
- 6.8 The media clearly have an important role to play in this process. Public confidence about personal safety and security can be very seriously eroded by the way in which information about major crimes is sometimes presented in the immediate aftermath of those crimes. While it is, of course, perfectly understandable that crimes of this sort would be fully reported, and it would be nonsensical to blame the media, politicians or anybody else for highlighting them, it is fair to say that, at times, published comments and news reporting on crime can be sensationalist and can generate widespread and unnecessary fear.
- 6.9 It would perhaps be useful to dwell for a moment on the contribution of the media in this regard. The Department of Justice strategy statement "Community Security — Challenge and Change", published in December 1996, acknowledged the need to improve its own communication skills. The Department freely acknowledges also that its relationship with the media has not always been an easy one. This has to do, in part, with the fact that the Department often finds itself, for valid reasons, unable to give the media the "full story" on issues which attract public interest. The media, in understandable frustration, may then proceed to publish anyway — perhaps, taking the opportunity also to criticise Departmental "secrecy" in the process. All of this can result in a situation where relations between both parties are further damaged. While, as already indicated, the Department has acknowledged the need to address its own communication

Improving information – role of media

skills, generally, as part of the SMI process, it may be helpful, in this paper, to clarify some of the Department's thinking on media crime reporting.

- 6.10 First of all, for the avoidance of any doubt on the subject, the Department of Justice does not subscribe to the view — sometimes articulated by commentators — that public concern about crime is, for the most part, a media-driven phenomenon. It is, unfortunately, a fact of life that all too many individuals and families experience victimisation at first hand and acquire their concerns in that way and not through media reporting. The Department does not believe, either, that most crime reporting is sensationalist. And it would certainly be less than convincing to argue that reporting should be considered "fair" only if it met an "establishment" (Department of Justice?) standard of fairness.
- 6.11 The Department believes that it is, nevertheless, reasonable to suggest that at least some reporting merits the "sensationalist" tag. Media comment and speculation which has surrounded certain high-profile crimes in recent years almost certainly added unnecessarily to public unease about the general state of law and order in the country. It is a fact that some of the more disturbing pieces of speculation have subsequently turned out to be well wide of the mark. It would be helpful if there were wider public understanding of this, so that the public would be aware, when reading or listening to media and other comments offered in the immediate aftermath of serious crimes that, in some cases speculation about who was involved, what the motives were and so on may not after all be supported by the facts. More informed public debate about crime — which is one of the aims of the strategies proposed in this document — should assist greatly in this regard.
- 6.12 Finally, in suggesting that there are, at times, reasonable grounds for describing some comment and media coverage of crime as sensationalist or lacking perspective, it has to be emphasised that this is by no means the norm. On the other hand it is something which the media themselves, as part of the general debate which this paper aims to generate, could perhaps, usefully examine.

Chapter 7

The Causes of Crime

Factors said to promote criminality

- 7.1 An exploration of factors which may influence people to commit crime can never be a search for reasons to exonerate criminals. The majority of those involved in crime are fully responsible for their actions, can distinguish between right and wrong, and must, therefore, be held fully accountable in law for what they do.
- 7.2 It is the case, nonetheless, that many experts who have studied the subject cogently argue that there are features within our society, and the way in which society is organised and manages itself, that tend to lead some of its members into criminal activity. If this is the case — and common experience suggests that it is — then it obviously makes sense to attempt to identify and address those features. If it were possible to establish a link between the general run of offending behaviour and particular failings within society, and if it were possible to take action to correct those failings, then there ought to be a prospect of reducing crime.
- 7.3 But it is a case of reducing the incidence of crime rather than eliminating it. It seems reasonable to assume that certain offenders will tend to offend as they do (irrespective of their social and financial circumstances (a proportion of sex offenders, for example, probably fall into this category). Specialised analysis of motivation would be necessary in such cases. The Department does not suggest, in other words, that all categories of crime can be reduced simply by addressing the general social circumstances which may cause certain individuals to drift into crime.
- 7.4 Various groups and individuals have commented on the impact on crime of adverse social conditions. A Police perspective on the relevance of social factors to offending was provided in a wide ranging article in the 'Irish Times' in September, 1994 by the then Garda Commissioner, Mr. Patrick J. Culligan. He said:

It is all very well to talk about, and make comparisons with, the "good old days" when we had appreciably less crime than now confronts us. Crime has not increased in this country or in every other country world-wide merely because the police have suddenly become less effective and efficient. The people who commit this crime are products of our society, our own people.

In what passes for public discussion on criminal justice matters there is very little consideration given to how society has changed over the years. If we are serious about establishing the reasons for crime and vandalism, and serious about doing something about it we must address the changes which have taken place in society and which have contributed immeasurably to the problems:

- (i) diminishing the authority of the family;*
- (ii) closing of reformatory and industrial schools;*
- (iii) omnipresent cars, however desirable, for the mentally ill;*

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- (iv) prison sentences imposed by courts being reduced inordinately by an unpredictable temporary release and parole system;
- (v) the social pressure for both parents to go into the labour force;
- (vi) dismantling teachers' authority;
- (vii) the abandonment of the religious ethic;
- (viii) dispersal of established communities from city-centre locations to new housing schemes many miles away on the outskirts.

Questions such as these do not get the attention they deserve. Most of the problems are seen in rather simplistic terms; the solutions often advanced being: increase Garda strength; build more prisons; or lock up more criminals and for longer periods. Of course, such actions help to give some symptomatic relief from crime, but to reduce crime itself would require us as a people to move on a number of fronts. The questions is, are we prepared to do so?"

- 7.5 **The Report of the Inter-Departmental Group on Urban Crime and Disorder** (see paragraph 2.17), which was established by the Government following serious public order incidents in one area in Dublin, contained a number of conclusions on the subject of offending generally and public order offences in particular and made 38 specific recommendations affecting all of the agencies represented on this Group. (The Report has been referred to earlier in Chapter 2.14.) Many of these recommendations have since been implemented but others were not implemented for cost and other reasons.
- 7.6 The Group decided that it should not seek to evaluate the relative significance of various factors which impact on crime levels but to proceed instead on the assumption (confirmed by evidence taken from the community affected) that certain factors (e.g. unemployment levels) had an impact and try to identify what practical recommendations could be made in relation to each:

"Rather than attempt to theorise about the "real" cause of the problems of crime and disorder (e.g. attempt to single out a particular cause as the predominant one or attempt to rank causative factors in order of importance), we would simply accept that, whatever their relative significance, factors such as unemployment, lack of educational opportunity and the various other factors mentioned at paragraphs 1.5 and 1.7 below together contribute towards criminal activity and disorderly behaviour. International experience suggests that this is the approach most likely to bear fruit."

Paragraphs 1.5 and 1.7 of the Report read as follows:

- "1.5 The description of any problem tends to vary depending on the perspective from which it is being described. We felt that the complexity of the crime and disorder problem would be better understood if we tried to see it through the eyes of people in different situations. Most people, whether residing inside or outside the more troubled communities, would tend to regard some or all of the following as typical characteristics of the "problem" area—*

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- a large, predominantly single-class housing estate, built in the past twenty years or so with very few amenities (e.g. local shops, access to professional services, local playgrounds, etc.);
- a relatively young parent group, with an above-average number of dependants but with very few older family connections (such as grandparents) residing close by;
- above-average unemployment levels, with some experiencing long-term (and "second generation") unemployment and with many residents in quite poor financial circumstances;
- a small percentage of the adult population having second or third level educational qualifications;
- a higher than average tendency towards criminal and anti-social behaviour;

2.7 From the perspective of the young person who eventually finds himself or herself in trouble with the law, one or more of the following may be present as regular, or at least not uncommon, experiences—

- the feeling, from an early age, that nobody really cares about them;
- within his or her home, the problems of domestic violence, drug addiction or alcoholism, in some case, perhaps, child abuse;
- hunger, deprivation and lack of self-esteem;
- inability to cope with the discipline of school, a feeling that it has no relevance to one's future prospects and (sometimes) the secure knowledge that if schooling is avoided altogether one's parents can be relied upon to 'cover-up';
- a belief, fostered by long-term unemployment within the family, that the welfare system has to be seen, and depended upon, as the only realistic means of support;
- a belief that the only excitement in life is that provided by a minority in one's peer group who go "joyriding", experiment with drugs and generally challenge authority."

2.7 A survey of Juvenile Delinquents prepared by Dr. Noel O'Gorman and Dr. Jim Burrell, St. Michael's Assessment Unit, Finglas and published by the Dublin Chamber of Commerce found that:

- The average number of children in the families of the young people in the study was 5.3. This compares to a national average of 3.21.
- The natural parents had separated in 36% of the cases.
- Only 24% of the heads of households were in employment (full-time or part-time).
- Alcohol abuse in the family was a factor in 31% of the cases.
- 16% of the family had one or more male members imprisoned currently or in the past.

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- 94% of the boys had an IQ below average (25% were illiterate). The vast majority had clearly experienced great difficulty within the education system.
- 56% had psychiatric problems (of varying degrees).

7.8 In his book *Crime and Punishment in Ireland* (Round Hall Sweet and Maxwell 1995), Dr. Paul O'Mahony provided the outcome of an extremely valuable and wide-ranging study of crime. Selective quotation without qualification from that study carries a risk of presenting an incomplete picture. Nevertheless, for the purpose in hand, it is worthwhile recording his final conclusions on a sample survey of male prisoners in Mountjoy Prison:

"The typical Mountjoy male prisoner, then, is in his early or middle twenties. He comes from an unusually large, intact family with at least six children and often with more than 10. This family lives in a corporation house or flat in Dublin inner city, either north or south of the river, or in one of a small number of disadvantaged suburban areas in Dublin, which have a very high proportion of corporation housing, e.g. Crumlin or Ballymun. The prisoner is likely to still reside with his family of origin. The prisoner's father is likely to be or have been an unskilled manual labourer.

The prisoner himself will probably have left school at 14 or earlier. He will not have gained much of an education and indeed will not have received any useful vocational training. He will have some experience of employment, probably holding one job for at least a year. However, this job and his other jobs will tend to have been menial employment. He is likely to have been unemployed for more than half of the time since he was 15 years and very likely to have been unemployed in the period before his current imprisonment.

The prisoner is very probably unmarried, although there is a considerable chance that he has fathered a child. He is a cigarette smoker, who drinks alcohol when free to do so and has probably used cannabis. It is more probable than not that he has a substance abuse problem involving either alcohol or opiate drugs.

The Mountjoy male prisoner can also be typified with respect to his criminal and penal history. He will have received his first conviction before he was 16 years and will have first been detained before reaching 18 years of age. He is likely to have spent time in St. Patrick's Detention Centre (for 16 — 21 year old males). On average, he will have amassed a total of about nine years of sentences to prison. Generally, this will have entailed a succession of short sentences, with an average sentence length of around one year. Indeed, the typical prisoner has collected a total of 15 separate convictions of which five led to non-custodial penalties and 10 to sentences of imprisonment".

7.9 Eleven years ago the Report of the Committee of Inquiry into the Penal System (Whitaker Report, 1985, Stationery Office (PL 3391)) had the following to say, in summary, about the causes of crime:

"A disposition to wrong-doing is an element in the human condition, normally restrained by an accepted moral code, the force of societal norms, and the threat of penal sanctions. Crime changes in its nature and incidence with changes in society itself and in the influences and loyalties binding its members. There is need

for continuous research into the causes of crime. Much of the crime prevailing in recent times appears to be related to moral, demographic, social and economic change, especially the transformation of Irish society over recent decades from being mainly rural to being mainly urban and the concentration in the cities of growing numbers of young unemployed. There has undoubtedly been a widespread lowering of behavioural standards."

7.10 The First Report of the Dáil Select Committee on Crime: *Juvenile Crime — Its Causes and Its Remedies* identified the following as factors which pre-dispose to crime:

- homelessness — usually arising from a family crisis
- personal and family problems — conflicts/violence in the home, loss of a parent, alcohol or drug abuse by a parent, child abuse/neglect
- truancy
- educational failure
- unemployment black spots
- sexual abuse
- drug misuse

7.11 All of the foregoing material — and there is much more — indicates that there is a significant level of agreement that social disadvantage in its various guises contributes to criminality. There would be agreement also — though perhaps less widespread — that other factors, social in nature, can also influence criminal behaviour, for example, the respect (or lack of respect) for the law which is shown by more affluent members of society. As noted earlier in this paper, the fact that so-called "white-collar" crime is frequently committed with apparent impunity by people in reasonably affluent circumstances, sometimes with substantial gain in the wrong-doer, is not lost on those more adversely placed.

7.12 It would clearly be valuable to have more reliable information on the precise impact of the various influences mentioned and the relative importance of one as against another. The Department considers this to be an area worthy of considerably more research.

Confronting social disadvantage

7.13 Acknowledging the adverse impact of disadvantage on crime levels is one thing, what to do about it is another.

7.14 The first requirement, in the Department's view, is that society itself should be convinced of the need to address the problem of disadvantage. Once the conviction is there, and the need accepted, the State through its agencies (Government Departments, other State bodies, local authorities etc.) should take concerted action, in co-operation as necessary with local communities and business interests, to do something practical about the problem.

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- 7.15 It is no more than prudent to recognise, of course, that there are real limitations. A programme which set out to eliminate disadvantage in all its forms would, if pushed to its limits, require major social change. It is unrealistic to expect that such a programme could be implemented quickly and with the willing consent of those asked to make the greatest sacrifices (i.e. the taxpayer). The most commonly offered solution to the crime problem is not the introduction of major social change but the application of firmer law enforcement measures. However, the link between crime and disadvantage is real and is, in the Department's view, an issue that has to be faced up to by all sections of society.
- 7.16 The fact that major social change is unlikely to be readily attainable in the name of crime reduction is by no means, however, an end of the matter. There is a perception that the lack of cohesion between the various State and voluntary agencies gives rise to duplication, considerable waste and a failure, very often, to identify those most at risk of drifting into trouble. While this lack of cohesion may not actually cause disadvantage, it can certainly add to the difficulties caused by disadvantage and seriously delay remedial action. It is, therefore, well worth while looking at the issue of inter-agency cohesion and examining how improved cohesion might contribute towards crime reduction. This issue is addressed in Chapter 18.

PART III

CURRENT RESPONSES

Chapter 8 — The Criminal Law

Chapter 9 — The Garda Síochána

Chapter 10 — Substance abuse and serious (non-subversive) crime

Chapter 11 — The Prosecution of Offences and Legal Aid

Chapter 12 — The Courts

Chapter 13 — The Prisons

Chapter 14 — The Probation and Welfare Service
— Alternatives to Custody

Chapter 15 — The Victims of Crime

Chapter 16 — International Co-operation

Chapter 8

The Criminal Law

Purpose of Criminal Law

- 8.1 Criminal Law essentially defines those actions which are forbidden by the State. Society, in order to protect itself from the activities of wrongdoers sets down norms or standards of behaviour, the breach of which gives rise to punishment by the State. Criminal law is distinguished from civil law in that its main object is to punish the offender rather than to compensate the victim. (How an offender is punished is a separate issue — addressed elsewhere in this paper — and is not relevant to the more general question of the distinction between the criminal and civil law.) The main object of civil law, on the other hand, is usually to give the wronged party a remedy, usually in the form of compensation, against the wrongdoer as a result of, for example, negligence or a breach of contract.
- 8.2 There is now a greater recognition that the needs of the victims of crime require something more than just punishment by the State of the perpetrators of crime; in other words, that in addition to retribution being made by criminals to society generally (e.g. by serving a prison sentence) there is a need for retribution of some kind to be made to the victim and that this be done through the criminal law process rather than, as heretofore, by separate action under the civil law process.

Origin of Criminal Law in Ireland

- 8.3 Irish Law as we know it to-day does not derive from an indigenous body of laws. On achieving independence, the State inherited a "foreign" legal system i.e. the Common Law of England, the Statute Law of the English Parliament (when it legislated for Ireland) and the Statute Law of the Irish Parliament (which was subordinate to the Crown) up to the Act of Union, 1800. This foreign legal system had, over time, effectually replaced the native Irish legal system known as the Brehon Laws. The Common Law is the ancient unwritten law, which became embodied in judicial decisions. In modern times it has come to mean judge-made law to distinguish it from statute law.
- 8.4 Following independence, Irish law underwent a fundamental change following the enactment by Dáil Éireann of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922 and more particularly the adoption by the people by Referendum of the 1937 Constitution. Both Constitutions provided that, subject to the Constitution and to the extent they were not inconsistent with it, the laws then in force at the date of the coming into operation of the respective Constitutions would continue to be of full force and effect until the same, or any of them, were repealed or amended by enactment of the Oireachtas. While, therefore, neither Constitution of 1922 or 1937 provided a new system of Irish laws, the 1937 Constitution became the fundamental law of the State superior to all other laws. Any rule of common law, any statute in force in 1937 or any Act of the Oireachtas is devoid of legal effect to the extent that it has been held by the courts to be inconsistent with, or repugnant to, the Constitution. Finally, mention should be made of a new corpus of law, namely European Union law,

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which since 1973 is being incorporated into our domestic law and which by virtue of Article 29.4.5 of the Constitution can take precedence over the Constitution.

- 8.5 Today, therefore, it can be said that Irish law draws upon many different sources including the Constitution, Statute law, European law, judicial decisions of the European Court of Human Rights and other judicial decisions including decisions of the courts of other common law countries. In addition, in interpreting the Constitution, our Courts have been greatly influenced by decisions of the United States Supreme Court on Constitutional issues. Of course, in the realm of European law there will be highly persuasive and in some cases (depending on their jurisdictional basis) binding decisions of the Court of Justice of the European Communities.
- 8.6 Partly because certain features of human behaviour do not change very much over the centuries — or change quite slowly — it is not surprising that statutes passed in the last century (e.g. the Offences against the Person Act 1861) still govern criminal behaviour to the present day. Although there is widespread recognition that these laws need to be updated and restated in modern language — and the Department of Justice has been doing this on a continuous basis — it is still the case that most forms of behaviour which were regarded by society generally as criminal over a hundred and fifty years ago, are still so regarded. The Department is not, of course, suggesting that criminal law reform is simply a matter of defining offences, which have long been recognised as offences, in modern language. It is also the means whereby public concern about particular patterns of wrongdoing, which appear to be on the increase or which can be cyclical, can be effectively addressed — sexual assaults, so-called “joy-riding”, “organised” crime and assaults involving syringes being cases in point.
- 8.7 As well as this, criminal law reform provides the opportunity to reflect, within the criminal law, contemporary thinking on issues such as culpability in the case, for example, of accused persons who suffer from mental illness, the way that accused persons ought to be dealt with in the course of their trial (an accused could not testify, for example, in his or her own defence until 1924) or punishment (abolition of the death penalty, for example). The case for continuous reform of the criminal law remains compelling and it is right that it should remain a high priority for the Department.

Law Reform Role of the Department of Justice

- 8.8 By virtue of the Ministers and Secretaries Act, 1924 the Department of Justice—

“shall comprise the administration and business generally of public services in connection with law, justice, public order, and police and all powers duties and operations connected with same”.

The Irish language name assigned to the head of the Department by that Act viz. “an t-Aire Dlí agus Cirt” emphasises the role of the Minister in relation to the law. The function of preparing laws in the area of criminal law is carried out by the Law Division of the Department. The Law Division also has responsibilities in relation to various other branches of the law. It is responsible, for example, for the law relating to the Courts, the Gardaí, Prisons, the legal profession, immigration and citizenship, data protection, extradition,

landlord and tenant law, charities, intoxicating liquor, the conversion into Irish law of European Union and other International Conventions relevant to the Department of Justice, transfer of prisoners, human rights issues, war crimes etc. It is also responsible for law reform in a number of other areas for which the Department has certain administrative responsibilities (e.g. Coroners Acts, Auctioneering Acts, Gaming and Lotteries, Censorship etc.). The general make-up of the work load of the Department and its current plans for law reform are outlined briefly at the end of this Chapter.

The Law Reform Commission

8.9 Although the work of the Law Reform Commission is not confined to matters relating to the criminal law (or indeed to matters relating to the functions and responsibilities of the Department of Justice) much of its work concerns aspects of the criminal law. Examples of recent reports in this category include the Reports on Confiscation of Proceeds of Crime; Dishonesty; Bail; Non fatal offences against the Person and a number of reports relating to sexual offences.

8.10 The Law Reform Commission was established under the Law Reform Act, 1975. The functions of the Commission are to keep the law under review, to undertake examinations and to conduct research with a view to reforming the law, and to formulate proposals for reform.

8.11 After its establishment, the Commission, as it was required to do under the legislation, prepared a programme for the examination of different branches of the law, which was subsequently approved by the Government. In addition to reporting on matters in the programme, it also has the function, at the request of the Attorney General, to undertake an examination of and to conduct research in relation to any particular branch or matter of law as determined by the Attorney General and to formulate and submit to the Attorney General proposals for its reform.

8.12 The Commission, since its inception, has published reports on the following areas of the criminal law

- (i) Recovering Stolen Property
- (ii) Rape and Allied Offences
- (iii) Malicious Damage
- (iv) Child Sexual Abuse
- (v) Sexual Offences against the Mentally Handicapped
- (vi) Confiscation of the Proceeds of Crime
- (vii) Imposition of Fines
- (viii) the Crime of Libel
- (ix) the Law Relating to Dishonesty

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- (x) Non-Fatal Offences against the Person
- (xi) Vagrancy and Related Offences
- (xii) Competence and Compellability of Spouses as Witnesses
- (xiii) Offences under the Dublin Police Acts and Related Offences
- (xiv) (Criminal) Contempt of Court
- (xv) Intoxification and criminal responsibility
- (xvi) Sentencing
- (xvii) Bail

Many of the Reports listed have been acted upon and relevant legislation has been enacted.

Office of the Attorney General and Parliamentary Draftsman

- 8.13 The policy and detailed nature of proposals for Criminal Law Reform are settled by the Minister for Justice, subject to the approval of the Government. The Office of the Attorney General comes into the process in two ways: first, that Office has a general advisory role with a special responsibility for ensuring that proposals being put forward do not offend against the Constitution and, secondly, that Office, through the Parliamentary Draftsman, has the function of converting detailed proposals, which at that stage will have been approved by the Government, into statutory form.
- 8.14 The law reform process, therefore, usually involves extensive consultation between the Attorney's Office and the Department proposing the reform which, in turn, means that the actual speed with which reforming measures are produced depends not only on the availability of resources within the Department proposing the reform, but also in the Attorney's Office. The Department of Justice welcomes the fact that not only have various operating systems within the Attorney's Office been revamped within the past few years but additional staffing resources have also been provided.
- 8.15 Law reform is very much a person-driven activity. In other words, the "resources" required to drive it at pace are people — preferably, in the case of criminal law reform at least, people with legal expertise. Given the continuing need to keep public service numbers within bounds (which affects the Department of Justice and the Attorney's Office as it does others) it is inevitable that priorities have to be established which of course affects the pace at which particular reforms can be advanced. Generally speaking, it is fair to say that the reform of the criminal law has received high priority. The Department of Justice will seek to ensure that it continues to receive such priority.

Research

- 8.16 Apart from the excellent research work carried on by the Law Reform Commission there is, as has been pointed out earlier in this paper, a deficiency in statistical data and research resources within our criminal justice system. These

tools are a pre-requisite to properly researched and well-thought out proposals for reform of the law. The Law Division, which is fully computerised, has taken steps in recent times to equip itself better to undertake the task of law reform. Major benefits are being obtained from the use of technology in the field of legal research and the Division now has access to major national and international legal data bases both through the Internet and on-line computerised legal information services. The intention is to pursue this line of development with a view to adding to the store of information that can be obtained through utilising the most modern technology.

Codification

- 8.17 Suggestions are made from time to time that, rather than proceed with "piecemeal" reform of the criminal law, the Department of Justice — or, if necessary, some other Agency (e.g. the Law Reform Commission) — should conduct a "root and branch" reform of the criminal law, eliminate all the legal "deadwood" and proceed to codify the criminal law in its entirety.
- 8.18 The practice, when preparing legislation on specific areas of the criminal law has been to seek to remove "deadwood" relating to those areas. A good example of this is the Criminal Law Act, 1997 which abolishes the distinction between felonies and misdemeanours and also outdated modes of punishment such as penal servitude, whipping etc. That Act contains 55 repeals of Acts in whole or in part which represent existing "legal deadwood". Twenty one whole Acts dating back as far as 1695 have been repealed by the Criminal Law Act.
- 8.19 One of the functions of Statute Law Reform and Consolidation, for which the Attorney General is responsible, is to undertake this task i.e. remove legal deadwood from the Statute Books. The last Statute Law Revision Act was in 1983. That Act repealed many pre-union Irish Statutes, English Statutes applied by Poynings's Act of 1495, English and British Statutes extended to Ireland between 1495 and 1800 and British Statutes from 1801-1922. In most cases whole statutes were repealed. What would seem to be a first requirement, irrespective of whether or not a system of codification is undertaken, is the publication (whether in electronic or paper form) of revised statutes showing the effect of all repeals and amendments on the whole corpus of statute law now applicable in Ireland. The feasibility of such an undertaking is being examined in the Office of the Attorney General at present. There has also been the very welcome publication by that office of an up-to-date Chronological Table to the statutes 1922-1995 and there is a proposal to make the post-1922 Statutes available in electronic form. The Department of Justice fully supports these developments which make for easier access to the law. The publication of an edition of revised statutes would, however, represent an enormous advance on the present situation with respect to access to our statute laws (including pre-1922 laws) in force.
- 8.20 A further development which would be in aid of and constitute a step towards codification would be a renewed impetus towards the consolidation of existing statutes in specific areas of the law. This is also an element of the Statute Law Reform and Consolidation function to be undertaken in conjunction with the relevant Departments. A programme of Consolidation would require the allocation of additional resources, not only in the Office of the Parliamentary Draftsman but also in the responsible Departments.

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- 8.21 It is not always clear what is meant by "codification" when used in the context of suggestions for a "root and branch" reform of our criminal law. Does it contemplate the rewriting of our criminal law in a form such as one finds in continental European codes which are based on the Code Napoleon? If so, there is an immediate and very serious difficulty because such codes involve a method of interpretation and a judicial function characteristic of a legal tradition quite different from our own. Codification in our context would probably involve the process of replacing the common law and existing legislation with statute law arranged in the form of a code. This leads to a further question:- should such a code be all-embracing i.e. should it result in all common law being replaced so that codification would constitute a comprehensive statement of our criminal law to the exclusion of all common law principles or offences? Furthermore should it encompass all elements that go to make up our criminal law viz., (i) the general principles of criminal liability, (ii) specific offences (iii) evidence and procedure and (iv) how offenders are to be dealt with by the Courts? These issues raise major questions of principle that would need to be teased out before any programme of codification could be attempted.

Lessons from experience in England/Wales on Codification

- 8.22 In order to give an idea of the resource implications involved in undertaking the codification of our criminal law, it is instructive to look at recent developments in England and Wales. In March 1981, on the invitation of their Law Commission, a "Code Team" comprising four distinguished academics undertook to study the implications of establishing a criminal code for England and Wales. Their terms of reference were

"(1) to consider and make proposals in relation to

- (a) the aims and objects of a criminal code for England and Wales*
- (b) its nature and scope*
- (c) its contents, structure, lay-out and the inter-relation of its parts*
- (d) the method and style of its drafting and*

(2) to formulate, in a manner appropriate to such a code,

- (a) the general principles which should govern liability under it*
- (b) a standard terminology to be used in it*
- (c) the rules which should govern its interpretation".*

The Code Team submitted their Report to the Law Commission in November 1984. Five years later in April 1989 the Law Commission published a draft criminal code for England and Wales.

8.23 Two things may be noted about the draft criminal code prepared by the Commission. Firstly, it did not purport to be comprehensive i.e. to cover all criminal offences or all aspects of the common law, and, secondly, it did not cover the third and fourth Parts of a Comprehensive Criminal Code viz. evidence and procedure, or how offenders were to be dealt with by the Courts. Apart from this, the Code Team and Law Commission did not have a written Constitution to take into account in formulating its proposals.

8.24 In other words it took approximately 8 years to bring the task only part of the way and, in the end, was not acted upon by Parliament. The English Law Commission, however, had been conscious that a substantial obstacle to codification, however desirable it might be in principle, would be the difficulty in securing sufficient Parliamentary time to process the Bill particularly if the codification proposed contained, in addition to re-statements of the law, fairly substantial reforms.

8.25 The probability is, therefore, that codification of the criminal law in our circumstances, while certainly a desirable and worthwhile objective, would not be easily achieved because of a number of factors, chief among them being the question of resources, both human and financial. Even if the necessary resources were provided, the task would, on the basis of experience in other jurisdictions, take a long number of years to complete. If, however, the resources were to be made available, one way to proceed would be to initiate a scoping study along the lines of that undertaken in England and Wales to ascertain the requirements for a full codification of our criminal law. This in itself would take some time to complete and would depend on sufficient expertise being available both to direct and undertake the task. In view of the resource implications in going down the road of comprehensive codification, the approach to-date has much to recommend it — that is to tackle, as a priority, the individual areas of criminal law that are most in need of attention and modernisation.

8.26 Examples of that approach can already be found in laws which were enacted in recent years to update the criminal law in relation to:

- incitement to hatred
- receiving stolen property
- firearms and offensive weapons
- abolition of the death penalty
- rape and sexual assault
- forensic testing, including DNA profiling
- criminal damage to property
- criminal evidence
- review of unduly lenient sentences
- victim impact assessments in sexual offence cases and compensation to victims
- freezing confiscation of the proceeds of crime
- suicide

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- miscarriages of justice
- extradition
- public order offences
- homosexual offences
- telephone tapping
- miscellaneous criminal justice matters
- classification of offences

8.27 Since January, 1995 the Minister for Justice has introduced the following legislative measures relating to crime:

Criminal Law (Incest Proceedings) Act, 1995

This measure dealt with a difficulty which arose in relation to verdicts and sentences in incest cases not being made public (The anonymity of the victim is still preserved).

Courts and Court Officers Act, 1995

While this measure dealt with court issues generally, it was significant in the context of the fight against crime through substantially increasing the number of judges (the number was further increased in subsequent Courts legislation). It also made useful procedural changes through, for example, abolishing the automatic right of an accused to have his or her trial transferred to another Circuit.

Criminal Justice (Drug Trafficking) Act, 1996

The Act applies to drug trafficking offences and includes provisions allowing for detention for up to 7 days of suspected persons; the issue of search warrants by Superintendents in circumstances of urgency; and restrictions on the right to silence.

Sixteenth Amendment of the Constitution Act, 1996

This Act amended the Constitution to allow provision to be made by law for the refusal of bail by a court to a person charged with a serious offence where it is reasonably considered necessary to prevent the commission of a serious offence by that person.

Criminal Justice (Miscellaneous Provisions) Act, 1997

The main objective of the Act is to reduce the amount of time spent by Gardai on court and court related duties, to better apply resources accounted for by these duties and help to ensure a greater presence of uniformed Gardai in our communities. The Act will also speed up aspects of court procedure in criminal matters. It makes general provision, for the first time, for the issue of search

The Criminal Law

offences in relation to the commission of serious offences such as murder or rape and extends the application of certain other Garda powers. It also allows for wider use by the Gardai of "stinger devices" to stop vehicles.

Criminal Law Act, 1997

The main purpose of this Act is to modernise certain aspects of the criminal law particularly through providing for the abolition of the distinction between felonies and misdemeanours in our criminal law thereby removing unnecessary complications and anomalies in the criminal law. The Act restates and clarifies the existing law relating to arrest without warrant in relation to serious crimes ("arrestable offences") and to Garda powers to enter and search premises to effect an arrest.

Children Bill

This Bill provides a statutory framework within which a new juvenile justice system can be established and developed. It also provides protection for children against abuse and will include provisions outlawing publication, production, distribution or possession of child pornography and the trafficking in children for the purpose of sexual exploitation.

Offences against the Person Bill

This Bill will repeal the greater part of the Offences Against the Person Act, 1861 and restate in modern statutory form the law relating to the main non-fatal offences against the person. In addition, it provides a range of new offences to combat the distressing and relatively recent problem of criminal conduct involving syringes. The offences provided for in the Bill include offences of possession of a syringe or container of blood with intent to threaten or injure, placing or abandoning a syringe in any place in a manner which injures or is likely to injure a person, injuring a person with a syringe or threatening to do so. The penalties provided range from 5 years to life imprisonment. The Bill also provides for a new offence of harassment aimed at "stalking"; a new offence of abduction out of the State of a child by a parent in a "tug-of-love" situation; and a new offence of endangerment to deal with conduct which creates a substantial risk of death or serious harm to another.

Bail Bill

The Bill gives effect to the Sixteenth Amendment of the Constitution allowing new grounds for the refusal of Bail. In addition, it tightens up on our bail laws generally through requiring cash (or equivalent security) to be lodged as part of bail, attaching conditions relating to non-offending to all bail granted and allowing forfeiture of bail where conditions are breached; and strengthening the provisions of the Criminal Justice Act, 1984 requiring consecutive sentences to be imposed where offences are committed on bail.

Licensing (Combating Drug Abuse) Bill

This legislation will deal with the problem of drug abuse in public houses, dance halls and other places of entertainment. It will also give additional powers to the Garda Síochána to prevent unlicensed dances, such as "raves", where it is suspected there will be drug abuse.

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Orders/Regulations

The Minister signed a Commencement Order implementing anti-money laundering provisions of the Criminal Justice Act, 1994 as well as making regulations under that Act dealing with the seizure of imports or exports of cash associated with drug trafficking. The Minister also received approval from the Dáil for the terms of three important international Conventions dealing with international co-operation on crime:

- the European Convention on Mutual Assistance in Criminal Matters and the Additional Protocol to the Convention
- the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
- the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

These Conventions which have now been ratified by Ireland are very important measures which will enable Ireland to co-operate extensively with other countries in the fight against drugs and other serious crime.

In addition the Criminal Assets Bureau Act, 1996, establishing the Bureau, and the Disclosure of Certain Information for Taxation and Other Purposes Act, 1996, allowing the exchange of information between various agencies, were introduced by the Government. The Proceeds of Crime Act, 1996, allowing for the freezing of the assets of criminals, and the Sexual Offences (Jurisdiction) Act, 1996, dealing with child sex tourism, were accepted subject to extensive amendment by the Government.

- 8.28 This major programme of criminal law reform is continuing including the following measures being prepared at present:

Fraud Offences Bill

This Bill will constitute a fundamental and far-reaching reform of the law on fraud and dishonesty in general. It will consolidate and update existing offences, as well as developing new offences, and will ensure that this vital area of the criminal law fully reflects modern conditions.

Criminal Insanity Bill

This measure will modernise the law in the area of criminal insanity.

Indexation of Fines Bill

This legislation will update fines to make them realistic and provide for their automatic indexation.

Attachment of Earnings Bill

This Bill will provide an alternative to imprisonment through allowing a court to order the attachment of amounts in question from a person's earnings or the imposition of a charge on property.

Europol Bill

This legislation is necessary to enable Ireland to ratify the Europol Convention.

8.29 The systematic updating of separate areas of the criminal law which are in need of modernisation, as is happening at present, is a process that will facilitate and assist eventual codification of the criminal law. The research and work that was necessary, for example, to replace the Malicious Damage Act of 1861 by the Criminal Damage Act of 1991, to prepare the Criminal Law Act, 1997 or to largely replace the Offences against the Person Act 1861 — at present in Bill form — is work that would have had to be done by a codification team. The more completely all areas of the law have been scrutinised and modernised, in this way, the more will codification be facilitated. On this view codification almost becomes a process of simply slotting in each updated area of the law into a single comprehensive document leaving the general part of the criminal law, perhaps, to be tackled by the codification team. Thus, it could be argued that it would be premature for the present to undertake codification of our criminal law which should await the time when there will have been an opportunity to scrutinise and modernise all our old statute law.

8.30 Another method of making the law more easily accessible generally, is through consolidation of the laws dealing with specific areas. Consolidation is the collecting together in one Act of all the extant statutory provisions dealing with a specific area of law. For example, our law on sexual offences is contained in a number of different pieces of legislation including some pre-independence statutes. There would be benefit in bringing all of these provisions together in one statute so that people could see at a glance what our complete law on these offences is. Once a Bill is certified as a consolidating Bill it passes through the Oireachtas with a minimum of debate and there is usually no difficulty in securing parliamentary time for its enactment. The Law Division is examining the allocation of resources to the consolidation of various areas of the law for which the Minister for Justice is responsible.

Inquisitorial System versus the Adversarial System

8.31 Suggestions are also made from time to time that we should introduce the continental inquisitorial system of examining magistrates into our criminal procedures. It is always necessary to consider carefully whether one particular aspect of a different legal system could be successfully transplanted into our system. It is not that such a thing could not be done, but that any such move would have to be based on a detailed analysis of the benefits and disadvantages of the proposal in the context of Irish law, rather than a straightforward measurement of its effectiveness in a very different context.

8.32 It is sometimes claimed that the adversarial system, which we have, is more a contest between opposing lawyers than a search for the truth, and that an inquisitorial system would better serve the interests of justice. However, while we need to be open to constructive criticism of our procedures, and while we should not shrink from change, even if radical, we should not at the same time overlook the fact that debate is also taking place in "civil law" countries about the value of the inquisitorial system. Not only are aspects of the system being questioned in some of those countries, including the role of examining magistrates, but, in many instances, there is evidence of a shift towards a more adversarial system.

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- 8.33 There is need for care, therefore, in assessing the merits of different legal systems, while remaining open to the possibility of "borrowing" some features of other systems even if the change is considered radical and difficult to bring about. To take a practical example — concern has been expressed from time to time that our system of preliminary examination may contribute substantially to delays in criminal trials. There is, in fact, little or no evidence to back this up (although some changes in this area may be desirable). It has been suggested that consideration be given to replacing the preliminary examination with an inquisitorial examination. In this particular case the argument for borrowing from another system is, on the face of it, unconvincing because delays also occur in those countries with an inquisitorial system, sometimes leading to long periods of remand in custody prior to trial.
- 8.34 In addition to practical considerations, there are also wider issues to be considered in any assessment of an inquisitorial system, in particular the degree to which such a system would accord with the Constitutional safeguards afforded to accused persons in Ireland. Care would have to be taken to consider the extent to which the role of a judge could overlap or supplant the role of the investigator, the prosecutor or the defence, roles which have always been separate and distinct, and the extent to which any such overlapping could impinge upon the right of an accused to test the evidence offered against him or her or conflict with the doctrine of the separation of powers enshrined in our Constitution. (The role of a judge under our Constitution is to administer justice in courts established by law. On the other hand the role of the examining magistrate in the Continental system in questioning suspects and assembling evidence (which the Gardaí do here) would appear to constitute an "executive" role).
- 8.35 It might also be mentioned in relation to the inquisitorial system as operated in Civil Law Countries that the question of its appropriateness for introduction into the British criminal justice system was considered by The Royal Commission on Criminal Justice which stated (July, 1993):

"Our reason for not recommending a change to an inquisitorial system as such is not simply fear of the consequences of an unsuccessful cultural transplant. It is also that we ourselves doubt whether the fusion of the functions of investigation and prosecution, and the direct involvement of judges in both, are more likely to serve the interests of justice than a system in which the roles of police, prosecutors, and judges are as far as possible kept separate and the judge who is responsible for the conduct of the trial is the arbiter of law but not of fact. We believe that a system in which the critical roles are kept separate offers a better protection for the innocent defendant, including protection against the risk of unnecessarily prolonged detention prior to trial. Moreover, there are 'inquisitorial' jurisdictions in which the system is moving, or being urged to move, in an 'adversarial' direction."

- 8.36 The Department of Justice's overall view on this question is that, while there may well be specific aspects of the continental systems of criminal justice which would repay study, and from which lessons could be learned that might be applied with advantage to our criminal justice system, there is a strong case to be made, especially, though not only because resources are limited, for the existing practice of ongoing reform of specific areas of our criminal law, including criminal procedure.

The question of proportionality

6.37 Criminal law reform involves a constant search for the right balance between the competing rights of those accused of crime, their victims and society generally. Opinions as to where the balance should lie change over time and are, not surprisingly, strongly influenced by factors such as the general state of law and order and stability within society. Opinions vary also as between different interest groups: the majority of academic or practising lawyers, for example, would not necessarily share views identical to those of crime victims or most police officers concerning the importance of preserving the "right to silence".

6.38 The Department of Justice, in formulating criminal law reform proposals over the years, has always been conscious of the need to balance competing rights and of the difficulty and complexity, at times, of maintaining that balance. It does not — and never has — subscribed to the view that the only people who need to worry about the erosion of the rights of the accused are the guilty. Nor does it take the view that the way in which the exercise of these rights operate in practice cannot be questioned. The fact is that, over the years, certain rights have been modified — for example the right to silence — and it is beyond doubt that the current mood within society is for further rebalancing of rights in favour of the victims of crime and the law-abiding majority. It is perfectly understandable that the mood should be thus and perfectly legitimate that the balance should be constantly reviewed. Of course, it is crucial that fundamental change in the balance of legal rights within society should always proceed with caution and following public debate, in the course of which the case for change has been demonstrated and not on the basis of hastily devised responses to events.

6.39 The task of maintaining the right balance when it comes to proposals for criminal law reform is both difficult and complex. The Department of Justice has, over the years, been accused, at times, of a tendency to erode the rights of suspects and, at other times, of prioritising those rights over those of victims and society at large — occasionally, the same reforming measure has attracted both criticisms! While it is a difficult task, and there is no magic formula to guarantee success, the Department will continue to strive for balance in all of the legal reform it proposes.

Current law reform priorities in the Department

6.40 As indicated in the recently published SMI Statement of the Department of Justice — "Community Security — Challenge and Change" the reform of the criminal law is a key priority of the Department of Justice. As stated also in that document, criminal law reform must take place against the background of the need to protect fundamental human rights and freedoms consistent with Constitutional obligations and international commitments (e.g. European Convention on Human Rights) while at the same time ensuring that the law is such that it can afford protection to society from the activities of criminals.

6.41 The negotiation of EU instruments to ensure that persons who commit criminal offences can be effectively prosecuted and dealt with throughout the Union also falls to the Department. In addition, the task of preparing legislation to give effect to EU instruments (e.g. directives and conventions) and to enable Ireland to comply with the obligations that arise under non-EU international conventions adopted by bodies such as the United Nations and the Council of Europe, has

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assumed ever-increasing importance in recent years. The range of issues that has to be covered is very wide — war crimes, drug trafficking, exploitation of children, to mention but a few — and in many cases new legislation is required. (There is more information on the subject at Chapter 16.)

8.42 The work programme of the Department's Law Division is, therefore, driven by a variety of sources:

- (i) proposals contained in programmes for Government;
- (ii) recommendations for change made by bodies such as the Law Reform Commission, the Committee on Court Practice and Procedure, ad-hoc Interdepartmental groups set up to consider particular problems (e.g. Drugs);
- (iii) Court decisions which pinpoint lacunae in our criminal law;
- (iv) international (including E.U.) conventions, or bilateral agreements between Ireland and other jurisdictions;
- (v) normal course reviews of the criminal law carried out in the Department's Law Division;
- (vi) Private Member's Bills which are accepted by Government;
- (vii) the need to respond to emergency situations.

8.43 In recent years extensive reforms to our criminal law have taken place (see paras. 8.26 and 8.27). This process is continuing. Some of the measures under preparation at present are referred to at para. 8.28 above. Other legislative measures to be introduced include a **Criminal Law (United Nations Convention against Torture) Bill** which will enable Ireland to ratify that Convention; a **War Crimes Tribunal Bill** which is necessary to implement UN resolutions establishing War Crime Tribunals for the former Yugoslavia and Rwanda; and an **Extradition Bill** which will enable Ireland to ratify a number of recent E.U. Conventions on extradition.

8.44 In addition, examination of Law Reform Commission Reports on **Criminal Defamation**, **Contempt of Court**, **Sentencing Policy** and **Intoxication as a Defence** has to be completed and in each case is likely to lead to legislative proposals. The Committee on Court Practice and Procedure Reports on **Appeals on the Preliminary and Examination Procedure** are being examined. A discussion paper on **Sexual Offences** is also being prepared by the Law Division of the Department.

8.45 The Minister for Justice has already announced her intention that **Criminal Justice (Miscellaneous Provisions) Bills** would be brought forward on a regular basis. To this end an Advisory Group on Criminal Law and Procedure has recently been established by the Minister with the following Terms of Reference:

"To review the existing criminal law and procedure as they currently operate and to advise the Minister on any changes that would enhance the operational efficiency and effectiveness of criminal law and procedure, with emphasis on identified or

emerging difficulties susceptible to early resolution through the mechanism of periodic Criminal Justice (Miscellaneous Provisions) Bills’.

This will enable desirable change coming to light in the normal course to be effected promptly and on a regular basis.

- 8.46 To conclude, in the area of criminal law reform, it can be said that much has been achieved in recent years in putting in place a modern, up-to-date reform programme. This work will continue to receive as much priority as the Department can afford to the task within the resources available to it. Any society must continue to be vigilant to combat the ingenuity of the modern criminal, while at the same time recognising the reality that it is not possible, and perhaps never will be, to say at any one time that society has in place a system of criminal law which ensures that all criminals will always be “brought to justice” and the risks of mistaken verdicts eliminated. Furthermore, the question of maintaining the proper balance between these two ideals, i.e. convicting the guilty and acquitting the innocent, must, as indicated earlier, always remain a central element in our criminal justice system. While having regard to this fundamental principle, the protection of society and, in particular, a recognition of the needs of victims of crime, must also be foremost in our minds.

Chapter 9

The Garda Síochána

Strategic Management Initiative Review

- 9.1 In July 1996 the Government initiated a wide-ranging review of the Garda Síochána under the auspices of the Public Service Co-ordinating Group on the Strategic Management Initiative, with the following Terms of Reference:
- To examine the operation of the Garda Síochána, against the background of the challenges it now faces and is likely to face;*
 - To consider the relationship between the Garda Síochána and other State agencies in the broad crime area, and*
 - To make recommendations to the Government at the earliest opportunity — but, in any event, not later than 31st December 1996 — for change that would be likely to enhance the efficiency and effectiveness of the Garda Síochána, including the timescale for implementation, in relation in particular to:*
 - *the role and functions of the force*
 - *its management structures and systems*
 - *policing practices*
 - *manpower and other resource issues*
 - *training and development*
 - *deployment of resources, including manpower.*

This task has been overseen by a Steering Group consisting of representatives from inside and outside the public service.

- 9.2 This Chapter would be expected, in normal course, to discuss in some detail some fundamental issues relating to the Garda Síochána, including its role, resourcing and performance record. Given that this independent and wide-ranging Review is now nearing completion, the sensible course is to await its findings and Government decisions on these findings. It is, however, important for completeness and because of its relevance to what is discussed in other Chapters, that this paper should highlight developments within the Garda in recent years which bear on its overall capacity and determination to tackle crime.

Present Mission and Goals

- 9.3 In the recent past the Garda Síochána have been operating within the context of a formal Strategic Plan. In April 1993, the Commissioner of An Garda Síochána with the agreement of the Minister for Justice adopted a Corporate Strategy Policy Document to cover the period 1993-1997. The document emphasised that An Garda Síochána exercises its policing role with the consent of the public and accepts, as its primary philosophy, the statement of its first Commissioner who said "the Garda Síochána will succeed not by force of arms or numbers, but on their moral authority as servants of the people".

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Mission

- 9.4 The emphasis on the job of tackling crime is, not surprisingly, the dominant theme in the Garda Síochána *Mission Statement*, which is:
- (a) *to provide services within a legal framework, available resources and with community support in order:*
 - (i) *to protect life and liberty;*
 - (ii) *to safeguard the liberties of the individual and preserve the public peace;*
 - (iii) *to prevent crime and to seek, identify and eliminate the causes of crime;*
 - (iv) *to detect offenders if crime is committed;*
 - (b) *to encourage and advise the community on how best to protect their persons and property from criminal behaviour;*
 - (c) *to provide guidance and assistance:*
 - (i) *in helping young people to advance their appreciation of the need to be caring, law-abiding citizens;*
 - (ii) *in cases of tragedy, or family and/or other personal crises;*
- and in so doing to provide a quality service to the public and the individual citizen while maintaining the highest standards of integrity, professionalism and efficiency.*

Goals

- 9.5 The problem of crime is again the central issue in the statement of broad *Goals* which the Corporate Strategy Document set for the Garda Síochána. These goals are to:
- *“Enhance the safety and security of the individual citizen, the public, the State and its institutions.*
 - *Improve responsiveness to community needs.*
 - *Contribute to a reduction in the number of injuries and deaths caused by road traffic accidents and improve traffic flow.*
 - *Achieve excellence as an organisation through the development of effective quality management.”*

The document went on to set out the means by which it was intended that these goals would be achieved.

- 9.6 The Corporate Strategy has been the subject of an annual review by the Commissioner. Overall, it can be said that the Strategy Statement has been extremely important in focusing the Force on priority issues and the best means of addressing those issues.

Garda Strength and Deployment

- 9.7 Garda strength is reviewed from time to time by the Government. On fact, in the latest review in March, 1997, the Government approved proposals for a new competition for the recruitment of additional Gardai over the three year period

The Garda Síochána

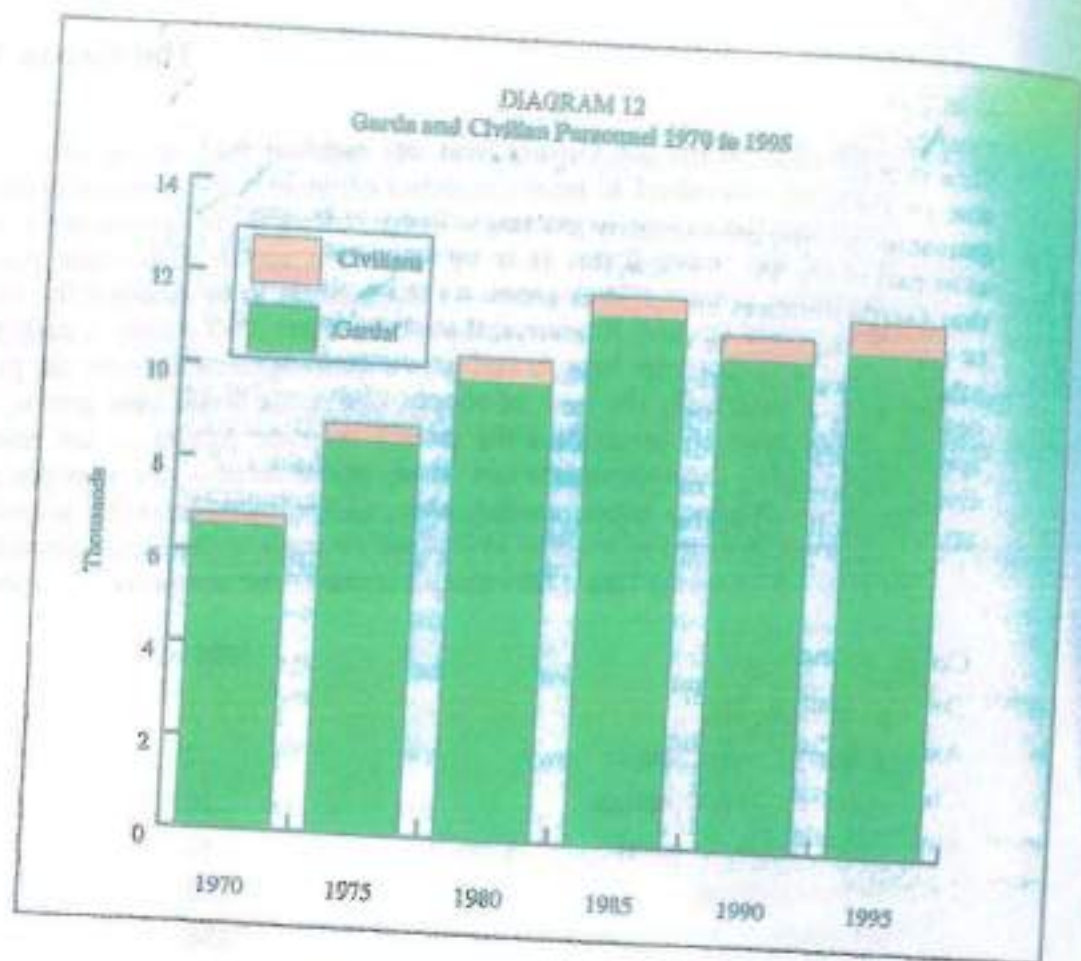
1996-2000. While the Government was satisfied that, at this time, the strength must be maintained to meet the threat of crime, they recognised that there is a view that the answer to growing crime problems is not necessarily to increase the size of the police force. It is by no means certain that more personnel will guarantee greater effectiveness. As this is likely to be amongst the issues looked at as part of the SMI Review, this paper confines itself simply to making the point that Garda numbers have in fact grown quite significantly over the past 25 years or so. It is equally the case, of course, that crime levels have grown. A range of other factors — apart from the growth in crime figures — are relevant when determining the appropriate size of any police force — for example, population spread, efficiency levels, specialisation, technological/scientific advances, use of civilisation and so on. The authorised strength of the Garda Síochána is made up of the following (the 1970 strength is shown for comparison purposes.)

	1996	1970
Commissioner	1	1
Deputy Commissioner	2	2
Assistant Commissioner	10	5
Chief Superintendent	43	27
Superintendent	160	126
Inspector	256	105
Sergeant	1,854	1,397
Garda	8,415	4,980
Total	10,741	6,553

Number of Gardai	
Year	Number
1970	10,472
1991	10,601
1992	10,786
1993	10,984
1994	10,892
1995	10,837

The Force is organised into Regions, Divisions and Districts. Diagram 12 shows the number of Gardai and civilian personnel, Diagram 13 shows the deployment of Gardai on a Divisional basis and Diagram 14 shows the percentage strength

Tackling Crime



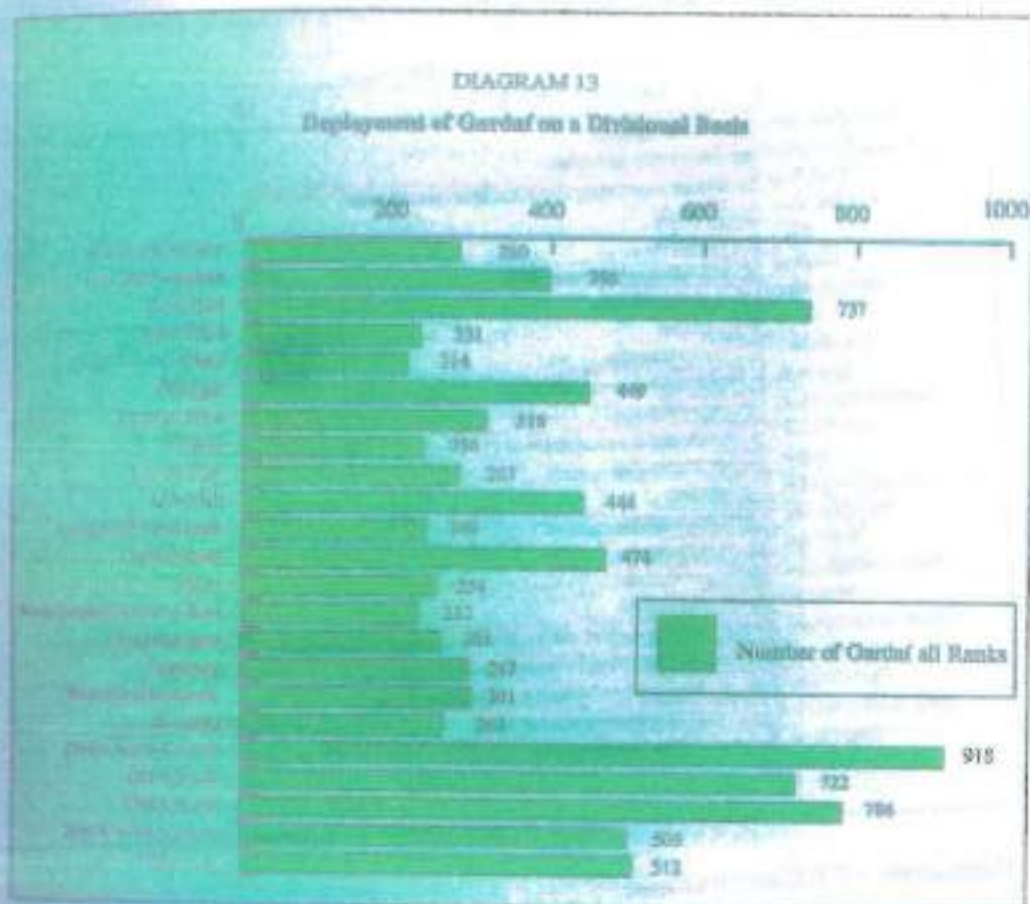
per Division, alongside the indictable crime level in that Division. (The strength of specialist units/bureaux based in Dublin are excluded from the Divisional strengths shown.)

Changes of Note in Recent Years

9.9 There have been major resource and operational changes in the Garda Síochána in recent years. Those which relate directly to the more serious forms of crime are dealt with in Chapter 10 and those affecting Garda capacity generally are mentioned in this Chapter. The following are of particular importance:

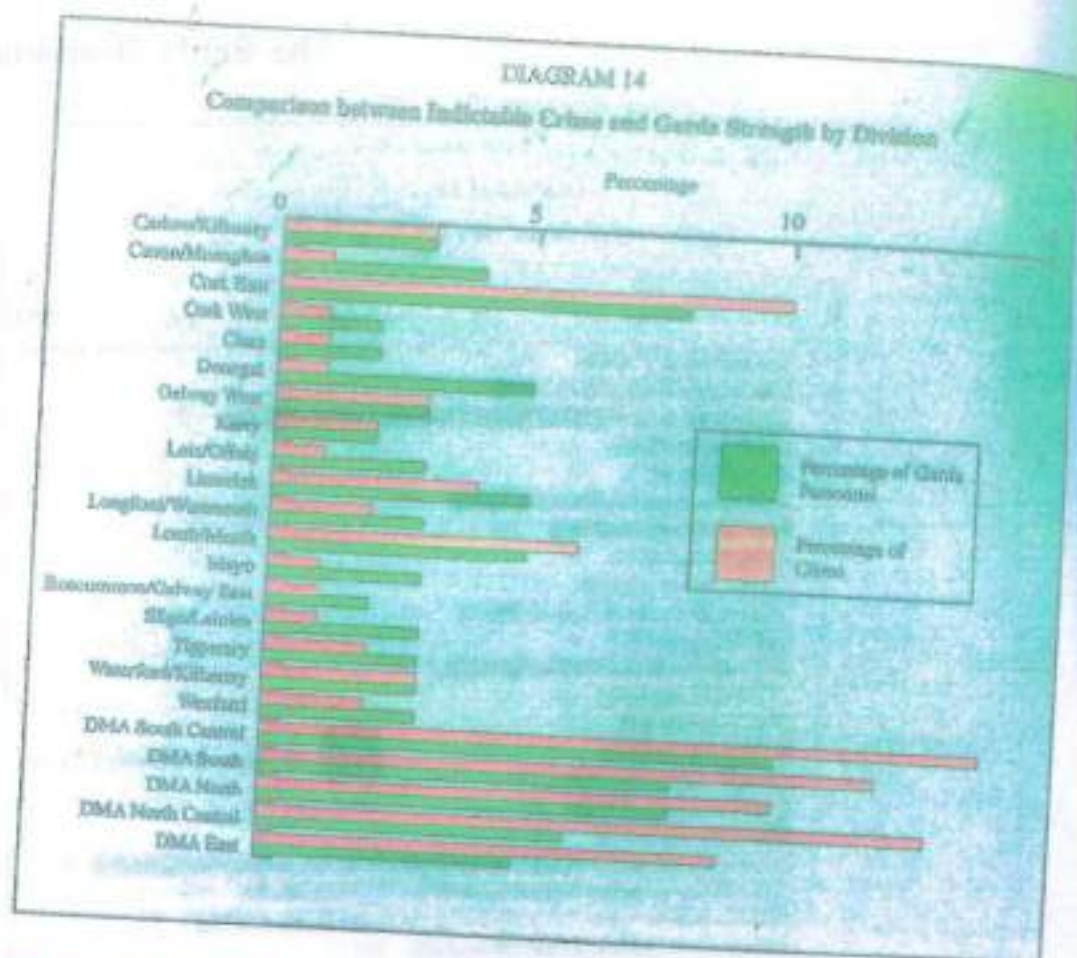
- An overall increase in the budgetary allocation to the Garda Síochána from £239.5m in 1985 to £440.3m in 1996, an increase in *real terms* of 5%. The overall level of indictable crime has increased by 10% in that same period, but as observed in paragraph 9.7, factors other than the growth in crime must be taken into account in determining optimum Garda numbers.
- A Regional Command Structure (established in 1996) under which Assistant Commissioners are assigned to take operational responsibility for a total of 6 regions (including the DMA).
- Establishment of an expanded National Fraud Bureau (1995).
- Establishment of National Drugs Unit (1995).

The Garda Síochána



- Development of new Information Technology (cost £36m), a contract for which was signed in 1996, and Communications Systems.
 - Introduction of dedicated air support unit for day and night operations, a contract for supply of aircraft being signed in 1996 — supply to be effected in mid-1997.
 - Rapid development of Neighbourhood Watch Schemes (now some 2,000) and support for Community Alert Schemes (now numbering 842).
 - Development of Juvenile Liaison Officer Scheme.
 - Expansion of the programmes for renewal of Garda premises.
 - Development of the Forensic Science Laboratory.
 - The take-over by the Department of Justice of responsibility for the Office of the State Ombudsman from January, 1997.
 - Recruit Development Training extended to 2 years.
 - Garda Research Unit established.
 - Further rationalisation of administrative posts.
- For more information on some of these developments at the end of this Chapter.

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Measures of Effectiveness

- 9.10 Policing covers such a broad spectrum of activities, both overt and covert, that it is difficult to identify specific indicators of effectiveness. The SMI Review process referred to already will explore this issue. For the purpose of this Chapter, four possible effectiveness indicators are briefly considered — level of contact with the community, record in preventing/deterring crime, record of detection and public perceptions.

Contact with Community

- 9.11 The Garda Síochána has a strength which remains at around 11,000 members of all ranks, policing a population of three and a half million people, spread over a relatively large area in a mix of urban and rural communities. Given that policing is a 24 hour day, 365 day year commitment, and allowing for standard work-schedules, it is a challenge in itself to maintain a visible presence throughout the community. When account is taken of the necessity, at the same time, to assign resources to operational response and other specialist units (security, fraud, drugs, criminal assets, communications etc.) and general administration, the capacity to maintain a visible presence becomes all the more challenging.
- 9.12 While the level of Garda visibility is clearly important in terms of building confidence and communication between the Gardai and the community, the quality of the communications that take place is at least of equal importance. Garda training and "community" policing initiatives generally are highly relevant in this regard.

Record on prevention/deterrence

9.13 In Chapter 5, some details are given of the level of reported indictable offences (which run to about 100,000 a year) in the State. The statistics show a relatively modest increase over the past decade up to 1995. Current information shows that in 1996 the level has dropped compared to 1995 and that the downward trend is continuing so far in 1997. As already indicated, comparisons also suggest that the level of reported indictable offences in the State is much lower than in most Western democracies (see paragraph 5.14).

9.14 It would, of course, be presumptuous to suggest that this relatively favourable picture can be attributed entirely to effective policing (combined with effective anti-crime policy and legislative measures) but it is not unreasonable to assume that the influence of these factors is quite significant. There is no doubt that a significant proportion of would-be criminal plans are frustrated as a result of good-quality Garda intelligence — this is especially true of the more serious forms of offending which are the subject of particular Garda attention. The precise impact of prevention/deterrence has not been measured. It would be extremely difficult to measure it fully, given that effective patrolling, for example, can frustrate criminal plans of which those on patrol may be totally unaware. Greater research capability, the importance of which is heavily emphasised in this paper, would enable us to know more precisely how effective the Gardaí are in preventing crime and what particular forms of deterrence are most effective.

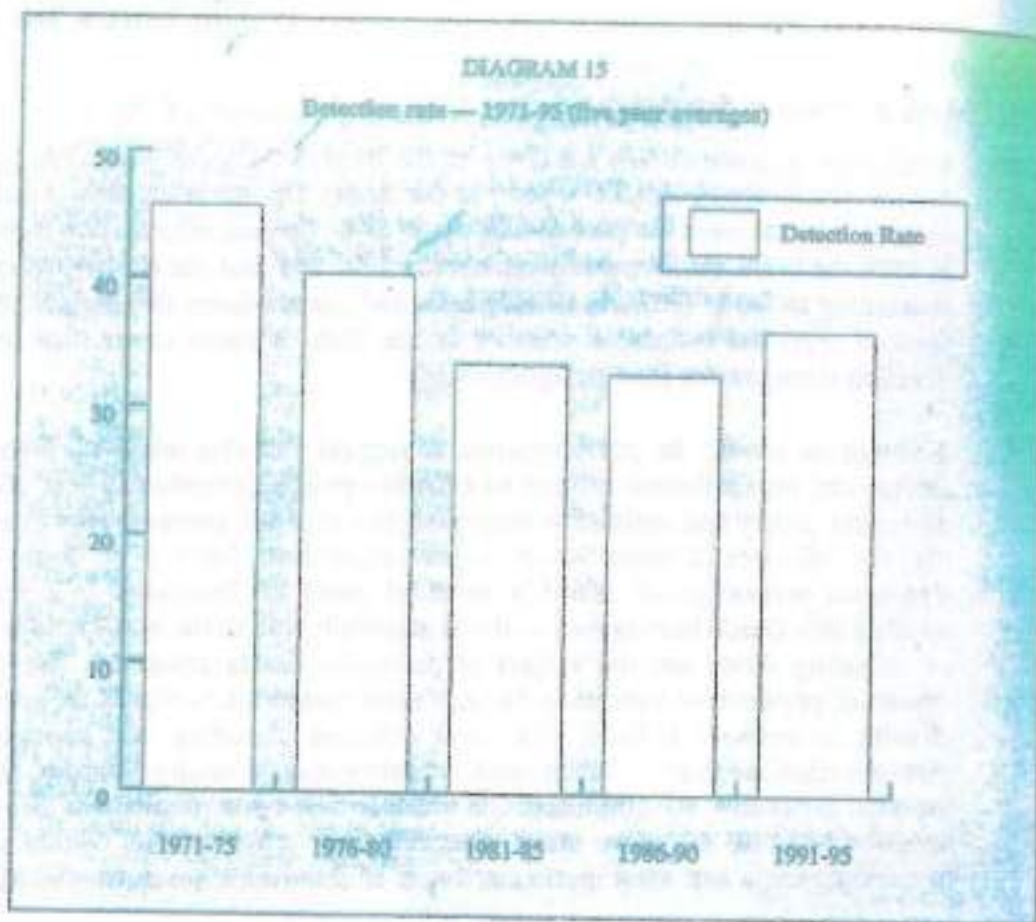
Detection rates

9.15 The percentage of indictable offences for which culprits are identified, found and charged constitutes the detection rate. The overall rate in the period 1971 to 1995 is shown in Diagram 15.

9.16 Current information suggests that in 1996 the detection rate was 39%. The trend, therefore, despite a drop in the 1980s, is upwards. International comparison of detection rates, so far as available, suggests that the level of detection here is above the international norm.

Detection Rate	
Year	%
1980	33.1
1981	33.5
1982	34
1983	35.7
1984	39
1985	39

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Public Perceptions

- 9.17 It is difficult to measure public opinions of police efficiency in any country. It is something which can tend to vary depending on the time interval between the active survey and the latest high-profile crime or police success. The Department believes that it is important that scientifically conducted performance surveys be conducted as a matter of course and understands that this is one of the matters which will be looked at by the SMI Group (see paragraph 9.1).

Policing in General — Important Developments

- 9.18 The paragraphs which follow contain more detail on some of the more important developments in recent years designed to enhance Garda operational capacity generally — the developments that are of particular importance in the case of more serious crime are mentioned in Chapter 10.

Community Policing

- 9.19 Community Policing is a key approach concerned with co-ordinating community assistance in the prevention and detection of crime. It comprises a number of elements.

Community Relations Section

This Section based in Harcourt Square in Dublin has responsibility for Neighbourhood Watch, Community Alert, Victim Support/Dublin Tourist Victim Support Service, Business Watch and other community-based initiatives and programmes.

The Garda Síochána

Crime Prevention Unit

The Garda Crime Prevention Unit has special responsibility for disseminating advice on crime prevention throughout the country.

National Juvenile Office

The National Juvenile Office was established in 1991 and is responsible for the overall administration of the Juvenile Diversion Programme; the development and implementation of the Garda Schools Programme; supervision, support and training of Juvenile Liaison Officers and ongoing liaison and contact with statutory and non-statutory bodies involved in the area of juveniles. The Juvenile Diversion Programme is especially important in crime prevention. It is operated on a countrywide basis. The programme provides for the cautioning of juvenile offenders under 18 years of age, subject to conditions, as an alternative to court proceedings. The main aim of the programme is to divert young offenders away from a criminal life-style by impressing on them their responsibilities both to themselves and to society in general.

Urban Community Policing

Community policing in urban areas was first introduced on a pilot basis in the Ballybrack/Loughlinstown area of South Dublin in 1987. Following its success there it was subsequently introduced in the DMA North Division in February, 1988 and in Tallaght later that year. Since then, it has been extended throughout all of the DMA and to urban areas in Garda Divisions outside Dublin. There are 246 Community Gardai operating in urban areas. These Gardai are allocated specific communities with a mandate to police the community in close liaison with its people, especially the young.

Rural Community Policing

The Community Policing Initiative for Rural Areas was introduced in 100 Garda Stations in 12 Garda Districts throughout the country in September 1991 following the success of a pilot project in Thomastown and Claremorris in 1989. The Rural Community Policing Scheme works on the following basis:

- Each District is divided into two Areas for policing purposes. Each Area is under the control of a Sergeant who is known as the Area Administrator. Each Area contains a number of Sub-Districts.
- The Area Administrator prepares the "duty roster" for the Area which ensures that each Sub-District Station is open at a specific time for a specific period per day.
- All Gardai in each Area are regarded as Area Officers and are available for duty as detailed by the Area Administrator.
- Special resources are available to each Area including patrol vehicle(s), clerical assistance and computer facilities.
- Interdependence and administrative procedures within each Area are maintained to free Garda personnel as far as possible to concentrate on patrolling and other Garda duties.

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Some advantages of the Scheme are:

- More effective use of resources.
- Greater mobility and flexibility in responding to public needs and more co-ordinated contact with elderly residents in remote areas.
- Widening of Garda knowledge and contact with the public.
- Greater regularity in opening of Garda stations.
- Greater involvement by Gardai in community-based crime prevention programmes.

The Rural Community Policing Scheme is undergoing a full review, at present, involving full consultation. Any alterations to the Scheme will depend on the outcome of that review.

Watch/Alert

Community co-operation may be specially channelled through a number of special schemes including:

Neighbourhood Watch which was launched in 1985 and has over 2,000 schemes in operation throughout the State;

Community Alert, a rural version of Neighbourhood Watch, which was launched in 1985 by Muintir na Tire. The Gardai have carried out an evaluation of the scheme in 15 selected areas. Based on research carried out on the crime levels for the 3 year period before and after the Community Alert Scheme was established, the following results were recorded;

- (i) 17% decrease in attacks on the elderly
- (ii) 25% decrease in burglaries
- (iii) 21% decrease in other crimes.

It was further noted that the public in the areas surveyed believed that the Community Alert scheme has resulted in a decrease in crime. There are now over 800 Community Alert schemes in operation and, in 1996, the Minister for Justice provided a grant of £50,000 to Muintir na Tire to expand the scope of the scheme. The grant has allowed Muintir na Tire to appoint five Development Officers to expand the number of schemes countrywide. For instance, in Donegal the number of schemes has increased from 2 to 42;

Campus Watch established in 1991 in ten third level institutions;

Business Watch which was introduced on a pilot basis in 1994 and which now has 54 schemes in operation;

Coastal Watch which was initiated in 1996 to help in gathering information on suspicious shipping movements which might suggest trafficking in contraband, especially drugs.

Youth Diversion Projects

The first Youth Diversion Project was launched in 1991 in North Clondalkin. Since then, nine other projects have been established. These community based projects are funded by the Department of Justice and managed by an advisory committee under Garda auspices. Provision is made for the employment of a full-time co-ordinator and all funds are administered by the Garda Superintendent for the District where the project is based. The current projects are located at:

<i>Dublin</i>	Ronanstown, Tallaght, Blanchardstown, Cherry Orchard, Darndale
<i>Cork</i>	Knocknaheeny/Holyhill
<i>Waterford</i>	Ballybeg/Larchville/Lisduggan
<i>Limerick</i>	Moyross, Southill

The aims of these projects are:

- (1) to prevent crime,
- (2) to divert young people from wrong doing,
- (3) to make a contribution to the quality of life for young people within the target area,
- (4) to provide positive alternatives for the young people concerned, and
- (5) to support Garda Community Relations.

The methodology employed involves the identification of a specific "at risk" group within a defined geographical area, evaluation of the needs of this group and the provision of meaningful activities in the area of education, skills and personal development.

Regionalisation

9.20 The Gardai were reorganised on a regional basis in 1996, each region headed by an Assistant Commissioner to allow for a more co-ordinated and cohesive approach in tackling, on an operational basis, all facets of crime, especially crime which crosses Divisional boundaries. The Regions are:

<i>Dublin Metropolitan Area</i>	Dublin North, Dublin South, Dublin South Central, Dublin North Central, Dublin East.
<i>Southern Region</i>	Cork City, Cork West, Cork North, Kerry, Limerick.
<i>South Eastern Region</i>	Waterford/Kilkenny, Wexford, Tipperary.
<i>Western Region</i>	Galway West, Roscommon/Galway East, Mayo, Clare.
<i>Northern Region</i>	Sligo/Leitrim, Donegal, Cavan/Monaghan.
<i>Eastern Region</i>	Longford/Westmeath, Louth/Meath, Laois/Offaly, Carlow/Kildare.

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Garda IT

9.21 The Gardai have embarked on one of the most significant developments in Information Technology (IT) ever undertaken by an Irish public service organisation. This development will see the introduction of new operational and administrative systems to enable the Force to improve data collection and dissemination. It was part of the Law and Order package submitted to and approved by the Government in late 1993. The next phase, commenced in 1994, was that of Conceptual Design following a competitive tendering process. The conceptual design team carried out a detailed examination of operational and administrative areas of the Force. Following on the Conceptual design, a comprehensive Request for Tender (RFT) was published. During 1995, the responses to these tenders were evaluated, and a preferred supplier selected. A contract has now been signed and implementation of the Strategy is under way.

9.22 Also during 1995, work was undertaken in several "niche" computer areas.

These included:

- AFIS/AFR (Automatic Fingerprint Identification System/Automatic Fingerprint Retrieval) System,
- a Money Laundering Data System for the Garda Bureau of Fraud Investigation,
- a Fleet Management Data System for the Garda Transport Division,
- a new Alarm Monitoring System for Divisional offices outside the DMA,
- an Exhibit Tracking system for the Technical Bureau,
- an incident recording system for the Communications Room, Anglesea Street, Cork, to complement the new Cork Radio system,
- an on-line reference material pilot system, using the Finance Code as the source document,
- word processing templates for commonly used documents and forms,
- on line Charge Sheet Wordings.

9.23 The challenges of crime detection in the 1990s necessitate the availability of the most advanced and efficient technologies to ensure that the Garda Síochána are geared to meet those challenges. Information technology can play a major role in assisting the Gardai in their fight against crime. The Garda Síochána rely heavily on information or, to use the professional term, intelligence. The more they are enabled to access this information and correlate it in an appropriate manner the greater will be their ability to prevent and detect crime.

Last year work commenced on implementing the Garda Information Technology Plan, P.U.L.S.E., in which some £36m is being invested.

The I.T. Plan envisaged is a major and complex project encompassing approximately 17 administrative and operational Garda systems in an integrated structure. It is anticipated that the new systems derived from the Plan will provide

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for significant administrative and operational improvements in the Garda. Not alone will it cut down the need for paperwork thus releasing members for operational duties but it will also provide the Garda with greatly enhanced capabilities in the investigation of major crime including drug trafficking and fraud.

The new computerised fingerprint identification system (AFIS), which was formally inaugurated earlier in January, 1996, is the first major deliverable from the Plan. Preliminary results from the system show a three-fold increase in fingerprint identifications since the new AFIS system was installed. The new technology will ensure a rapid and comprehensive service to the operational force. All scenes of crime fingermarks submitted will be assessed for examination against the complete national fingerprint database, leading to the identification of a greater number of criminal suspects. In the old manual system such searches took up to 500 man hours to complete. The AFIS system is capable of carrying out such searches in under 10 minutes.

The results that this computerised fingerprinting system is producing is clear evidence of the major role modern computer technology can play in the policing context.

Forensic Science

- 9.24 The Forensic Science Laboratory (which operates under the aegis of the Department of Justice) is one of the most modern laboratories of its kind in Europe. The Laboratory assists the Gardai in the investigation of crime and in the presentation of forensic evidence in Court. In recent years, the Laboratory has taken delivery of state-of-the-art equipment to allow it to carry out DNA tests.

Other Recent Ministerial/Government Policy Matters

- 9.25 In July, 1996, the Minister announced a series of anti-crime measures, both immediate and long term. These measures included:

Extra Gardai

An increase in Garda strength with the recruitment of an extra 400 Gardai over the period July 1996 to December 1997. This accelerated recruitment programme will be *in addition* to the already planned-for recruitment of 350 new Gardai in each of the years 1995, 1996 and 1997. In March, 1997, the Government approved proposals for a new competition for the recruitment of additional Gardai over the three year period 1998-2000.

Extra Civilianisation

An additional 200 civilians are to be recruited before early 1997 to enable an equivalent number of Gardai to be released from clerical/administrative-type duties to operational Garda duties.

Garda/Revenue/Social Welfare Co-Operation

The setting up of the Criminal Assets Bureau, headed by a Garda Chief Superintendent, to target the assets of major dealers in drugs and organised crime. (This, as indicated earlier has already been accomplished.)

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Other Crime Prevention Measures

Other initiatives announced in the July 1996 crime initiatives included

- an increase in the number of Youth Diversion Projects,
- strengthening of the Juvenile Liaison Officer Scheme,
- intention to establish a Crime Council (addressed in Chapter 17),
- expansion of the street CCTV system,
- specialist Garda vehicles for surveillance and rapid response and
- setting up of a dedicated Air Support Unit
- provision of additional Radio Technicians for the Garda Communications Network.

Offender Management

New supervised early release programme — there is information on this in Chapters 13 and 14.

Courts

Additional judicial appointments and extra sittings of the Central Criminal Court and the Circuit Court. (This has been implemented also — the details are contained in Chapter 12.)

Chapter 10

Substance Abuse and Serious Crime

Background

- 10.1 There is little doubt that, in recent years, the major contributor to serious crime both here and in other Western democracies is substance abuse in all its forms. The issue, therefore, deserves special attention.

Alcohol Abuse

- 10.2 The term "substance abuse" is widely taken as a reference to opiates or barbiturates and chemically produced substances all of which may be misused. However, substance abuse refers also to the abuse of alcohol. In the National Alcohol Policy published by the Minister for Health in September 1996, the cost to the State of alcohol related problems, in 1995, was estimated to be £325m.
- 10.3 Research shows alcohol abuse to be a background factor in a worryingly high proportion of the most serious forms of offending. Because of the fact that alcohol is, for the most part, supplied in accordance with law and that a large number of people consume it lawfully, there is an understandable inclination not to think of alcohol in the substance abuse context. The fact is, however, that many people do not consume alcohol responsibly. Apart altogether from the fact that this contributes very directly to deaths on the roads and, of course, to alcohol-related illnesses of various kinds, it also gives rise to a considerable amount of violence both within and outside the home. The irresponsible alcohol habits of some parents sets an extremely poor example for younger people, which, combined with increasing affluence and more effective "packaging" of the product, means that heavy drinking is seen by more and more young people, including those in their early teens, as an accepted way of life.
- 10.4 Under-age and excessive alcohol consumption cannot be effectively addressed by concentrating only on law enforcement measures — though law enforcement clearly has a part to play. The Department believes that it is an area which needs to be dealt with on a cross-agency basis and that it requires significant community input and support. The Department will look forward to comments that may be received on the subject arising from publication of this paper and is convinced of the need to bring the problem of alcohol abuse within the ambit of the general discussion of substance abuse and measures to tackle such abuse.

Drugs

- 10.5 The growth in drugs misuse (mainly cannabis, ecstasy and heroin) in recent years is generally recognised, however, to represent the most insidious threat to our society. It destroys the lives of many young people, it promotes a criminal culture and its exploitation is the bed rock of a great deal of major organised crime.
- 10.6 The most serious problems with drug abuse are associated with heroin which not only damages the addicts themselves but also fuels a great deal of crime in Dublin and surrounding areas. The heroin problem is most concentrated in the inner-city of Dublin which has borne the brunt of the problem. It is estimated that there

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are some 8,000 heroin addicts in the greater Dublin area. Heroin addiction in other parts of the country is not a serious problem although there is evidence that the use of heroin is spreading beyond Dublin. The misuse of other drugs is a countrywide phenomenon.

- 10.7 The growth in drug misuse is reflected in the following statistical table of persons charged/drug seizures in the years 1986 to 1995:

Seizures and Number of persons charged with offences under the Misuse of Drugs Acts: 1986-1995

Year	No. of persons charged	% change on previous year	No. drug seizures	% change on previous year
1986	1,163	-8.4%	1,440	-12.0%
1987	1,196	+2.8%	1,235	-14.2%
1988	1,333	+11.5%	1,310	+6.1%
1989	1,344	+0.8%	1,562	+19.2%
1990	2,071	+54.1%	2,316	+48.3%
1991	3,088	+49.1%	3,550	+53.3%
1992	3,494	+13.1%	4,262	+20.1%
1993	3,833	+9.7%	4,914	+15.3%
1994	4,053	+5.7%	5,379	+9.4%
1995	4,021	-0.6%	6,522	+21.25%

It is also reflected in the following table of drug quantities seized in each year from 1992 to 1995 inclusive:

Quantity of Drugs Seized from 1992-1995

Drug	1992	1993	1994	1995
Heroin	793g	1.2kg	4.6kg	6.5kg
Cannabis Resin	498kg	4,200kg	1,460kg	15,529kg
Ecstasy (Tablets) Figures include amphetamine which may be classed as ecstasy	1,422	2,014	28,671	**173,699
Cocaine	9.85kg	347g	45g	21.8kg

** Included in this figure is a sufficient quantity of ecstasy seized in the form of powder to make 50,000 tablets.

Government Action

- 10.8 Tackling the drugs menace has for years been a priority concern of the Department of Justice and the Garda Síochána. In July, 1995, and again in July, 1996, the Government, acting on a series of proposals promoted by the Minister

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for Justice, took a series of major initiatives for legislative reform and inter-agency co-operation to deal with the growing menace. The Government action included:

Inter Agency Co-operation

- The completion of a *Memorandum of Understanding* between the Garda Síochána and Customs and Excise Service, signed by the agency heads and endorsed by the Ministers for Justice and Finance;
- The establishment in October, 1996 of the *Criminal Assets Bureau* under the *Criminal Assets Bureau Act, 1996*. The objectives of the Bureau are:
 - '(a) the identification of the assets, wherever situated, of persons which derive or are suspected to derive directly or indirectly, from criminal activity
 - (b) the taking of appropriate action under the law to deprive or to deny those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate, and
 - (c) the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the objectives mentioned in paragraphs (a) and (b) above.'

This new body, which has staff drawn from the Gardaí, the Revenue Commissioners and the Department of Social Welfare, will ensure closer and more concerted co-operation between the State agencies in dealing with drug trafficking and organised crime. The Bureau has the capacity to mount a sustained and focused attack on the illegally acquired assets of criminals involved in serious crime and forms a central part of the Government's anti-crime measures.

- The Ministerial Task Force set up on 9 July, 1996 which reviewed the present situation in relation to demand reduction and in its first report recommended the establishment of a *National Drugs Strategy Team* to co-ordinate the State's response to the drugs problem. This National Team has now been established as a cross-Departmental team of the type envisaged by the SMI, with high level representation from the main Departments, their agencies and voluntary/community representation.

The Department of Justice believes that this multi-agency approach provides the best framework for dealing in a co-ordinated way with the complex problems associated with drug abuse and is fully committed to the work of the National Drugs Strategy Team. The need for a co-ordinated effort is especially apparent to those charged with law enforcement as the connection between drug dealing, drug addiction and crime is well established. On a broader level, it has become clear that the drugs problem is a complex and difficult one and that a multi-disciplinary approach involving co-ordinated action in the area of supply reduction, demand reduction and increased access to treatment and rehabilitation programmes is needed.

- The inter-agency and community response to the drugs problem has also been extended to the local level through the establishment of *Local Drugs Task Forces* in priority areas to identify local needs and co-ordinate responses at a local level.

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Legislative Change

- The **Criminal Assets Bureau Act, 1996**; (See paragraph 10.15).
- The **Proceeds of Crime Act, 1996** provides a mechanism for the freezing and forfeiture of the proceeds of crime. This will allow the State to deprive criminals of the benefits of their criminal activities. Between 15 October, 1996 and 31 January, 1997, property consisting of a number of dwelling houses, a number of motor vehicles and cash in the order of £190,000 were made the subjects of orders under the Act;
- The **Criminal Justice (Drug Trafficking) Act, 1996** provides for detention of up to 7 days for drug trafficking offences and allows inferences to be drawn by a Court from the failure of an accused to mention particular facts when being questioned by a Garda. The Act also provides for Garda Superintendents to issue a search warrant in drug trafficking cases;
- The **Disclosure of Certain Information for Taxation and Other Purposes Act, 1996** provides for a more effective exchange of information between the Gardai and the Revenue Commissioners;
- Legislation to deal with the problem of drug abuse in public houses, dance halls and other places of entertainment is at an advanced stage of preparation. It will also give additional powers to the Garda Síochána to prevent unlicensed dances, such as raves where it is suspected there will be drug abuse.
- The **Housing (Miscellaneous Provisions) Bill, 1996** which deals, among other things, with the problems arising from drug pushing and related activity in local authority housing estates.

Prisons

- Steps to tackle the drugs problem in prisons including (see also Chapter 13):
- adaptation of the existing visiting facilities in Mountjoy to make it more difficult to pass contraband, including drugs;
- provision of a purpose-built area for searching prisoners suspected of receiving or being in possession of drugs;
- upgrading of closed circuit video equipment used for monitoring visits;
- erection of netting equipment over the main exercise yard at Cork Prison to eradicate the practice of throwing drugs over the wall;
- development of detoxification programmes;
- opening of a new Drug Treatment Centre in Mountjoy Prison in July 1996;
- designation of a Drug Free Unit at the Training Unit in April, 1996.

Complementary Garda Initiatives

10.9 Apart from participating in new inter-agency co-operative measures, applying new legislation and managing the new Criminal Assets Bureau, the Garda Síochána have developed the new Garda National Drugs Unit (September, 1995).

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a new National Bureau of Criminal Investigations (January, 1997) and developed a number of specific programmes of police action including "Operation Dóchas" which came into operation in October, 1996. This particular strategy operates in all Dublin districts and involves the deployment of in excess of 500 uniformed and plain-clothes Gardai. Uniformed Gardai adopt a high profile through both foot patrols and mobile patrols and are working with local communities, both community leaders and individual families. Backup is provided by specialist mobile units and other units. This operation has already resulted in an increase in the quantity of drugs seized and in arrests made.

EU/International Developments

European Union

- 10.10 The fight against drugs on a European wide basis was made a priority issue during Ireland's Presidency of the EU in the second half of 1996. As a consequence
- Joint Action was agreed in relation to curbing trafficking on European routes which provides for participation of the Member States in the strategic operation planned by the World Customs Organisation to combat drug smuggling on the Balkan routes.
 - Joint Action was agreed on the Chemical Profiling of Drugs which provides for improved information and intelligence for law enforcement purposes on the sources and routes of illicit drug trafficking through the exchange of information between Forensic Laboratories, through the Europol Drugs Unit (EDU) on the chemical profiling of drugs seized including cocaine, heroin, LSD, amphetamines and their ecstasy type derivatives.
 - A Council Resolution was promoted to provide for measures to combat and dismantle illicit cultivation of drugs within the EU.
 - Ministerial agreement to the ratification by all Member States of the Europol Convention by the end of 1997.

International Co-operation

In late 1996 and early 1997 Ireland ratified three major international conventions, namely a UN Convention on Drug Trafficking and Council of Europe Conventions on Mutual Assistance and Money Laundering. Through these Conventions Ireland will be able to make a greater contribution to the worldwide battle against drugs and will be able to benefit from international assistance in dealing with our own drugs problems. The Department of Justice is committed to continuing involvement in the various international organisations which seek to enhance co-operation in responding to drugs issues.

Future Action on Drugs

- 10.11 There is little doubt but that the drugs menace must remain a high priority for action for the foreseeable future as part of an overall anti-crime strategy. It will require for success sustained, concerted action, directed by the highest levels of Government. The Department of Justice will endeavour to ensure that this priority attention will be maintained. In the future the Department of Justice will

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continue to seek to respond to the drugs problem through legislation, improved law enforcement, multi-agency responses and international co-operation as required.

Serious Crime

- 10.12 The very substantial gains to be made from illegal drugs has, not surprisingly, drawn major criminals into drug trafficking and distribution at national and international levels. Many of these criminals and criminal organisations, some of whom possess very considerable wealth and power have, in fact, been created and sustained by drugs-related activity.
- 10.13 These organisations do not, of course, *confine* themselves to the illegal drugs trade. They are prepared to participate in any form of illegal activity within the State, between different States and across Continents which is likely to add to their ill-gotten gains. Their activities range from illegal tobacco smuggling and sales to illegal arms dealing, illegal movement of people — including children for prostitution and other forms of abuse — and to fraud on an international scale. The fact that the lives of thousands of innocent people are lost or blighted in the process is a matter of no consequence to those concerned.
- 10.14 The activities of so called "crime bosses" and criminal organisations which reach across national boundaries and between Continents are a source of great concern to law-abiding people generally and also to Governments. Some have indeed attracted or been credited with an aura of invincibility. It is essential, in the Department's view, that this image of invincibility be dismantled. Governments undoubtedly have the capacity to do this — the concerted action against "organised" crime in this jurisdiction, with the introduction of a more powerful legislative regime in 1996, is demonstrating that no "crime boss" can count himself or herself invincible or anything like it. It is, however, necessary in the case of criminals with international links for action to be co-ordinated at an international level and — as indicated in Chapter 16 — this is now happening to an increasing extent.
- 10.15 It is worthwhile drawing attention to some of the arrangements and facilities which the Gardai have in place to tackle serious crime. (Some of these are of course concerned with subversive crime as well as other forms of serious crime).

(i) National Bureau of Criminal Investigation

The National Bureau of Criminal Investigation comprises a number of specialist units including

Serious Crime Investigation

This Unit is comprised of the former Central Detective Unit and the former Investigation Section (previously part of Crime Branch, Garda Headquarters) which had assisted in the investigation of murders, manslaughter, kidnappings, extortion, paedophile cases, hijackings and other categories of serious crime.

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The Domestic Violence & Sexual Assault Investigation Unit

The unit was set up in March 1993 and is based at Harcourt Square. It monitors and oversees the investigation of all cases of rape, sexual assault, child sexual abuse and incidents of domestic violence. It also acts as facilitator for all members of the Force and other agencies both statutory and voluntary. The Unit provides a service to the general public by way of information and advice.

Art and Antiques Unit

Established in 1995 as part of the then Investigation Section (see above).

The Stolen Motor Vehicle Investigation Unit

The Stolen Motor Vehicle Investigation Unit, records and assesses all reports of stolen vehicles. It also investigates "ringing" operations. The Unit provides advice to all Garda Divisions in relation to the identification of vehicles thought to be stolen.

Anti-Racketeering Unit

Formerly attached to Crime Branch, Garda Headquarters.

(ii) Special Detective Unit (SDU)

The Special Detective Unit comprises a number of specialist Units, including:

Security Task Force

This Unit provides armed protection for cash movements throughout the State. It also performs patrols when not engaged on escort duty. It is highly mobile.

Emergency Response Unit

This armed Unit of specially chosen and highly trained personnel is available for quick response. It provides protection for visiting VIPs. It also has a significant role in the ongoing search for illegal arms and explosives.

Protection Unit

Members attached to this Unit are engaged permanently on VIP escorts and for duties on Diplomatic and residential protection posts.

(iii) National Drugs Unit (NDU)

The NDU was established in 1995 with the primary function of targeting major drug traffickers. It also has the function of monitoring, controlling and evaluating all drugs intelligence within the Gardaí. The NDU works closely with the Customs National Drugs Team and the Naval Service. In addition to the NDU, a number of specialist drugs units have been established at Divisional and District level.

Tackling Crime

Garda/Revenue co-operation in the fight against crime has been rationalised. The following measures have been put in place since July, 1995:

- The signing of a Memorandum of Understanding between the Garda Commissioner and the Chairman of the Revenue Commissioners governing the relationship between the Gardai and the Customs and Excise Service in the fight against drug trafficking.
- The setting up of a Joint Task Force comprising members of the Gardai, Customs and Excise and the Naval service to counteract anti-drugs smuggling operations.
- Closer working arrangements between Gardai and Customs including enhanced liaison arrangements at local level.
- The setting up of the Criminal Assets Bureau.

(iv) Criminal Assets Bureau

The Criminal Assets Bureau was established on a statutory basis to target suspect assets. A Garda Chief Superintendent has been appointed as Chief Bureau Officer. This new body, which has personnel drawn from the Gardai, the Revenue Commissioners and the Department of Social Welfare, will ensure closer and more concerted co-operation between State agencies in dealing with organised crime. The Bureau is already proving itself to be an extremely effective Unit.

(v) The Garda Bureau of Fraud Investigation

The Garda Bureau of Fraud Investigation was established in April, 1995 in line with the recommendations of the Government Advisory Committee on Fraud. The Bureau's role is to lead the investigation of fraud on a national basis. The Garda staff at the Bureau concentrate on the more complex cases of fraud reported to An Garda Síochána while the less serious cases are investigated by Gardai at local level. In 1995, a total of 1,162 fraud offences were reported to the Bureau; the total amount at risk on the basis of these complaints was £37.7m. The objectives of the Bureau are:

- (1) To investigate serious cases of commercial fraud, cheque and credit card fraud, computer fraud, money laundering offences and counterfeit currency.
- (2) To collate information and intelligence and act as a resource centre on fraud related matter.
- (3) To play a pro-active role in the prevention and detection of fraud.

Sub units of the Bureau include:

Commercial Fraud Unit

The main function of the Unit is the investigation of serious and complex Commercial fraud cases. Complaints received from financial institutions, business firms, Government Departments, Insurance Companies, the Director of Public Prosecutions the Revenue Commissioners and individual citizens are dealt with by the Unit.

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Cheque/Credit Card Fraud Unit

This Section is exclusively engaged in the investigation of cheque/credit card fraud and counterfeit currency. The Unit concentrates on the more serious cases.

Computer Crime Unit

This Unit is the national reference point for computer related crime. It also has the responsibility for investigating computer related fraud, assisting other Garda Units with the identification and extraction of computer based evidence and advising on security measures for combating computer crime.

Money Laundering Investigation Unit

This Unit is involved in recording, evaluation, analysis and investigation of disclosures received from designated bodies under the provisions of the Criminal Justice Act, 1994.

(vi) **Air Support Unit**

A Government decision was made in July, 1996 to establish a dedicated Garda Air Support Unit, operated by the Air Corps but under the control of the Garda Síochána. This Unit will be provided with a helicopter and a fixed wing aircraft to facilitate the Garda Síochána with a 24 hour all-weather air support capability. It will allow the Force greater scope for the implementation of strategies to combat all forms of serious crime. A contract for the aircraft has been placed and delivery is expected in mid-1997.

(vii) **Technical Units**

There are a number of technical Units including *Ballistics Section, Fingerprint Section, Photographic Section, Handwriting/Document Section* and *Mapping Section*, all of which are available as the need arises to deal with aspects of serious crime.

(viii) **Ad-hoc Operational Units**

In addition to the specialist Units, Garda resources are brought together and deployed as necessary to target particular problems. Examples are Operation Shannon, which was targeted at criminals who were preying on the elderly in remote rural areas, Operation Matador designed to seal the border against illegal importation of cattle and products, and Operation Dóchas targeted at the drugs problem in Dublin.

Chapter 11

The Prosecution of Offences and Legal Aid

Prosecution System — Procedures

- 11.1 The Director of Public Prosecutions, whose office was created by the Prosecution of Offences Act, 1974, is in charge of the prosecution of crime. Although the Department of Justice has no role in relation to the Director's Office nor in relation to the prosecution of offences, it considers that a document on crime which contained no reference to the prosecution system would be less than complete; that is why the prosecution system is briefly commented upon in this paper. All public prosecutions are brought in the Director's name and though the great majority of them are commenced by the Garda Síochána, and the Director's Office is not directly involved in them, he nevertheless has control over them and the right to intervene in them. The more serious offences, if not brought to his attention before a charge has been preferred, are referred to him, after charge, for a direction as to what should be done to ensure that the prosecution proceeds in an effective and appropriate manner. Certain categories of case, for example homicides and all sexual offences, must be brought to his attention before any charge is preferred.
- 11.2 Prosecutions, whether directed by the Director's Office or by the Gardai, are based on an assessment of evidence that has resulted from a Garda investigation. The Garda investigation file, whenever submitted to the Director's Office, goes to that office through the Chief State Solicitor's Office if originating in Dublin or the local State Solicitor's Office if originating elsewhere in the country. The file is submitted to the Chief State Solicitor's Office or to the local State Solicitor by the Gardai who have investigated the matter in question, and have reached a conclusion as to whether there should or should not be a prosecution. That conclusion is considered by the appropriate Solicitor's Office and, where appropriate, a recommendation is made as to what decision the Director should take. Once a file is submitted to the Chief State Solicitor's Office in Dublin a solicitor there will take over from the Gardai the presentation in the District Court of any charge that has been preferred. If, however, it is a case that originates outside Dublin the Gardai themselves will handle the prosecution in the District Court, except where it is considered that the circumstances of a particular case require it to be prosecuted by the State Solicitor.
- 11.3 If the case cannot by law be tried in the District Court, which has limited jurisdiction, it will be tried before Judge and Jury in the Circuit Court, or if it is a murder or aggravated sexual offence, in the Central Criminal Court or, in certain circumstances and at the request or direction of the Director, in the Special Criminal Court. These cases are prosecuted by barristers who are chosen from among those who practise in the Law Library and who have indicated a willingness to prosecute.

Reviews

- 11.4 The operation of the Director's Office and of the Chief State Solicitor's Office has recently been the subject of reviews. The former has been reviewed by the

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Department of Finance and the latter by a firm of management consultants. The Department's report and consultants' report are now being considered. There have also been Strategic Management studies of the two offices, in accordance with a Government decision in this regard in relation to all Departments and Offices of State, which will be available in due course to the public.

The Criminal Legal Aid Scheme

11.5 The Criminal Justice (Legal Aid) Act, 1962 — which came into operation on 1 April, 1965 — and the Regulations made under it, provide that free legal aid may be granted, in certain circumstances, for the defence of persons of insufficient means in criminal proceedings. The grant of legal aid entitles the applicant to the services of a solicitor and, in certain circumstances, up to two counsel. The Scheme came under scrutiny in the State (Healy) v. Donoghue (1976) I.R. 325. In that case the Supreme Court decided that:

- (a) the granting of legal aid is in certain circumstances (generally cases of a more serious nature) a constitutional right;
- (b) there is an obligation on the Court in such cases to inform the accused of his right to legal aid;
- (c) once legal aid is granted the case cannot proceed unless the accused is legally represented.

The decision to grant or refuse legal aid, in each case, rests with the Court dealing with the case.

Cost of providing legal aid

11.6 The gross expenditure on criminal legal aid since 1989 is as follows:

1989	£2.788m
1990	£2.690m
1991	£3.153m
1992	£3.869m
1993	£5.989m
1994	£7.044m
1995	£7.988m

The number of legal aid claims received by the Department in the same period went up by 80% in District Court cases (almost 26,000 cases in 1995) and 144% in Circuit and High Court cases (over 2,700 cases in 1995).

11.7 Some individual legal firms/practitioners earn considerable sums of money on legal aid (one firm of Solicitors earned almost £600,000 in 1995). In the case of firms, however, the sums earned would have required the services of several solicitors throughout the year.

Review of the operation of the Criminal Legal Aid Scheme

11.8 The operation of the Scheme was reviewed by the Criminal Legal Aid Review Committee — the "Tormey" Committee — appointed by the Minister for Justice in 1975. The "Tormey" Committee considered whether the cost-effectiveness of

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providing criminal legal aid could be improved by providing the service in a different way. The Committee considered two alternative systems:

- (1) **A Duty Solicitor Scheme** for the busiest District Courts. This would involve the attendance of private solicitors on a rota basis each day in the District Court, to act for all persons who require legal representation at their first appearance in Court, *before* legal aid is applied for or granted by the Court.
- (2) **A Public Defender Scheme**. This would involve the use of salaried lawyers, employed at public expense, to represent persons granted legal aid.

The Tormey Committee recommended the introduction of a Duty Solicitor Scheme on a trial basis in the Dublin Metropolitan Court, or the Children's Court, or both. This recommendation was not implemented. The Committee were not agreed on the principle of introducing a Public Defender Scheme due to reservations about its feasibility from a structural and financial viewpoint. Accordingly, the introduction of such a Scheme was not recommended, even on an experimental basis. However, it was considered that the Public Defender Scheme was an option which should be kept open if the cost of providing legal aid continued to increase.

- 11.9 The Government has recently agreed with a recommendation by the Minister for Justice that the Scheme should now be fully reviewed. The Review Committee will examine, *inter alia*:
- (a) the level of fees paid to Barristers and Solicitors including claims made by the Law Society for an increase in fees,
 - (b) the grant of legal aid certificates by the Court (80% and 144% increase in the number of District and Circuit Court cases received over the last five years, respectively),
 - (c) the possibility of introducing an alternative system for providing criminal legal aid,
 - (d) the experience of the Legal Aid Board in relation to the delivery of the civil Legal Aid Scheme,
 - (e) current practices within the Public Service for determining a person's means with particular reference to proposals being drawn up by the Committee examining the development of an Integrated Social Service System.

The Department will, without delay, examine the recommendations made by the Review Committee, when available.

Chapter 12

The Courts

Introduction

- 12.1 In looking at the general quality of the current response to the problem of crime, it is obviously essential to examine the speed and efficiency with which cases are dealt with by the Courts. Delays in the hearing of cases have been attracting criticism for some years, the problems tending to arise mainly — though not exclusively — in relation to civil rather than criminal cases. The very significant increase in resources provided within the past year — detailed later in this Chapter — are having a very positive impact on the disposal of Court business. Delays are, in fact, quickly being eliminated as a problem.
- 12.2 Consideration of the general quality of response extends to other matters also of course, in particular the quality and consistency of the decisions reached in individual cases and also the quality of the administrative system which supports the Courts service.

The independence of the Judiciary

- 12.3 It is probable that at least some people reading this paper will expect to find comment and even a measure of criticism of judicial decisions or of the decision-making process. It is the case, however, that, under the Constitution, the Judiciary are independent in the discharge of their functions. This independence is a matter of fundamental importance and — even if some individual decisions cause surprise and perhaps disappointment to the victims of crime — this is one of the consequences of having in place a system of justice that is beyond improper influence from any source.
- 12.4 Some judgments undoubtedly attract a degree of rhetoric and criticism. While it is true that quite often the criticisms are made without the benefit of any detailed knowledge of the actual evidence presented in the Court it is right also to recognise that, at times, the criticisms are made by people who are not only familiar with the evidence but expert in the law. It is the case also that thousands of decisions are made in the Courts every year which go uncriticised, simply because there is no basis for criticism. There is no easy answer here. It is inevitable, in any system where individuals, however wise, are given the task of judging the rights or wrongs of individual cases, that those carrying this onerous task will, at times, find themselves reaching conclusions which are at odds with what many others believe to be right.

Consistency of decisions

- 12.5 Public disquiet arises also from time to time in relation to what are perceived to be unaccounted for variations in the sentences handed down by the Courts in the case of apparently similar crimes. There has been recent statutory intervention in this area following public concern which arose in the wake of one particular decision. The Criminal Justice Act, 1993 gave the Director of Public Prosecutions power to apply to the Court of Criminal Appeal where it appeared to him, on the conviction of a person on indictment, that an unduly lenient sentence had

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been handed down by the sentencing Court. While this provision filled a legislative lacuna and addressed public disquiet in the matter of over-lenient sentences, there is a view that more will be needed to place certain aspects of the law on sentencing on a modern statutory basis.

- 12.6 In 1987 the then Attorney General requested the Law Reform Commission to formulate proposals for reform of the law in a number of areas including sentencing policy. (The law on the matters proper to be taken into account in sentencing convicted persons had been part of the Commission's First Programme for examination of different branches of the law). The Commission published a consultation paper on Sentencing in March 1993 and, following receipt of views on that Paper and further consideration of the issues, published its Final Report on Sentencing on 29 August, 1996. The complexity of this whole topic is clearly evidenced by the fact that there were differences of opinion among members of the Commission itself in relation to some of the recommendations in that Report.
- 12.7 Action has already been taken on a number of the recommendations contained in the Report. For example, the Criminal Law Bill which is before the Oireachtas at present abolishes the concepts of "penal servitude" and "imprisonment with hard labour" and substitutes imprisonment in their place, as recommended by the Commission. The question of the extension of Community Service Orders has been under examination in the Department, which recognises, as does the Commission, the important role which alternatives to custody have to play as part of sentencing policy. Work has also commenced on legislation dealing with the indexation of fines.
- 12.8 The other recommendations which the Report contains are being examined in the Department at present. The most important recommendation of the Commission is that a statutory scheme of sentencing should *not* be introduced but that non-statutory guidelines should be introduced in accordance with certain suggested norms. Another recommendation (which received considerable media attention when the Report was published) was the abolition of mandatory and minimum sentences of imprisonment for indictable offences. This would mean in practice that the mandatory life sentence for murder and minimum 40-year sentence for the murder of a Garda would be abolished. It must be said that many would favour a rejection of this particular proposal in favour of maintaining the status quo.
- 12.9 It will be clear, therefore, that sentencing policy is a very difficult and complex area which can give rise to quite differing and validly held views. The Department proposes to build on the work that has already been done, particularly by the Law Reform Commission, in the area of sentencing policy with a view to placing further aspects of the law on sentencing on a modern statutory basis.

Administration of the Courts

- 12.10 The general management and disposal of court business is the responsibility of the courts themselves — in particular, the Chief Justice in relation to the Supreme Court, and the respective Presidents in relation to other Courts.
- 12.11 The Court of Criminal Appeal and the Central Criminal Court hear only criminal cases and almost half of Circuit Court time and the bulk of District Court time

is given over to criminal business. It is a matter for the Chief Justice and Court Presidents to decide on the allocation of judicial time as between civil and criminal business. The courts cannot, of course, determine the level of business, but whatever it may be, they are expected to deal with it within the resources available including, for example, back-up administrative and clerical staff, courtroom accommodation, data processing etc. The statutory requirement to hold sittings of the District and Circuit Courts, and the High Court on circuit, in specified locations must also be observed. In the listing and hearing of cases the Courts must also have due regard, in the interests of justice, to the needs of prosecution and defence teams both in preparing for hearings and in the conduct of their cases.

Working Group

- 12.12 Review and reform, as necessary, of the Courts system to better meet the needs of the community was promised in the current Programme for Partnership Government — A Government of Renewal.
- 12.13 In accordance with that commitment a Working Group on a Courts Commission was set up by the Minister for Justice in November 1995 under the chairmanship of the Hon. Mrs. Justice Susan Denham, Judge of the Supreme Court. The function of the Group is to review and report to the Minister on the operation of the courts system having regard to:
- the level and quality of service provided to the public; staffing, information technology etc.;*
 - the financing of the courts system including the current relationship between the courts, the Department of Justice and the Oireachtas;*
 - any other aspect of the Courts system which the Group considers appropriate;*
 - the establishment of a Commission on the management of the courts as an independent and permanent body with financial and management autonomy.*
- 12.14 The Working Group submitted its First Report entitled "Management and Financing of the Court System" in April, 1996 and the Government have accepted in principle the primary recommendation of the Report which was that an independent and permanent body be established to manage a unified courts system, this body to be known as the "Courts Service" and to be created by statute as an agency of the State. As indicated in the Department's SMI Strategy Statement "Community Security — Challenge and Change" the Department of Justice welcomes this development and in fact recommended the creation of such a structure to the Denham Group.
- 12.15 The function of the proposed Courts Service would be to manage the Courts. It would comprise a Board consisting of members of the judiciary, representatives of those using or otherwise involved in the work of the Courts and the Chief Executive of the new Service. The Chief Executive would be responsible for the day to day administration of the Courts and the implementation of the policy of the Board. The Minister for Justice would retain political accountability for the financial and administrative management of the Court Service and for matters of overall policy in relation to the Courts including Courts legislation, jurisdiction levels and the number and terms of appointment of the judiciary.

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- 12.16 The establishment of a new Courts Service would centralise the financial and management administration of the Courts in a unified system which would focus on the provision of an efficient, effective and economic system capable of meeting the needs of modern society. It would ensure that necessary changes could be made in improving access to the Courts and achieving greater flexibility in responding to the changing needs of all Court users. The Denham Group has submitted three further reports and will continue to examine various aspects of the Courts Service until it has discharged its mandate. The Department of Justice is currently drafting a Court Service Bill to establish the new Court Service and will, of course, ensure that all available resources are provided to support and facilitate the Working Group in its wide ranging Review.

Current role of Department of Justice

- 12.17 Pending the implementation of the recommendations of the Denham Working Group, the Department of Justice will continue to have responsibility for the overall management of the Courts system — apart from those functions reserved to the Judiciary such as the administration of court business. This includes administrative responsibility for non-judicial staffing complements and conditions of service, accommodation, back-up facilities (office equipment, information technology, communications), judicial complements and the structuring of Courts to handle judicial business (subject to the provisions of the Constitution).
- 12.18 As in the case of any area of administration, the Department is subject to overall budgetary and other controls. Financing of day-to-day Court operations (including non-judicial staffing and back-up facilities) is determined by annual budgetary allocations as decided by the Government. Changes in judicial numbers and in court structures (subject to the provisions of the Constitution) require legislation sponsored by the Minister for Justice with the approval of the Government.

Appointment of Extra Judges — elimination of delays

- 12.19 At the end of 1994 there was legislative provision for the appointment of 86 judges. That provision has now been increased to 110. The appointment of additional judges and support staff represents an investment by the Government of approximately £2.5m per annum. This investment is producing the desired results of clearing the existing backlogs in the Courts. For example, delays in the hearing of criminal cases in the Dublin Circuit Court have been eliminated. Other examples of the reduction in the backlog are shown in the following table:

Delays in the hearing of cases		
Court	1995/96	Current position
Dublin Circuit Court — Civil Cases	2 years	6 weeks
Dublin Circuit Court — Family Law Cases	16 months	4 months
High Court — Personal Injury Actions	35 months	20 months

The Courts

Delays in the hearing of cases		
Court	1995/96	Current position
Carlow Circuit Court — Civil and Family Law Cases	2 years	No delay
Cork — Civil Cases	3 years	18 months
Limerick — Civil Cases	3 years	18 months
Galway — Civil Cases	2 years	3 months
Galway — Family Law Cases	6 months	No delay
Dundalk — Family Law Cases	16 months	2 months

Courts Building and Refurbishment

- 12.20 Under the Courthouses (Provision and Maintenance) Act, 1935 the provision and maintenance of courthouse accommodation in Dublin City is, with the exception of Green Street, Kilmainham, Dundrum and Rathfarnham Courthouses, vested in the State i.e. is the responsibility of the Office of Public Works. The provision and maintenance of courthouse accommodation outside Dublin, and also in Green Street, Kilmainham, Dundrum and Rathfarnham, is the responsibility of local authorities. In March, 1990, the Government decided to transfer financial responsibility for the refurbishment of courthouses from local authorities to the Exchequer i.e. the Department of Justice.
- 12.21 Due to years of inattention many courthouses throughout the country have fallen into a bad state of repair. But, while there is still a long way to go, considerable progress has been made since 1990 to provide modern court facilities throughout the country. In 1997 a budget of approximately £8.5m is being provided for capital and maintenance projects which is the highest sum allocated to date to the Courts Building Programme. Many projects have been completed recently under this programme. They include the major refurbishment of the Four Courts and the Old Public Records Office in Dublin and the Courthouses in Galway, Cork District Court, Donegal, Ballina, Dungarvan, Midleton, Castlecomer, Clonmel, Ballina and Ballinasloe.
- 12.22 Following substantial capital investment a number of large projects are now coming onstream. In Dublin, five new District Courtrooms and ancillary facilities are to be provided in the former Richmond Hospital. These will be available in May, 1997 at a cost of almost £2.8m. Three Circuit Courtrooms are now available, at the former Riverbank Theatre, at a cost of approximately £500,000. New Courthouses have been opened in Carrick-on-Shannon and Naas Courthouse has been re-opened following major renovations. Other projects underway at present include Waterford, Portarlinton, Edenderry and Abbeyfeale. Work will commence later this year at Listowel, Portlaoise, Roscrea, Castlereagh, Rathdowney

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and Trim. Contracts have been signed for work to commence on the refurbishment of Cork Circuit Court and at Eanis.

- 12.23 All new and renovated Courthouses comprise substantial Courtroom accommodation, Judges Chambers, Victim Support Room, Legal Practitioners Room, Consultation Rooms and a Detention Area. Family Law suites are also provided in urban centres and are now available in Athlone, Arklow, Ballina, Ballinasloe, Bray, Clonmel, Cork District Court Complex, Donegal, Dungarvan, Enniscorthy, Galway, Kilkenny, Loughrea, Waterford and the District, Circuit and High Courts in Dublin. Access and toilet facilities for disabled persons are also provided at all new or refurbished Courthouses.

The Challenge now faced

- 12.24 The challenge for the Department over the years has been, firstly, to identify criteria by which court needs could be assessed, secondly, to make the case at administrative and Ministerial level for any additional resources which that assessment had shown to be necessary and, thirdly, to provide every possible assistance to Court administrators, staff and judiciary to achieve maximum effectiveness within authorised resources. No Government Department secures all of the resources it seeks and the Department of Justice was no exception. Staffing resources, especially within the Department itself, have been well short of requirements, especially in recent years when the business of the Courts was growing and the demand for Departmental services growing apace.
- 12.25 The major challenge for the Department, now, is twofold — firstly to endeavour within its available resources, to enhance the quality of the service now being provided to the Courts and, secondly, to press ahead with the wide ranging structural changes outlined above which it wholeheartedly endorses.

Chapter 13

The Prisons

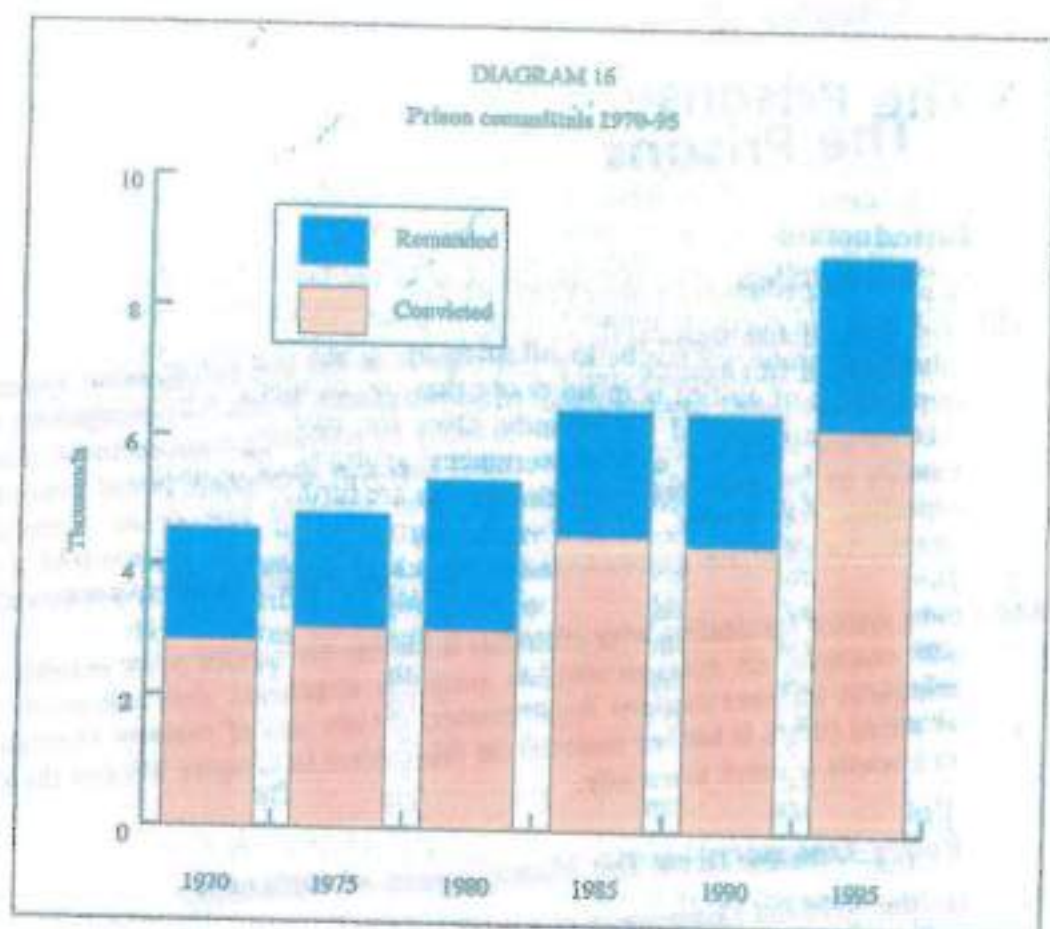
Introduction

- 13.1 A major impediment to the effectiveness in the law enforcement system is the absence of an adequate number of prison places. While fully recognising that the solution to crime will not be found solely by providing more custodial places, the Department of Justice is in no doubt that the number of places available now needs to be increased significantly. Over the past year or so, therefore, the Minister for Justice, with Government approval, has commenced a major expansion of prison accommodation. There are further details in paragraph 13.15.
- 13.2 The system for dealing with offenders is lacking for various other reasons also — for example, its management, as currently structured and resourced, is not adequate to meet modern requirements, greater use of custody alternatives is required (there is further material on this subject in Chapter 14) and the system as a whole is much too costly.

Policy Document on the Management of Offenders

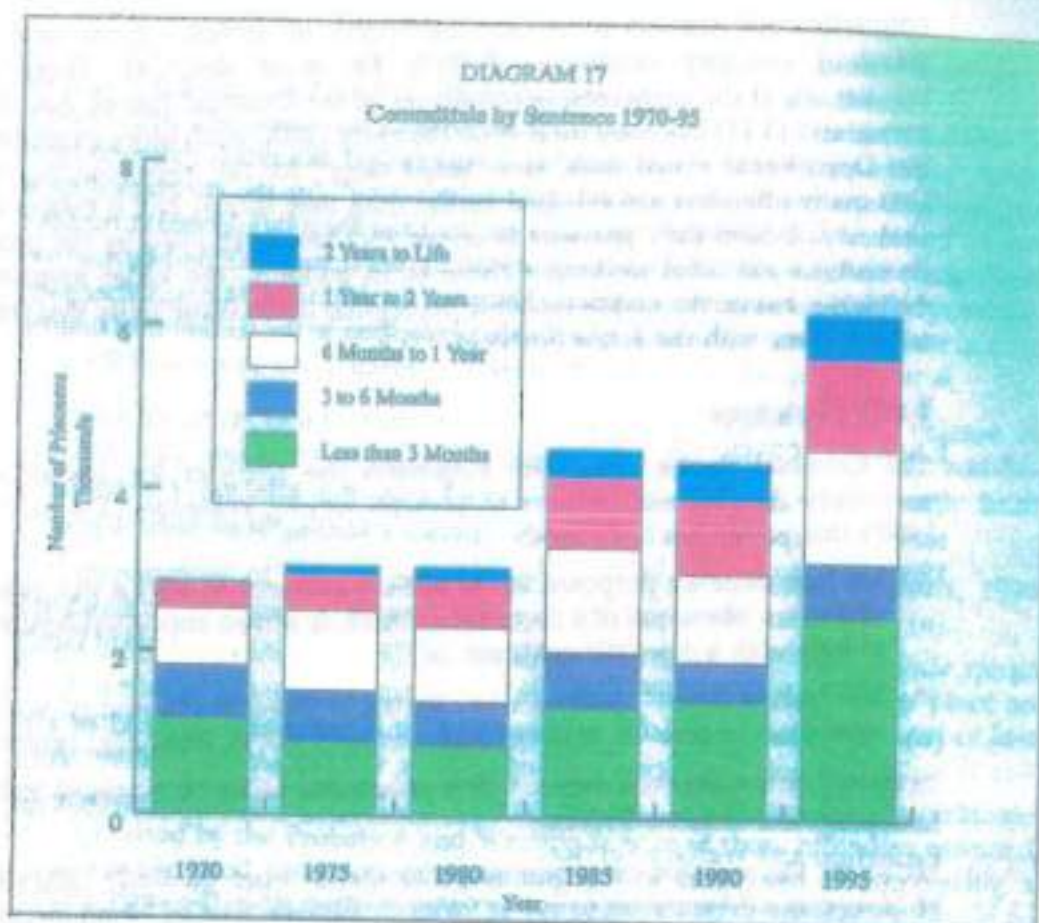
- 13.3 In June 1994 the Department of Justice published a policy document in relation to the management of offenders (including prisons). The document, was entitled "The Management of Offenders — A Five Year Plan" (Pn 0789). In summary, the document:
- (i) set out to address public perceptions about the prison system and management of offenders generally,
 - (ii) outlined the aims and objectives of the prison system,
 - (iii) outlined initial plans to deal with acknowledged accommodation problems,
 - (iv) discussed and outlined specific plans relating to rehabilitative services for offenders (medical, psychiatric, education, psychology etc.)
 - (v) discussed management and staff issues, including those relating to the establishment of an independent Prisons Board or Executive Agency,
 - (vi) underlined the importance of developing alternatives to custody, and
 - (vii) outlined the progress made on the implementation of the recommendations of the Committee of Enquiry into the Penal System, 1985 (the Whitaker Report).
- 13.4 The document contained 53 recommendations. Of these, 36 have been or are being implemented. A number of others have had to be re-assessed or adjusted in the light of changed circumstances. The 1994 policy document was intended as a comprehensive review of the subject of prisons and management of offenders. It is unnecessary, obviously, to cover the same ground in this paper, which, for that reason focuses on a few key issues of immediate concern.

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Statistical Data

- 13.5 It is useful, first, to look at some statistical data. Diagram 16 illustrates the growth in the annual number of committals to custody from 1970 to 1995, distinguishing between committals on remand/for trial and committals on conviction. Diagram 17 shows trends in the sentence lengths of those committed on conviction in the same years.
- 13.6 The following are the significant features of the data illustrated in Diagrams 16 and 17:
- the trebling of the annual number of committals (to 9,844) since 1970, with a high proportion of the increase attributable to the increase in committals on remand or for trial;
 - an increase of approximately 118% in the number of committals on conviction (to over 6,000 per annum);
 - the predominance of sentence lengths of up to one year, and, especially, the sustained prominence of short sentences (three to six months);
 - the enormous growth in the number of sentences of 2 years to life, increasing from some 30 in 1970 to some 550 in 1995.



- 13.7 There are two issues of particular relevance to this paper which emerge from this data i.e.
- the implications of these statistics for the demand on prison spaces
 - the implications for a strategy for alternatives to custody (addressed in Chapter 14).

Demands on Custodial Accommodation

- 13.8 At the end of 1995 the prison system had a maximum of 2,174 custodial places. At any one time there are about 200 persons in custody (approximately 10% of the total) on remand or awaiting trial or sentence.* That left some 1,974 spaces available for persons serving sentences.
- 13.9 The trend towards a greater number of offenders being given longer sentences, as shown in Diagram 17, has had the consequence of "tying down" prison spaces for longer periods. In other words, the capacity of the system to accept new committals is constantly being eroded because places within the Prisons are not becoming available as quickly as they did in the past.
- 13.10 The result is that sufficient spaces have not been available to cope with increased committals to custody, even with extensive resort to multiple use of single-person cells. In summary, the prison system is unable to accommodate all those

*Note: This figure is relatively modest given the high number of committals on remand as illustrated in Diagram 16 and may be attributed to the operation of a relatively liberal bail regime. Obviously, the restrictions on bail which will result from the recent Constitutional amendment by referendum can be expected to increase the number of remands in custody.

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committed on conviction for the full length of sentence (even allowing for standard statutory remission of 25% for good conduct). Therefore, the mechanism of the early release provisions of the Criminal Justice Act, 1960 (see paragraph 13.12) has been used since the early 1980s much more extensively than the Department would wish, as a "relief valve" for the overcrowding. It means that many offenders are released earlier than they should and it means also that they and, indeed their partners in crime, feel less threatened by the prospect of receiving a custodial sentence. There is, in addition, the wider negative effect which this has on the understandable perception in the community that the system is not coping with the crime problem.

Early Releases

13.11 The Criminal Justice Act, 1960 empowers the Minister for Justice to grant temporary (conditional) release to persons serving sentences. Up to the early 1980's this power has been used:

- (a) for humanitarian purposes i.e. to allow a prisoner to visit a sick relative, to attend the obsequies of a deceased relative, to attend important family events, to help with a domestic crisis etc. or
- (b) for "rehabilitative" purposes i.e. during or towards the end of sentence to attend job interviews, training courses, work places, treatment centres etc.

In appropriate cases such releases were supervised either by custodial staff or the Probation and Welfare Service.

13.12 However, the pressure on prison accommodation since the early 1980's has had to be countered by extensive resort to early releases most of which did not meet the traditional criteria and were not accompanied by traditional supervision arrangements. On any one day there are some 500 to 600 prisoners on such release. Some offenders are granted early release which stands for the remainder of the sentence (called "Full TR"). Others are granted early release for a *specific period*, which is renewed if the offender complies with the condition of his release (called "Renewable TR"). The relevant figures for the years 1990 to 1995 are as follows:

Form of TR	1990	1991	1992	1993	1994	1995
Full TR	1,979	1,619	2,782	3,564	3,733	3,630*
Renewable TR	2,700	3,515	2,864	3,771	3,189	3,110*

*estimated figures

It must be stressed that one cannot simply add these figures together to arrive at a total number of individuals who obtained some form of temporary release in a particular year as there would be a significant overlap of individuals between the two groups e.g. a prisoner may have received a day's temporary release to attend a funeral and subsequently been given fully temporary release later in the year.

13.13 All offenders granted TR, of course, are released on conditions, including, for example, an obligation to report to a Garda Station at specified times or to report back to prison at stated intervals for renewal or otherwise of the temporary release. Inevitably, given the absence of supervision, many prisoners on temporary release drift away from complying with the conditions imposed. Where they do so, they become, technically, under the 1960 Act, "unlawfully at large". The number unlawfully at large has grown to some 1,500. The irony is that, in

many of those cases, if the prisoners concerned observed the relatively non-onerous conditions attached to their releases they would be deemed to have served out their sentences as soon as the term imposed by the Courts had expired. In other words, while the reference to 1,500 persons "unlawfully at large" tends to conjure up the image of a large number of dangerous criminals roaming free in the community, the reality is that most of them acquired the "at large" status not because of any particular threat to public safety but because they have breached a condition of their release, in some instances a relatively minor, technical breach. It is, nevertheless, manifestly unsatisfactory that there is only limited follow-up on these cases.

- 13.14 The large numbers being granted early release, often requiring, the release of prisoners who ought to remain in custody, and the build-up of the number technically "unlawfully-at-large", has tended, as mentioned at paragraph 13.10 above, to discredit the criminal justice system.
- 13.15 The Department of Justice in the policy document published in June, 1994 suggested that the solution lay in:
- providing additional prison places, subject to the proviso that a wide range of community sanctions are made available and resources put in place to ensure their effective use, so making a custodial sentence the penalty of last resort for Courts, and
 - phasing out unstructured temporary release, to be replaced by releases supervised by the Probation and Welfare Service of those offenders assessed as having good prospects of remaining out of crime and of completing a programmed re-integration into the community, with conditions tailored to meet their individual strengths and weaknesses.⁹

New Prison Spaces

- 13.16 In responding to the need for additional spaces the Minister for Justice, with the approval of the Government authorised in 1996 the provision of some 840 additional prison places. The following table gives details, together with expected effective dates of commissioning:

Location	Number	Target Date
St Patrick's Institution	30	Completed February, 1996.
Casterea Special Unit	25	Completed September, 1996.
Curragh	68	Completed October, 1996.
Limerick	55	Completion end — 1997.
Portlaoise	80	Planning underway.
New Women's Prison	60	Completion end — 1998.
Casterea (main prison)	125	Completion in Spring 1998.
Wheatfield	400	Construction to commence in the first half of 1997.

⁹The Department plans to end unstructured releases and to ensure that where early releases take place, a supervised regime will be the norm rather than the exception. It also favours the establishment of a Pardon Board recently recommended by an expert group set up by the Minister, in their Report entitled "Towards an Independent Prison Service".

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The total capital cost of this programme is estimated at some £90m. Add to this the cost of refurbishment and upgrading of the existing prison accommodation for the same period and the capital cost figure increases to £135 million.

An Independent Prisons Management Structure

- 13.17 The need for better organisational structures for the management of the prison system has been the subject of debate over many years. This subject was discussed in the Whitaker Report and in the Department's 1994 policy document on the Management of Offenders. The subject is addressed also in the Department's 1996 Strategy Statement (see the Appendix).
- 13.18 The Department welcomes the fact that on 12 November, 1996 the Government decided to establish a new structure for the management of the Prison Service in the form of a Prisons Board/Agency and set up an expert group to work out details of the new structure. That Group reported towards the end of February 1997 and the Government published the report in March. The report is currently being worked on in the Department. Preparation for the coming into operation of the new Agency is well in hand including necessary legislation.

Treatment of Drug Offenders

- 13.19 Another issue which is highly relevant to the issue of crime is the extent to which rehabilitation is seen as an appropriate prison objective. This subject is addressed also in the 1994 policy document. The Department considers it important to say that it regards the general management and, where possible, the rehabilitation of drug offenders as an issue of particular importance in crime control terms.
- 13.20 Significant strides have been made in this regard, particularly, in the past year or so. A number of means have been employed in an effort to curb the supply of illegal drugs to prisoners in Mountjoy and throughout the wider prison system. These have included, in respect of Mountjoy Prison for instance, the adaptation of the visiting areas, the provision of improved searching facilities and a much improved closed circuit video surveillance system in the prison's main visiting area. The implementation of these measures in mid-1995 resulted in an immediate increase in the number of seizures of drugs and associated contraband and a sharp reduction in the quantities of illegal drugs circulating in the prisons. Other steps are being considered. For instance, the efficacy of using sniffer dogs in the prisons is receiving consideration at the present time.
- 13.21 The duty of care towards persons committed to custody in the prisons extends to all health related issues of which drug addiction is one of the most significant though not, of course, the only area of concern. The general medical service at Mountjoy prison has been developed over recent years in order to meet the needs of the increased number of drug addicted prisoners committed from the courts. Subject to the direction of the Prison Medical Officers in appropriate cases there is now a 14-day detoxification programme available for drug addicted committals. A working relationship has been established with a number of the treatment agencies who mostly operate under the aegis of the Eastern Health Board. Individual offenders are, in suitable cases, granted conditional temporary release in order to avail of recognised treatment programmes in the community, often following extensive contact through the offices of the Prison Medical Service, the

Probation and Welfare Service and the relevant Eastern Health Board Clinic or General Practitioner. A level of co-operation has also been established with the courts in respect of the monitoring of offenders' progress — often through drug urine testing — prior to planned Court sentence reviews.

Prosecution of Visitors

- 13.22 With regard to the prosecution of visitors found attempting to supply drugs, it is important to note that in such cases the Gardai are informed and are called to the prison. Proceedings in respect of such incidents are taken regularly and, in many cases, sentences of imprisonment are imposed.

Drug Treatment Unit

- 13.23 A number of treatment/avoidance options for drug addicted prisoners in Mountjoy have also been specially developed over the last 12 months. These include the Drug Treatment Unit based at the prison's Health Care Unit which has now been in operation since 1996. The Treatment Unit provides a structured programme with humane detoxification followed by a six week therapeutic course. The Unit has medical, nursing and psychiatric services in place and all personnel are experienced in addiction treatment. The therapy programme is co-ordinated by a Senior Probation and Welfare Officer and draws on the experience and expertise of a number of community based agencies which are active in this field.

Drug-Free Unit

- 13.24 There is now also a drug free unit based at the Training Unit adjacent to Mountjoy Prison in operation since June 1996. It currently accommodates about 80 offenders in an environment where a drug-free existence has become the norm. Prisoners with a background of chronic drug abuse who have come to terms with their addiction, as well as those who have had no prior involvement with drugs, are equally availing of this facility. The regimes in the Health Care Unit and the Drug-free Unit are underpinned by a strict drug urine testing programme. These initiatives have been developed in response to a real demand for treatment and avoidance options for prisoners. They are working well and it is intended to expand and develop both models throughout the wider prison system in order to maximise their effect and availability. Treatment in all cases must be voluntary and, in order to be effective, the individual concerned must show the necessary commitment and motivation. It is unfortunately the case that, despite the availability of the treatment options which have been outlined, many offenders fail to grasp the opportunities provided to address their addiction.

Treating Offenders outside of Prison

- 13.25 It is sometimes suggested that drug offenders need treatment in hospital settings, not in prisons. Proponents of this view, however, can tend to overlook the fact that the offenders in question are not in prison because they are addicts but because they have committed crimes — sometimes very serious crimes which may well have arisen because the offender was an addict, but are not drug offences as such. Such offenders have to be held in secure conditions — normal conditions would not suffice. The Department's aim and objective is to provide the best possible treatment for the offenders in question consistent with its equal obligation to ensure that those committed to prison by the Courts for criminal activity are securely contained.

Chapter 14

Community Sanctions

Background

- 14.1 It is not necessary that everybody who offends should have to face prosecution. It would be widely accepted that where, for example, a young first offender commits a minor offence it may be much more effective in the longer term to apply some alternative solution. The Garda Juvenile Diversion Programme exists for this purpose and diverts many young people away from prosecution provided that they are prepared to acknowledge their culpability and to co-operate with the assigned Juvenile Liaison Officer.
- 14.2 There is however no formal cautioning system for adults and the increasingly litigious nature of Irish society means many parents and young people themselves will not accept their guilt but will insist on their "day in court". There must, therefore, be a wide range of sanctions available to courts to determine the appropriate penalty for offenders who do not present a serious threat to the safety of the community and who do not need to be committed to custody in order to protect the public.
- 14.3 The Whitaker Committee Report evaluated the effectiveness of existing sanctions and proposed a number of steps to strengthen and extend them. The studies and reflections of the Law Reform Commission are also very helpful in this regard — an example being their report on Sentencing. The new Children Bill, which is currently being debated in the Dail, contains some very important proposals for more appropriate management of young offenders to steer them away from a life of crime.
- 14.4 As in the Children Bill, penalties that obviate the need for custody are generally categorised into
- (a) orders made by courts which do not involve any on-going monitoring or input on behalf of the court, and
 - (b) community sanctions, properly so called, where supervision by the Probation and Welfare Service is an integral element in implementing the order.
- The Law Reform Commission has put forward proposals concerning fines, suspended sentences and so on — all of which are of course "custody alternatives".
- 14.5 The Department of Justice considers that the primary target for additional resources should be the Probation and Welfare Service which is concerned with supervised — as distinct from unsupervised — custody alternatives. The Department's thinking in this regard is in line with recommendations from earlier reports e.g. the N.E.S.C. in its pathfinding study "Criminal Justice System: Policy and Performance" Report No. 77 (1984) which commented that:

"the supervisory capacity of the courts, as manifest in the Probation and Welfare Service, though vastly increased in recent years, remains deficient. Most of the

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options for the future will require an expansion of that part of the criminal justice system".

Again the Whitaker Report urged that

"a progressive strengthening of the Service is essential for more effective and extensive use of alternatives to imprisonment".

The Department's Policy Document 1994 (see paragraph 13.3) noted that

"the scope for extending community based sanctions and measures is considerable given the professional expertise available in the Probation and Welfare Service and the increasing willingness of the courts to resort to them".

- 14.6 Repeated calls for greater use of community sanctions are not just driven by a need to "save" on prison spaces, although maximum utilisation of such sanctions would facilitate the committal and retention in custody of those for whom no other penalty is appropriate, either because of the serious nature of the crime or their failure to meet the requirements of previous community sanctions. As a penalty for criminal offences, supervision in the community can have many positive features:
- Offenders can be re-integrated into their local neighbourhood by remaining at restricted liberty, while ensuring that any social factors which may have been associated with offending are addressed and not sidelined.
 - Local facilities and resources are utilised, while relevant agencies and voluntary groups are enlisted to provide support and expertise. In some areas, specific projects have been developed by committees representative of local interests, operating under the aegis of the Probation and Welfare Service. The community itself, therefore, has an involvement, thus reducing the social exclusion and stigmatisation of offenders that can lead to further offending.
 - Many offenders leave custody little changed in outlook from when they came in. Community sanctions, by contrast, challenge criminal behaviour directly, they are demanding and require offenders to take responsibility for the consequences of their actions.
 - When offenders continue to reside in the community, subject to conditions, the negative social and economic consequences of custody are avoided, e.g. family bonds are maintained not weakened, useful employment is not lost or can be sought more energetically, anti-authority attitudes are not hardened and there is less enforced association with other, perhaps more criminally sophisticated, offenders.
 - International research has confirmed that throughout Europe, as in this jurisdiction, community sanctions are far less expensive but at least as effective as custody (though custody is of course the only realistic option in certain cases) and much more effective than unsupervised non-custodial penalties.
- 14.7 A strand of criminal policy, as outlined in the 1994 Policy Document, endorses the view that custodial sentences should only be used as a last resort, describing it as a "basic guiding principle for policy formulation in a civilised society". Attention was also drawn in that document to the European Rules on Community

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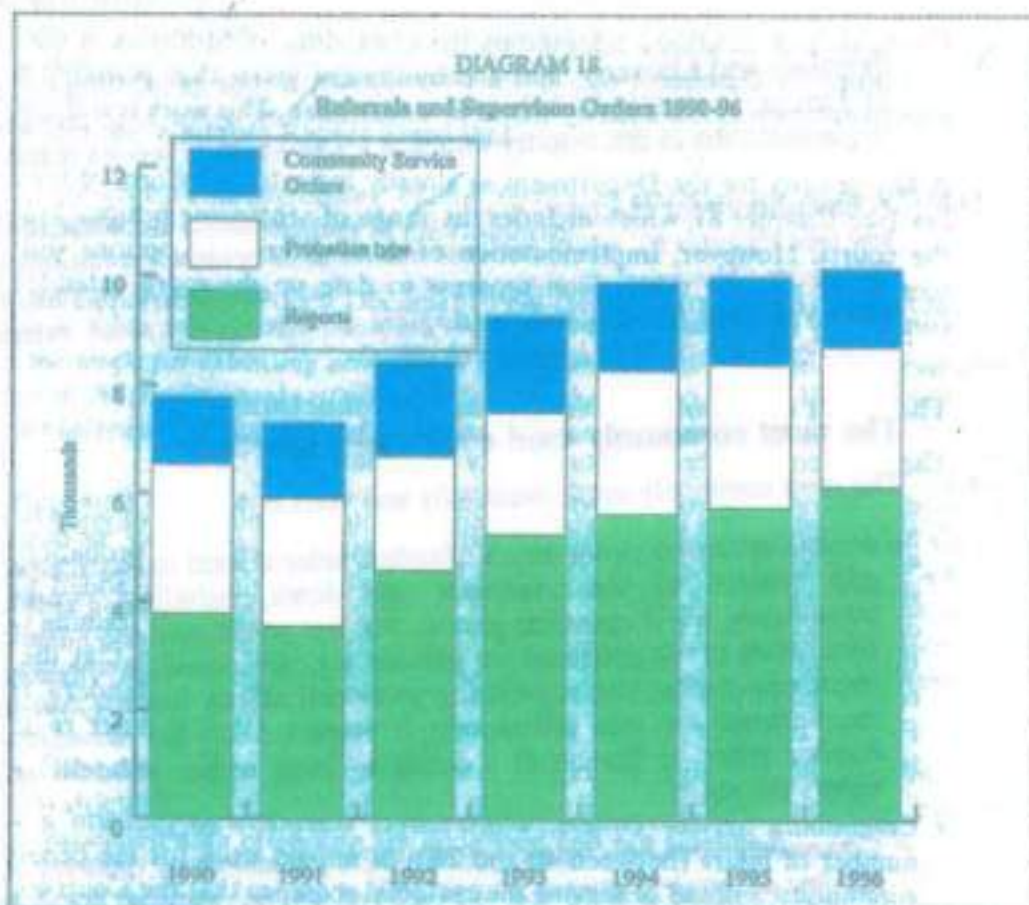
Sanctions and Measures, adopted by the Committee of Ministers of the Council of Europe in October 1992, and a commitment given that planning for their implementation in this country would be undertaken. This work is still continuing.

- 14.8 A key priority for the Department as already indicated is reform of the criminal law (see Chapter 8), which includes the range of sentencing options available to the courts. However, implementation of these alternative options will require more staff and for this reason progress to date on the more extended use of community sanctions is lagging behind.

The most commonly used community sanctions

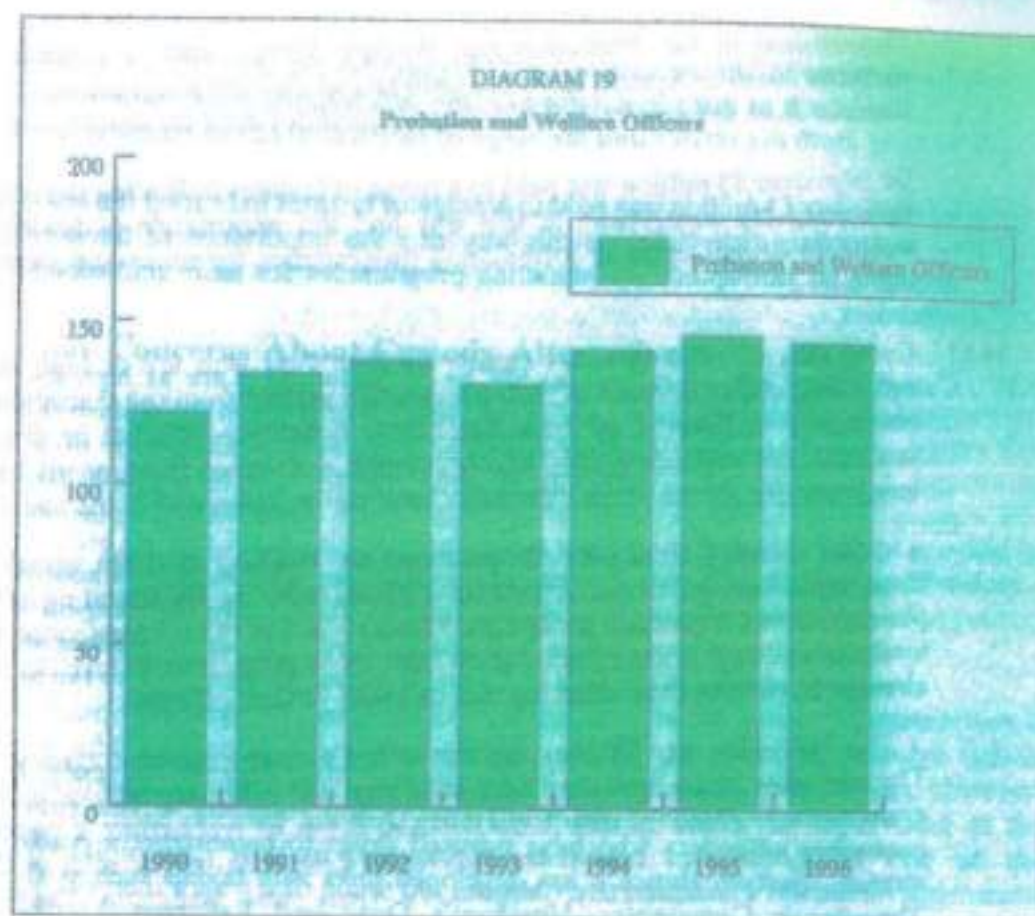
- 14.9 The most commonly used community sanctions are:
- *Probation Orders* under which offenders enter a bond to be of good behaviour and observe all the conditions laid down, including probation officer supervision, for a specified period. Further conditions are added to ensure completion of the proposed programme, e.g. attendance at a training course or treatment centre. The supervising probation officer ensures that the Court's requirements are met and reports, if requested, on the offender's response. Further crime or breach of a condition leads to the offender re-appearing before the court.
 - *Community Service Orders*, which direct offenders to perform a specified number of hours (between 40 and 240) of unpaid work for the benefit of the community, instead of serving the custodial sentence that the Court considered was merited by the crime. The offender must consent and the Court must be satisfied from a preparatory report that the convicted person is suitable to perform such work and that there is work available. The Probation and Welfare Service organises the work placements and supervises the carrying out of the order. Failure to comply constitutes a separate offence, and the Court may commit the offender to custody to serve the sentence specified.
 - *Supervision during deferment of penalty* is an order by the Court to monitor the response to supervision over an interim period, e.g. where there may be doubts as to the offender's capacity for sustained participation in a programme while avoiding further crime. A date is fixed for the next hearing when a report is presented to the Court on the outcome of supervision.
- 14.10 Offenders on whom reports are being prepared and those being supervised in community sanctions together make up over 95% of the workload of Probation and Welfare Officers assigned to community based duties, while Courts now refer around 4,500 new cases a year to the Service. In recent years there has been a substantial increase in the volume of Court referrals and orders as can be seen from Diagram 18.
- 14.11 Over the last decade, the number of reports prepared by the Probation and Welfare Service has increased by 107% while the volume of supervision orders has grown by 68%. This has not been matched by commensurate rise in the number of Probation and Welfare Officers. Staff levels have been almost static over the same period, both rising and falling with little permanent growth. Diagram 19 shows all Probation and Welfare Officers in post including those assigned to duties in custodial institutions. The Department of Justice has not, of

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course, simply overlooked the case for extra Probation and Welfare staff. However, a combination of factors has delayed the expansion required. These include delays in the recruitment process and general staff "embargos" in the public service, which were introduced primarily to maintain necessary disciplines in the public finances.

- 14.12 Since Community Service Orders were first made in January 1985, over 1.5 million hours of work have been performed on tasks that bring positive benefits to local communities, work that otherwise would not have been done. Over 80% of the offenders placed on these orders have completed their hours without committing further offences. By so doing they have occupied some of their leisure time in the service of the community, they have become more conscious of less fortunate citizens and more respectful of the assistance provided to such groups and of facilities provided at public expense, and most of all have made some reparation for the harm they have caused.
- 14.13 Courts specify the length of sentence for which community service is substituted so that the total volume of man years in custody that have been "saved" can be calculated. Over the two years 1995 and 1996, some 18,600 months in custody would have been served by offenders ordered to perform community service. Allowing for remission at the standard rate on sentences over 1 month, this translates to the equivalent of 573 single person cells each year. The average cost per offender was just £36.34 per week, or less than £2,000 per annum, compared with some £46,000 per annum per person in custody.



- 14.14 Pre-sanction reports often show a link between repetitive offending and social disadvantage such as homelessness or a home that is not conducive to a crime-free lifestyle, lack of employment or lack of labour market skills, inadequate literacy or numeracy abilities etc (in other words, the type of indicators referred to in Chapter 7). Both courts and the general public must be confident that these issues can and will be addressed as part of programmed supervision, if community sanctions are to be viable and effective penalties for offences.
- 14.15 Resources in the community are mobilised by the Service to whatever extent is possible but sometimes the demand on the Service is simply too great. The Service has initiated the establishment and development of a number of probation residences, training workshops and resource centres specifically for offenders on supervision, so that effective management of these offenders in the community is facilitated. As well as direct provision by the Service itself, voluntary organisations and local committees are encouraged to organise facilities to accommodate referrals from the Service. Five residential probation hostels currently operate (two outside Dublin); between them they have capacity for 63 offenders. Significant funding (up to 95%) of current costs is available through the Probation and Welfare Service, with up to 100% grants for capital improvements — yet each place costs under £15,000 per annum (1996), or less than one third the annual cost of maintaining a person in custody.
- 14.16 Good working relationships have also been established with other community-based hostels and workshops which are prepared to accept placement of offenders referred by Service personnel. The Whitaker Report argued that

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"Investment in the Probation and Welfare Service and in community based facilities, such as hostels, day care centres and training programmes, are urgently needed. Both the service and the range of facilities need expansion as a priority".

In 1996 over £3 million was paid to a range of facilities indicating the commitment to supporting supervision in this way and the importance of having facilities available to call upon in formulating programmes for more and more difficult offenders.

- 14.17 Categories of offenders can readily be identified who are at high risk of re-offending, either because of their lifestyle (alienation from the mainstream, social exclusion) or because of their compulsive behaviour (alcohol or drug misuse, violence, sex offending). Specific programmes to meet these needs have to be designed and set up. A number have been put in place within the last decade:
- Court Alcohol Education Programmes are targeted at those whose drinking patterns have led to convictions for criminal offences. By attending information sessions and discussion groups participants learn of the consequences of alcohol abuse and how it has affected their lives, motivating them to take the necessary steps to control their drinking and so avoid further offences.
 - The Probation and Welfare Service is not a drug treatment agency, but sees great value in co-operating with statutory and voluntary service providers to encourage offenders who have misused drugs to reconstruct a positive non-abusing lifestyle. Hence it has developed links with bodies such as Coolmine Therapeutic Community, Merchant's Quay and Ballymun Youth Action Project whose work is also supported financially.
 - Intensive Probation Supervision makes frequent sustained and challenging interventions with offenders guilty of serious crimes for which they would otherwise have to serve a substantial custodial sentence. As a condition of supervision they are required to attend and participate on several occasions per week (including evenings and weekends) on a demanding programme that critically examines their criminal behaviour patterns and anti-social lifestyle. Any failure to respond is followed up without delay. Operating to date in Dublin and Cork, the programmes cater for over 150 serious offenders but there is unrealised potential to significantly increase this number, for example up to the original target of 200 offenders — a target never achieved due primarily to staffing deficits. An independent research evaluation of the Dublin programme shows that targets were being met, both in terms of the category of offender referred and the outcome of participation, and the re-offending rate was very low.
 - At local community level, some specialised remedial projects offer a constructive self-help programme to young people in a particular locality who are known offenders and at high risk (e.g. have left home and survive on the streets). Examples are WHAD in Ballyfermot, the Outreach Project in Limerick and the Athy Adventure Project.
 - Also at local level, developmental probation projects have been established in some deprived areas to provide a structured and purposeful use of time for young people who are or have been on supervision and who do not have a gainful occupation or training course place. As well as challenging unacceptable behaviour, these programmes inculcate a more stable lifestyle that utilises

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socially acceptable pursuits rather than street corner delinquency, and by these means prepares them for the world of work and entry to the labour market or specific vocational training.

A central feature of these projects is the involvement of the local community and the use of local links to tackle the underlying factors that gave rise to a pattern of offending. This subject is dealt with more fully in Chapter 18.

Some Concerns About Custody Alternatives

- 14.18 While fully supportive of the case for more extensive use of custody alternatives, for all of the reasons mentioned earlier, the Department is, of course, aware that some people may see them as a "soft option" for offenders. It is important, therefore, to stress that both the Department and, indeed, the Probation and Welfare Service itself, fully recognise that custody alternatives do not provide an answer in all cases. There is no doubt that in the case of serious offenders a custodial sanction may be the only reasonable response, given the need to protect the public from such offenders.
- 14.19 A factor which probably contributes to unease about the use of alternatives is the public's general experience with parole (i.e. the temporary release system described in Chapter 13). One of the main problems about this system, however, is that those released are not, generally speaking, under the supervision of the Probation and Welfare Service. As indicated in Chapter 13 one of the Department's aims is to phase out unsupervised temporary release arrangements.

Probation and Welfare Service — Management Structures

- 14.20 While not strictly relevant to the issue of crime, it is worth mentioning that one of the issues which is being examined by the Department is the management structure of the Probation and Welfare Service. At present the service is seen as part of the Department and is financially provided for within the Prisons Vote. In practice, however, the Service is housed separately, operates quite independently on a day-to-day basis and is headed up by the Principal Probation and Welfare Officer. The issue now being examined in the light of the options set out in the Report of the Expert Group on the establishment of a Prisons Agency is whether a greater degree of independence from the Department would be appropriate and would be likely to enhance general service delivery.

Chapter 15

Victims of Crime

The effect of crime on victims

- 15.1 The criminal justice system has traditionally concentrated on the criminal. When a crime is committed, the primary concern of the system is to bring the culprit to account and everything is geared to meet that objective. The effectiveness of the criminal justice system tends to be measured in terms of Garda success levels in apprehending those who commit crime, the speed with which criminal trials are processed by the Courts and the ability of the system to impose and implement adequate sanctions on those convicted of criminal offences. Unfortunately, in the past, there has been a tendency to overlook the effects of crime on the victim. The Department believes that no crime strategy can be described as comprehensive — certainly not progressive — unless it makes particular provision for the victims of crime.
- 15.2 Being the victim of crime affects different people in different ways. Some may come to terms with the crime reasonably quickly and manage to put it behind them. Others, especially the elderly, and those who have been repeat victims of crime, can experience long-term deterioration in the quality of their lives. The type of crime the victim experiences may not be especially relevant. While the impact of a violent crime is bound to be greater than that of other crimes, even crimes which many might see as relatively minor can leave the victim badly traumatised.
- 15.3 Many victims of crime justifiably feel forgotten by the system, once the crime has been reported. In addition, if the case goes to Court, the victim may feel confused or even overlooked by the judicial process. These concerns have been recognised in recent years and important steps have been taken to improve the way in which the criminal justice system acknowledges the victims of crime.
- 15.4 The Garda Síochána have a very important role to play in dealing with victims of crime, as very often they are the first agency to come into contact with the victims. Discussions have been held with Garda authorities on this subject and it is clear that the force is very conscious of the fact that sympathetic treatment can be enormously important to the victim at a time of crisis. The Garda Síochána Recruit Training Programme now includes training on how to deal sympathetically with victims of crime. Further initiatives are under consideration in the Department of Justice.

Funding Victim Support

- 15.5 Successive Ministers for Justice have recognised the excellent work carried out on a voluntary basis by the Irish Association for Victim Support and they have taken a keen interest in its activities. The Victim Support organisation provides valuable assistance to victims of crime and the Department of Justice has endeavoured to support the Association in its work. The funding provided has increased significantly in recent years. It increased from £18,000 in 1993 to £110,000 in 1994, and from £180,000 provided in 1996 to £280,000 this year.

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Other Recent Changes

- 15.6 The growing awareness of the needs of victims is reflected in the following changes which have taken place in recent years:
- The Courts are required to seek a Victim Impact Statement in certain cases before passing sentence.
 - The Courts can order those convicted of crime to pay compensation to the victim.
 - The Gardaí operate a number of procedures by which victims may be kept informed about the progress of their cases.
 - A Garda freephone confidential service is available to encourage victims to contact the Garda Síochána.
 - Accommodation has been made available to the Dublin Tourist Victim Scheme in Garda Headquarters, Harcourt Square.
 - Accommodation has been made available to the Irish Association for Victim Support in the Four Courts and other Courthouses.
 - Progress has been made to facilitate the giving of evidence by audio-visual means from outside the Courtroom setting.

A Charter for Victims of Crime

- 15.7 The Government in its policy document "A Government of Renewal" (1994) signalled that among specific measures included in a reform of the justice system, would be a Charter for Victims of Crime. This has now been achieved with the recent publication of the Charter.
- 15.8 The Charter was produced in close consultation with the Irish Association for Victim Support and sets out the standards by which the Government expects victims to be treated. The Charter pinpoints relevant victim legislation, explains the role of the Gardaí and brings together details of the various services available. The special needs of victims of sexual offences and domestic violence, as well as tourists, the elderly and children, are separately identified. The Charter also explains how victims themselves fit in to the overall structure of victim support and emphasises the importance of reporting the crime in the first place.

Compensation for Victims of Crime

- 15.9 The Scheme of Compensation for Personal Injuries Criminally Inflicted provides ex-gratia compensation in respect of personal injury (including a fatal injury) where the injury is directly attributable to a crime of violence, or in circumstances arising from the action of the victim in assisting or attempting to assist the prevention of crime or the saving of human life.
- 15.10 The Scheme is administered by a Tribunal consisting of a chairman and six ordinary members who are appointed by the Minister and required to be practising barristers or solicitors. The Tribunal is served by a staff of three officers

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on a full-time basis and one on a part-time basis. In the period 1990 to 1996 a total of £21.3 million has been allocated to the Tribunal for the payment of compensation under the Scheme.

Review

- 15.11 The Scheme of Compensation for Personal Injuries Criminally Inflicted is under review at present as promised in the Government's Policy Agreement "A Government of Renewal". The outcome of that review is expected in the near future.

Chapter 16

International Co-operation

Background

- 16.1 For many years the Department of Justice (and the Garda Síochána) has been taking part in work at United Nations, Council of Europe and European Union fora directed towards the containment and prevention of major crime which is organised at international level. Because the Department's involvement in European Union fora, particularly since the introduction of Title VI of the Treaty of European Union in 1993 (the "Maastricht" Treaty) — the Third Pillar of the E.U. — has been much more extensive than at other international levels, the focus in this Chapter is on European Union anti-crime co-operative endeavour.
- 16.2 Crime is increasingly viewed as a threat to general stability and safety in many European States. The increased free movement of persons and goods in Europe facilitates not only law abiding citizens but also criminals. Powerful criminal organisations do not recognise or respect borders and, increasingly, operate on a transborder basis in a well structured and organised manner.
- 16.3 Ireland has experienced the adverse effects of these developments, particularly in the area of drug trafficking. The public has a right to effective action against international crime in the Union. Effective action can only be brought about by constructive co-operation between the relevant law enforcement agencies and legislative systems of the Member States, while recognising of course that national authorities must continue to play their crucial role at a national level. However, the international aspect of much of today's crime calls for concerted action and effective co-operation among Member States and between Member States and a range of third countries. It is essential to the interests of the citizens of Europe that a free and open Europe should have clear and efficient strategies to fight crime.
- 16.4 A recent report on Organised Crime in the European Union confirmed the growth in international organised crime and the development by both national and foreign origin groups of more sophisticated structures for the pursuit of criminal activities. Those involved are exploiting to the full the differences in Member States' operational structures and legal systems. No State can adequately address this problem in isolation.
- 16.5 At present the fight against serious international crime at European Union level is focused mainly around the following developments:

Europol

- (a) Creation of the European Drugs Unit (EDU), which is currently responsible for tackling drugs, illegal trafficking in nuclear substances, illegal vehicle trafficking, the fight against illegal immigration networks, trafficking in human beings and the sexual exploitation of children, and for tackling money-laundering in these connections.

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- (b) Signing in July 1995 of the Europol Convention involving, two years after its entry into force, extension to terrorism and other forms of organised crime.

Europol represents a sea-change in the intensity of Third Pillar activity and support for law enforcement agencies. The Convention creates a new intergovernmental body that will be able to pool sensitive data and work proactively in developing intelligence to target organised crime.

Police and customs co-operation

The range of activities under this heading is quite extensive but some should be highlighted:

- Resolution on the interception of telecommunications;
- Conclusions on car crime;
- Conclusions on international organised crime;
- Report on measures against organised crime and, in particular, a report from the ad hoc Working Party on International Organised Crime to the Justice and Home Affairs Ministers meeting in Kolding and the Council recommendation on organised crime;
- Annual situation reports on organised crime in the European Union;
- Implementation of the report from the Working Party of Experts on Drugs to the Madrid European Council;
- Financing of certain activities under Title VI in the context of the following programmes: OISIN (programme providing funding for training, exchanges etc. aimed at enhancing co-operation between law enforcement authorities in the Member States), SHERLOCK (programme providing funding for training, exchanges etc. for personnel working in the field of identity documents) and STOP (programme aimed at encouraging co-operation between the various bodies responsible for action against trafficking in human beings and sexual exploitation of children).

Judicial co-operation

In judicial co-operation in Europe, a number of conventions have been developed since the 1950's (21 within the framework of the Council of Europe and 4 within the EU) as well as other legal instruments of a non-binding nature (about 100 in the Council of Europe and 20 in the EU). These legal texts relate not only to the fight against organised crime but also to fighting crime in general. Nevertheless, they apply to matters concerning organised crime and are of particular relevance in that context.

Although these instruments provide common ground on many questions, there is a feeling, among a number of practitioners confronted daily with problems, that the international system of judicial co-operation is not working to the entire satisfaction of the States. Such problems relate to practical implementation of the instruments, differences in national legal systems (for example, definition of organised crime, responsibility of legal persons, confiscation of the proceeds from crime), practitioners' experience of international co-operation, lack of training

resources at the national level, language and translation problems and delays in response to urgent requests.

- 16.6 The Department recognises that for all Member States — including Ireland — issues relating to legal co-operation and co-operation between law enforcement agencies is a highly sensitive and complex matter. However, much has been achieved and it is clear that with agreed objectives and political will, firm action to tackle serious crime problems can be agreed and implemented within a reasonable time frame.

Achievements during recent Irish Presidency

- 16.7 Ireland identified the fight against drugs as a priority for its Presidency of the Union during the second half of 1996. The Minister for Justice played a central role in relation to formulation of Government policy on the subject and in relation to the successful completion of the subsequent negotiations. The focus of the strategy was to improve external frontier controls, and to enhance law enforcement and judicial co-operation among Member States. The following measures were agreed:

- Greater co-operation between the customs authorities of Member States to prevent the importation of illegal drugs to the EU.
- Improved procedures for joint customs surveillance operations.
- Greater co-operation between Police and Customs Authorities of Member States in combating drug trafficking.
- The establishment of a Directory of operational skills, training, knowledge and expertise, complemented by a funding programme.
- Actions on tackling the drug tourism problem.
- Action on domestic cultivation and production of drugs.
- Action on combating drug addiction and drug trafficking.
- Greater exchange of information between forensic laboratories on the chemical profiling of drugs seized.

This last measure has been complemented by a Drugs Purity Indicator System and the development by the Europol Drugs Unit of a programme of profiling the physical appearance of Ecstasy tablets seized. Operational co-operation has also been further strengthened and enhanced by the development of networks and operational manuals for the assistance of law enforcement authorities.

- 16.7 It is also relevant to refer to the example of comprehensive and speedy action taken during the Irish Presidency in relation to the issue of trafficking in human beings and the sexual exploitation of children. The Department was aware of the extent of the problem in certain Member States and the issue had been earmarked as a priority area for the Presidency and, responding in particular to the horrific and tragic events in Belgium during August 1996 involving the abuse and murder of children, the Minister decided that particular proposals in the relevant Council Working Groups should be prioritised. The following four initiatives were agreed in 1996:

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- extension of the mandate of the Europol Drugs Unit to cover trafficking in human beings;
- establishment of a programme of encouragement for exchange and training of persons responsible for dealing with trafficking in human beings and sexual exploitation of children;
- creation of Directories of centres of excellence to combat all forms of crime within the mandate of the Europol Drugs Unit with a concentration on, among other things, trafficking in human beings;
- a common approach to the definition of trafficking in human beings and the sexual exploitation of children and adults; measures to enhance the position of the victims of such offences and improved judicial co-operation at international level.

These measures represent significant steps in tackling these forms of criminality. As has been illustrated, much can be achieved by concerted, determined action at European level to get to grips with the most serious forms of crime.

Future Work at European Level

- 16.8 The European Council held in Dublin on 13 and 14 December 1996 underlined its absolute determination to fight organised crime and stressed the need for a coherent and co-ordinated approach by the Union. It decided to create a High Level Group to draw up a comprehensive Action Plan containing specific recommendations, including realistic timetables for carrying out the work. The Group was requested to examine the fight against organised crime in all its aspects on the clear understanding that it would refer any issues involving Treaty changes to the Intergovernmental Conference which is addressing Treaty changes in this area as a priority.
- 16.9 Departmental officials are playing a full part in the work of this High Level Group. The Department is emphasising the following requirements:
- Enhancement of practical co-operation between police, customs and judicial authorities both within and between Member States to facilitate exchange of information and development of effective common action;
 - Urgent ratification and bringing into operation of the Europol Convention, allowing for a developed and expanded role for Europol;
 - Implementation of international agreements and conventions to counter money-laundering, given that profit is the motive for the vast bulk of serious crime;
 - Focus heavy attention on criminal organisations, irrespective of the form of criminality they are involved in. Specific forms of crime and particular criminal gangs need to be targeted but it is clear that many criminal organisations are involved in a range of activities (for instance, trafficking in human beings and trafficking in drugs) making use of similar structures, routes and methodologies, irrespective of the particular form of crime. It is important, therefore, to focus on the organisations themselves;

International Co-operation

- Prevention aimed at reducing the circumstances in which serious crime develops. In this context, social, environmental and economic factors which contribute to the causes of crime must be addressed;
 - Enhancing of sharing of best practice and experience gained by Member States in tackling particular forms of criminality, e.g. prevention and detection of theft of and from vehicles by use of modern technology; prevention and reduction of armed robberies through use of laser cards etc.;
 - Combating the increasingly significant area of high technology crime, including the misuse of the Internet.
- 16.10 The Department will continue to contribute fully to the development of concerted and effective action on all these fronts at the European and wider international levels. It goes without saying that the Union cannot, on its own, tackle crime comprehensively at an international level. It must co-operate closely with non-EU countries, including not only nearby associated countries of Central and Eastern Europe but also more distant drug cultivating countries of Latin America and Asia. Of particular significance in this context is the co-operation developed with the United States of America and Canada under the New Transatlantic Agenda. Such co-operation must be developed also with Russia and Japan. Again, the Department will play its full part in all these important endeavours.

PART IV

FUTURE PLANS

Chapter 17 — Broadening Public Debate

Chapter 18 — Inter-Agency Issues and Community Involvement

Chapter 19 — Goals and Strategies

Broadening Public Debate

The Need for Discussion on Crime

- 17.1 Crime is an issue which understandably attracts public attention and debate. Sometimes, however, this debate can be characterised more by heat than light. It is for this reason that the Department believes that mechanisms should be put in place to facilitate balanced and well-informed debate on the subject.
- 17.2 Without such debate there is the constant risk that "fire-brigade" rather than properly-drawn responses would become the order of the day.

A Crime Council

- 17.3 The Minister for Justice has already signalled her intention to create a forum — a "Crime Council" — to allow for more broadly-based, well-structured and well-informed discussion on the subject of crime. She has also indicated that the Council would not simply be a "talking shop" but would act as a source for strategic policy options and for reasoned debate on all crime issues. Proposals for the formation of such a Council are discussed at paragraphs 17.8 to 17.14 below.

The Position in Other Jurisdictions

- 17.4 Crime Councils of different kinds have been established in many other European countries. The Danish model is generally considered to be one of the more advanced. Some of its main functions are briefly outlined in the following paragraphs.
- 17.5 The Danish Crime Prevention Council was established in 1971 and, from the beginning, the guiding principle has been that tackling crime is not just a matter for the police but is everybody's responsibility. The Council is an independent body and, while it has a relationship with the Ministry of Justice, it does not come under the control of the Ministry. The General Assembly of the Council is composed of 46 different organisations covering a wide spectrum of Danish society. The Assembly meets only once a year and the general direction of the Council's affairs lies with an Executive Committee which includes Government officials, police, business and academic representatives.
- 17.6 A number of standing committees covering areas such as technical security measures, urban planning and interaction between police and social services report to the Executive Committee. In turn, these standing committees establish working groups to consider particular issues.
- 17.7 The objectives of the Council are:
- (a) to prevent individuals from becoming involved in crime, and
 - (b) to develop and implement strategies to reduce/prevent crime.

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A significant amount of the Council's work is aimed at young people; a crime prevention programme has, for example, been developed for integration into school curricula. The Council is also seeking to expand its network of sub-committees which bring together social services, schools and police at area level in order to devise a joint *local* strategy for crime prevention. Other Council activities include devising new approaches to urban planning which will reduce or prevent crime, issuing a wide range of crime prevention advice (to the general public and more targeted efforts at particular groups) and developing technical measures to assist in crime prevention (for example, the marking of property).

Proposals for an Irish Crime Council

- 17.8 A Crime Council could be formed in any one of a number of ways. As the central purpose of such a body is to facilitate more informed public debate and consultation on the subject of crime, the Department considers it right that the details of formation of the Council should itself also be open to discussion. This paper, therefore, outlines what the Department considers to be the necessary requirements for a Council but is certainly not seeking to close the door on other possibilities. As stated in a recent publication by the British Police Research Group which had conducted research on the specific subject of "consultation and feedback":

"The main conclusion is that there is no universal solution that will deliver the right consultation and feedback forces and authorities must select a combination of mechanisms when planning the consultation and feedback mechanisms."

- 17.9 The Department believes that the Council should bring together a wide range of interests — the social partners, the community/voluntary sector, local authorities, academics, Government officials as well as representatives from the different sectors of the criminal justice system. The Council should have its own staff and be independent of the Department of Justice.
- 17.10 The objectives of the Council might be similar to those in Denmark and other jurisdictions. Some of its objectives, for example, might be:
- (i) to promote research and the spread of knowledge on all aspects of the criminal justice system, the causes of crime and crime prevention,
 - (ii) to provide a broad based organisation to act as a forum to further the above objective, to stimulate public debate and inform public opinion,
 - (iii) to print, publish and circulate publications which would further the primary objectives of the Council,
 - (iv) to act as a source of advice to the Government on crime-related issues,
 - (v) to examine and, if considered necessary, offer advice in relation to measures planned by local authorities and non-Governmental agencies which could impact on crime levels (for example urban planning or housing policy),
- 17.11 The Council could be funded entirely by the State or from a mix of grants, membership fees or donations. Such a funding mix (i.e. partly supported by the State, partly supported by other interests) would be consistent with the concept

of independence. The funding arrangements in place for the Institute of European Affairs could possibly serve as a precedent.

- 17.12 It would clearly be essential, if the work of the Council is to have a real impact on crime policy and strategy formulation, that its proceedings and output should be characterised by a sense of realism — particularly, but not exclusively in the area of costs. While not suggesting that a well-structured crime “talking shop” would be a creature of little value, its value would clearly be enhanced enormously if the talk had a prospect of producing actual results. For this to happen, the Council would need to cost its proposals, to look perhaps at possibilities for redeployment of resources, increased efficiencies and so on. A Council which turned out to be little more than an articulate pressure source for endless increases in Government expenditure would have only limited success. That is not to say that a Council should shy away from any sound crime prevention proposal on the ground that its acceptance might require increased Government expenditure, but simply that costs and public expenditure realities should be addressed in the context of providing advice.
- 17.13 It would be necessary for the Council to take account of other realities, also, for example in relation to the personal rights and freedoms of individuals which, as observed earlier in this paper, inevitably come under strain as crime levels increase. Again, the Department does not suggest that a Council should avoid giving advice simply because it touched upon the erosion, for example, of the rights of suspects but, rather, that the value as well as the “burden” of such rights should be carefully weighed when issues of that kind are being discussed.
- 17.14 It might be said that a sense of realism will be guaranteed by having the right mix of interests represented on the Council and that the foregoing comments in relation to costs and personal rights are therefore somewhat superfluous. The Department considers it right, however, to mention these matters, now, so that they will form part of the backdrop to discussion on the creation of the Council itself.

Proposals already submitted to the Department

- 17.15 The Department has already received a comprehensive proposal for the establishment of a Crime Council from the Dublin Chamber of Commerce and it has also received a proposal for such a Council from the Garda Síochána. The details of these proposals are not outlined in this paper — the bodies concerned may themselves wish to decide what publicity might be appropriate. However, it is fair to say that the proposals submitted would meet many of the criteria outlined above.
- 17.16 The Department will evaluate proposals against the background of requirements signalled earlier and the comments received from the public on this paper, before establishing the Crime Council.

Inter-Agency Issues and Community Involvement

Background

- 18.1 Two issues identified earlier in this paper as matters of central importance in tackling crime were:
- (a) the need for better inter-agency co-ordination in the battle against crime (see Chapter 7) and
 - (b) the need to involve the public in a way that would enable local communities — especially though not exclusively those worst hit by crime — to act in partnership with Voluntary and Statutory agencies in tackling crime (briefly mentioned in Chapter 2).

These are separate but inter-related issues. They are related in the sense that the prospects of ensuring more effective community involvement is considerably enhanced if the public can see that the various agencies — especially the Statutory Agencies — “have their act together”, so to speak.

Inter-Agency Co-operation

- 18.2 As observed earlier, the Inter-Agency co-operation required is not simply co-operation between the law enforcement agencies — though this is obviously crucially important — but also between these agencies and those in the health, education, environment, employment, social welfare and other fields.
- 18.3 The Department acknowledges that, as matters stand, the co-ordination of endeavour within the law enforcement Agencies has been less effective than it ought to be. There has been a sense that major developments in one part of the system either do not register at all — or register much too late — in others. Improved Garda efficiency and detection rates means increased workload for the Courts, a more efficient Court service or more effective criminal laws result in more prisoners which, in turn, means that extra prison places or better custody alternatives will be required. There is a sense that the cost of extra prison accommodation, at one end is not fully taken on board for example, when stricter laws are being enacted at the other.
- 18.4 Ensuring effective cohesion within the law enforcement system is something for which the Department of Justice has responsibility. Because the Department considers this to be an issue requiring priority attention, it is essential that time and resources be committed to the task. For this to happen, the Department itself needs to change the way it does things. That is why, as stated in Chapter 3, the Department favours the idea of moving responsibility for detailed day-to-day running of various services out to the agencies concerned. It is only by proceeding in this way that the Department itself will create the “space” to look more objectively at the way the system as a whole functions, and ensure that it functions cohesively. This change of emphasis, as already noted, was signalled in the Department’s SMI Statement (see Appendix):

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"The fact that the operation of the criminal justice system involves a high degree of interdependence between a large number of agencies within the Department's area of responsibility — the Gardaí, the Courts, the Prisons — argues for special arrangements and structures to facilitate communications relating to policy and organisational matters both within the justice system and between it and bodies involved in the wider process."

- 18.5 With regard to wider co-operation, again insofar as crime is concerned, the Department has a central responsibility for ensuring that there is a cohesive approach. This was a point strongly emphasised in the Report of the Interdepartmental Group 1992 (referred to at Chapters 2 and 3) which recommended the creation of:

"a body or forum in which those responsible for the provision of central Government and local services can liaise on an ongoing basis so as to perform their role more effectively".

- 18.6 The case for such an initiative is now more valid than ever and the Department considers that the vehicle through which such a body might now be created is the SMI Co-ordinating Group. While not wishing to prescribe for the Group how it might discharge this task, the Department considers that there would be merit in asking all relevant Departments as a first step to indicate precisely how they propose to contribute to crime reduction. This seems to be precisely the kind of issue to which the Government's Strategic Management Initiative is directed. The Department of Justice has already advocated that crime should be designated a "Strategic Result Area (SRA)" and that its operation be subject to direct Governmental/Ministerial oversight.

- 18.7 The Department is convinced of the need to focus priority attention on areas particularly hard hit by crime and would favour the establishment of high level inter-agency groups for this purpose. The inter Departmental Group (1992) which was set up in the wake of a serious public order disturbances in one particular area of Dublin would serve as a useful model. The Report of the Group has been referred to at several points in this paper. The following points are, however, worth emphasising:

- (a) As it will not be possible, for various reasons, to set up a number of such groups all at once, it would be necessary to select a small number of areas, strongly associated with criminal activity, attempt to prioritise them and assign projects on the basis of the priorities selected.
- (b) It would be necessary to provide a reasonable level of funding so that the recommendations made can be implemented. It is necessary to be realistic in this regard. For cost and other reasons, some recommendations will be implemented more slowly than others.
- (c) Once the high-level Group has reported on a particular area, it would be necessary to establish a lower-level working group representative of the same participants to oversee the implementation of the recommendations made. Without this local communities will lose confidence and interest in the projects.

Inter-Agency Issues and Community Involvement

Involving the Community

- 18.8 The importance of involving the community in the battle against crime has been referred to earlier. It is important on several counts. First of all, as stated in the 1992 Inter Departmental Group's Report:

"the importance of consulting with local interests cannot be over-stressed. People who are actually living with situations day-in-day-out acquire insights which are ignored at peril".

In other words, consultation is warranted because local *knowledge and experience* are critically important to the task in hand.

- 18.9 But it is more than a question of knowledge and experience. It also signals *respect* for local opinion, without which community co-operation is unlikely to be forthcoming. Unless respect is shown and a sense of *partnership* against crime created between the relevant agencies and the communities served there is a real danger that the community will either respond with indifference or extremely negatively — through vigilantism, for example.
- 18.10 Probably the most valuable product of effective community consultation and involvement is that it creates a sense that, with broadly-based co-operation, *something can actually be done* about crime. The battle against crime will remain an uphill struggle for as long as it is seen as the task only of Gardaí, Courts and Prisons — "someone else's job". Broadly-based and positive co-operative endeavour is critical to success.

Families under particular stress

- 18.11 Certain families manifest all the features of *disadvantage*, including a general lack of control and a tendency towards involvement in crime. In some cases several members of the same household have experience of drug abuse, criminal convictions and imprisonment.
- 18.12 Many of these families will be in receipt of different forms of support from various social services. The annual cost involved in providing these services — including, for example, the cost in many cases of imprisonment — can be quite considerable. The Department believes that this subject is worthy of study, with a view to establishing whether by means of a more effective use of the same level of resources, these same families could be better served, and the taxpayer provided with better value for the resources committed to helping them cope with their difficulties.

What is already happening

- 18.13 The foregoing comments should not be taken to mean that, as things stand, there is little or no co-operative endeavour of the kind envisaged. The Probation and Welfare Service, as well as the Garda Síochána, are usually included among the statutory services expected or required to sit down with voluntary and community groups in order to produce more focused and effective co-ordinated action at local or regional level.

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Examples are:

- Child Care Advisory Committees, established under Section 7 of the Child Care Act 1991, to advise Health Boards on the performance of their functions in the area of child care and family support. Often members of the same family, or the same individuals themselves, will come to the attention of both the child protection system and the juvenile justice system, for example. Both Gardai and Probation representatives can contribute to fine-tuning the response to issues arising such as child abuse, drug and alcohol misuse, management of the mentally handicapped and mentally ill, since deprivation, family instability and poor parenting do not respect agency demarcations.
- Similarly, both Probation and Garda participants on Local Drug Task Forces in the designated areas have a role in evaluating the impact of existing services for misusers and formulating the future needs of the area for prevention, education and treatment.
- Area Partnership Companies have been established under sub-programme 2 of the Local Development Programme, a key constituent of the National Development Plan 1994 — 1999. These Partnerships bring together representatives from the statutory agencies, the social partners and the local community to develop area action plans and implement new initiatives — additional to existing mainstream provisions — that are targeted very specifically at the long term unemployed, the marginalised and the socially excluded, including “early school leavers and those whose anti-social behaviour presents a particular challenge”. In most Partnerships the Probation and Welfare Service has either secured one of the places for statutory agencies on the Board or is actively represented at sub-Board level.

18.14 While it would be quite wrong, therefore, to suggest that there is no provision at all for inter-Agency co-operation and community involvement, or to suggest that these are completely new ideas, there is no doubt that better co-ordination within the law enforcement system, and more widely, should be seen as a core requirement for a more effective anti-crime strategy.

Chapter 19

Goals and Strategies

- 19.1 Throughout this paper various shortcomings in the criminal justice system have been identified. In this Chapter a series of *goals* and *associated strategies* are set down which attempt to address these shortcomings. Comments made in earlier Chapters are briefly summarised by way of explanation for the strategies proposed.
- 19.2 As mentioned in Chapter 1 the goals and strategies are broadly stated. The Department will consider what refinements may be called for in the light of comment received on this paper and will proceed, on that basis, to draw up more specific implementation plans, including timeframes for action.

Goal 1

Information on crime is comprehensive, quality crime research is on-going, properly resourced, structured and focussed and arrangements are in place to ensure that the public are properly informed about crime.

Information about Crime in Ireland is inadequate and there is not sufficient research on the subject.

To say that the information available is inadequate is not of course the same as saying that there is no information available at all on the subject.

There is, in fact, a sizeable volume of statistical information about crime in the Garda Commissioner's Annual Report. It is sometimes suggested that the Commissioner's Report, which consists for the most part of a year-on-year summary of recorded offences, considerably understates the true incidence of crime. While it is to be expected that certain types of offence would tend to be under reported — such as sexual offences, domestic violence and fraud (in the case of fraud, victims may not even know that the fraud has been perpetrated) — it seems unlikely, on the face of it, that most other forms of serious crime would go substantially unreported.

In other words, while the published statistics may not reflect the total incidence of offending, it seems unlikely that they understate the situation to an extent that would make it unsafe to place reliance on them as a reasonably accurate indicator of the overall crime situation.

Particular problems in the area of information gathering include the following:

- (1) There is no independent, ongoing monitoring of the incidence of offending to demonstrate the extent to which the actual crime level is accurately represented by officially recorded crime statistics.
- (2) There is no linkage between the statistical output of the various law and order agencies (Garda Síochána, Prisons, Courts, Probation and Welfare Service etc.)

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- (3) The production of statistical information does not appear to have a high priority, is slow, and therefore of limited value as an instrument for effective operational response to crime.

With regard to research, the position is that while some very valuable research projects have been conducted in the last few years, it is beyond doubt that there is considerable need for more and better research.

There is a particular need to ensure that the public are accurately and properly informed about the crime facts. The media has a very important role to play in this regard. Because there is a basis, in some cases for questioning the way in which some elements of the media at times discharges this task, there is a need for the media to keep practices and standards in this regard under review. There is more detailed discussion on these issues at Chapters 6 and 7.

Proposed Strategies

1. Proceed with discussions with research bodies, the Universities and other third level Institutions, with a view to deciding:
 - (a) how best to engage the services of an independent agency or agencies to monitor official crime data and to carry out research on an agreed range of issues related to crime;
 - (b) on the stimulation of research by Crime/Criminology faculties in third level Institutions to promote quality study of crime issues.
2. Seek resources to strengthen the Garda Research Unit.
3. Ensure that current and future computerisation planning within the various law enforcement agencies (Garda Síochána, Prisons, Courts etc.) are properly co-ordinated and capable of producing comprehensive crime statistics.
4. Devise and put into effect, after consultation with outside agencies/bodies (including those referred to at 1 above) a plan to maintain public awareness of facts about crime.

Goal 2

There is widespread understanding and agreement that a comprehensive approach towards tackling crime requires effective cross-agency cooperation between the Department of Justice (and the Garda Síochána) and the Departments of Education, Health, Social Welfare, Environment, Local Authorities and other bodies and there are effective mechanisms in place to ensure that this cooperation actually functions and is maintained.

While there appears to be a growing acceptance that long-term solutions to crime will not be found by concentrating only on law and order responses, the implications of this insight are not, as yet, fully reflected in policy and strategy formulation.

It is important that progress towards the development of a more broadly-based crime strategy be accelerated and particularly important that there would be

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clarity about the implications of fully accepting the link between crime levels and social disadvantage.

Acceptance of the link does not mean that society is obliged to tolerate crime simply on the ground that some of its perpetrators have been victims of disadvantage. Nor does it mean that the concept of individual responsibility and accountability is to be set aside. It may well be that a person who stands accused of a crime, may be able to persuade a court that his/her *particular* life experience made it virtually impossible for him/her to avoid wrongdoing, but that is a very long way from conceding that deprivation should *automatically* be taken as an excuse in all cases or that it removes the case for criminal sanctions.

A further implication of acknowledging the link between social deprivation and crime — and acting on that insight — is that it has to impact on policies and priorities in other areas and directly affects existing public expenditure priorities.

There have been various authoritative statements and reports on the need for a broadly-based response to crime but only some of the various recommendations made have been acted upon. There is a convincing case for making crime one of the specific topics to be addressed on a cross-Departmental basis (a "Strategic Results Area") under the Government's Strategic Management Initiative (SMI).

There would be merit also in establishing Groups to focus on the crime situation of areas particularly associated with crime problems, on the lines of the 1992 inter-Departmental Group following serious public order incidents which arose in one area of Dublin. It is important however that arrangements be put in place to see recommendations through to implementation.

The Department believes that an expert examination should be conducted on the way public funds are used in addressing the problems experienced in families which are suffering multiple deprivation.

There is further discussion on these issues in Chapters 2, 3, 7 and 18.

Proposed Strategies

1. More research to be carried out in relation to the impact of various forms of social disadvantage on crime and on the relative significance of particular forms of disadvantage, one to another.
2. Structures to be in place to ensure that agencies within the law enforcement system communicate in a regular and well structured way with each other. Support to be provided also for the development of structures for effective cross-agency action against crime.
3. The Department strongly supports the establishment of high level Groups to examine and make recommendations on the crime situation in areas which are particularly associated with crime problems. The 1992 inter-Departmental Group would serve as a model. A level of funding would need to be provided to implement recommendations made, within a reasonable timeframe, and structures put in place to see the implementation process through to completion.

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4. Examine the way in which public funds are employed to support families which experience particular disadvantage, including involvement in criminal activity so as to establish whether those families would be better served if the same resources were used in a more efficient manner.

Goal 3

The criminal law addresses wrongdoing in a way that is effective but proportionate and there are effective arrangements in place for the continuous review and updating of the criminal law.

The pace of criminal law reform, for which the Department of Justice has responsibility, has been intense in recent years and there is an ambitious programme for future reform in place. There is need for more resources in this area if the pace of reform is to have any prospect of matching the constant demand for it.

Suggestions are made from time to time that, rather than proceed with "piecemeal" reform of the criminal law, the Department of Justice — or, if necessary, some other agency — should conduct a "root and branch" reform, eliminate all the legal "deadwood" and proceed to codify the criminal law in its entirety. While this would, no doubt, be a major and extremely worthwhile achievement, the Department considers that, for the reasons set out in this paper, the better course is to give priority to individual reforming measures which are known to be urgent and necessary.

Another suggestion made is that the State should introduce the Continental "Inquisitorial" System of examining magistrates into our criminal procedures. This issue is also examined in the paper and the conclusion is that while there may well be specific aspects of the continental systems of criminal justice which would repay study, the priority, in a situation where resources are limited, must be to continue, and if possible accelerate, reform of the existing system.

Finally, there is the issue of proportionality, that is, how to maintain the correct balance between the rights of persons accused, the rights of those who become victims of crime and the rights of society generally to have in place a legal system which affords it a reasonable measure of protection.

Maintaining the right balance is an extremely difficult and complex task and one that has provoked considerable debate in the Oireachtas and elsewhere over the years. While there is no magic formula for finding the "right" balance of rights, the Department will continue to strive for balance, in all of the legal reforms it proposes.

Chapter 8 contains more detailed discussion on the subject of criminal law reform.

Proposed Strategies

1. Ensure that the staff resources available for law reform work will continue to be used with maximum efficiency, in order to maintain the high priority which law reform has received within the Department. The Department will press for further resources to accelerate this reform programme, while recognising the realities of general Government policy in relation to public

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expenditure and personnel "numbers" containment. Any increase in the pace of reform by the Department would probably have staffing implications also for the Attorney General's Office.

2. While recognising the merits of arguments for codification of the criminal law the Department will, having regard to the size of that task, continue to prioritise the reform of the law as it stands — a process which, in any event, achieves at least some of the aims of a codification programme (e.g. elimination of legal "deadwood"). If however additional resources were made available for a codification programme, the Department would recommend that the first step should be a "scoping" study of the kind undertaken for this purpose in the UK.
3. Although the Department does not favour the adoption of the Continental "Inquisitorial" System, for reasons advanced in this paper, it will, nevertheless, continue to examine other systems, including the Inquisitorial system, and will propose that any elements of those systems likely to increase the overall efficiency and effectiveness of our legal system should be introduced.
4. While recognising the difficulty of the task and the need to keep the protection of society to the forefront, the Department will continue to strive for balance between the competing rights of accused, victims and society generally in all of the legal reforms it proposes.

Goal 4

The Police Force is adequately resourced and the available resources are used in an efficient and cost effective manner.

A central requirement, if crime policy or strategy is to be described as effective, is that the police force should be adequately resourced and that resources be used to best advantage. This paper confines itself to a brief description of the human and other resources available to the Garda Síochána, as things stand, and outlines very broadly how those resources are deployed.

The reason that the paper confines itself to description rather than analysis of what may or may not be required, is that during the course of its preparation, a comprehensive analysis of Garda efficiency and effectiveness was being carried out under the auspices of the Government's Strategic Management Initiative (SMI).

There is further discussion on the Garda Síochána at Chapter 9.

Proposed Strategies

1. Provide maximum assistance and co-operation in implementing any Government decisions for which the Department will have a responsibility, as a result of the SMI Review of Garda Efficiency and Effectiveness.
2. Without prejudice to 1 above, ensure, in consultation with the Commissioner, that a well-focused strategic plan for policing is in place and is kept up to date, that appropriate criteria to measure efficiency and effectiveness are

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identified, and that arrangements are in place by which the criteria may be fully assessed on an on-going basis.

3. In consultation with the Commissioner, promote such measures as are justified, including resourcing, restructuring and reorganisation in order to maintain/enhance Garda effectiveness.

Goal 5

There are effective strategies in place to deal with substance abuse and serious crime, including so-called "organised" crime.

It is essential that measures to tackle the problem of substance abuse, in all its forms, should remain a top Government priority. It is important also that alcohol abuse, because of its recognised association with serious offending, be recognised as a major form of substance abuse.

In view of the fact that so-called "crime bosses" and certain criminal organisations extend their activities across national boundaries and between Continents, it is essential that the battle against them should continue to be waged not only at national but also at international levels.

Measures which have been introduced — especially over the past year or so — are proving very effective in tackling major criminals and should continue to receive priority attention and support. This country should also continue its anti-crime cooperation at international level, on which very valuable progress was made during Ireland's recent Presidency of the E.U.

There is a range of strategies in place as things stand to deal with serious crime and the Garda record in dealing with such crime is impressive by international standards.

The effectiveness of these strategies, however, needs to be kept under constant review — because the international experience is that criminals continually enhance their capabilities (increased violence and intimidation, use of modern technology, increased use of modern firearms etc.) and also constantly adjust their targets.

There is more detailed information on this subject in Chapters 10 and 16.

Proposed Strategies

1. Continue to accord top priority to legislative and other measures designed to curb the activities of the more serious offenders.
2. Continue, also, to participate in work at the EU and wider international levels in relation to criminal activities which are organised at an international level.
3. Ensure that the problem of alcohol abuse is taken, as a matter of course, to be within the ambit of what is meant by "substance" abuse.
4. Support in every way possible, the Government's work in prioritising the fight against drugs.

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Goal 6

There is an effective prosecution and legal aid system in place.

The prosecution of offences is a matter, not for the Department of Justice, but for the Director of Public Prosecutions whose office and independence is established by Statute.

While the Department has no role in prosecutions, it considers that a document dealing with crime policy and strategy would be less than complete if it contained no reference at all to the prosecution system, the speed and effectiveness of which is critical to an effective crime strategy.

The operation and content of the Legal Aid Scheme, on the other hand, is a matter for the Department of Justice.

It is now widely accepted, not just here but internationally, that justice and fair procedures require that people faced with criminal charges and an extremely complex body of criminal law, need professional assistance to defend themselves. Such defence has been recognised by the courts as a Constitutional right — it would be manifestly wrong if the only people who could, in practice, exercise that right were those in a position to pay for the services of lawyers out of their resources.

The Criminal Legal Aid Scheme is in need of review and the Minister has established an expert committee for this purpose. There is more detailed discussion at Chapter 11.

Proposed Strategies

1. Complete a fundamental review of Criminal Legal Aid Scheme.
2. Implement decisions taken on foot of that Review.

Goal 7

The Courts are adequately resourced and they operate in a speedy, efficient and cost-effective manner.

Various aspects of the operation of the courts system have been the subject of criticism over the years.

There have been criticisms over delays in having cases heard — though this applied more to civil than to criminal cases. This problem has been addressed by means of the significant increase, over the past year or so, of extra Judges and support staff.

The efficiency of the administrative structure which supports the operation of the Courts has also been the subject of criticism. A fundamental review of that system is now underway by a high-level Group chaired by Mrs. Justice Susan Denham of the Supreme Court. The Group has already submitted four interim Reports, one of which recommended the establishment of an independent Courts Service. Steps to implement this recommendation are now underway including the drafting of legislation to establish the new Courts Service.

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Finally, there have been criticisms of individual Court decisions. The point is made in this paper that one of the consequences of having an independent Judiciary, (a provision of great value and importance which is included in the Constitution) is that judges — and they alone — carry the difficult task of deciding, on the basis of the evidence presented to them, whether somebody is or is not guilty in accordance with law.

The paper also discusses the question of consistency in sentencing — see generally Chapter 12.

Proposed Strategies

1. Proceed with measures necessary to establish an independent Courts Service on the basis of decisions made in this regard by the Government.
2. Pending establishment of this service, provide the best possible support service for the Courts (acknowledging of course that necessary budgetary disciplines place a limit on available resources).
3. Proceed with the accelerated Courts building and refurbishment programme already underway.
4. Complete the examination of the Law Reform Commission's Report on Sentencing Policy.

Goal 8

The Prison Service meets the community's expectations and is justifiable in its day-to-day operations.

The Department of Justice has already published (in June 1994) a comprehensive document on this general subject entitled "the Management of Offenders — A Five Year Plan" (referred to in Chapter 13). The document — published as a discussion document — attracted much less comment and attention than might have been expected.

As this detailed and quite recent statement of aims and objectives in relation to the management of offenders is already in place, this paper confines itself to a brief outline of what has happened since the 1994 Document was published and what is now planned.

The more significant points are that:

- (a) The Government on the recommendation of the Minister for Justice decided, in 1996 in the light of its assessment of the crime situation generally that the number of additional cell spaces should be considerably more than were envisaged in the Five Year Plan. A major aim in the period immediately ahead will be to complete these accommodation expansion plans.
- (b) The Department, which in the 1994 document outlined the arguments for and against the establishment of an independent Prisons Board or Executive Agency and emphasised that it certainly had no objection in principle to moving in that direction, later recommended that course. The Government

has agreed in principle. An expert Group has been established to advise on implementation and the Department of Justice is considering its Report.

There is further material on the subject of Prisons in Chapter 13.

Proposed Strategies

1. Continue to accord top priority to the extensive Prisons expansion and refurbishment programme already underway.
2. Proceed to establish an independent Prisons Agency on the basis of decisions made in this regard by the Government taking into account the Report of the Expert Group on the Prisons Agency.
3. Pending the establishment of a Prisons Agency, continue to administer the Prisons as efficiently and effectively as possible within available resources.
4. Examine the recommendations made by the expert group on Prisons Costs, (when available) and consider what action is necessary in that regard.
5. Advance the implementation of the plans outlined in the document published by the Department in 1994 which was entitled "Management of Offenders — a Five Year Plan".

Goal 9

There is a well-developed and effective system of custody alternatives in place and the Probation and Welfare Service, which is principally responsible for the proper functioning of custody alternatives, has the resources necessary to discharge its task.

The Department is convinced of the need for the development and more extended use of effective custody alternatives. It is important, however, to lay stress on the word "effective" and, in particular, to stress that the early release of offenders, many of whom remain *unsupervised* in the community, is not an effective alternative to custody, and tends to undermine public confidence in the whole idea of alternatives.

The provision of additional resources for the Probation and Welfare Service would pay rich dividends. The success rate of the Service is impressive and — while it is certainly the case that a high proportion of those in custody have already been "tested" (apparently without much success) on all available alternatives and that secure custody is the only realistic option in many cases — there is no doubt that, with more resources, greater use could be made of supervised custody alternatives, to the benefit of the taxpayer and longer-term crime containment alike.

Proposed Strategies

1. Accord priority to the development of custody alternatives, as it is a much less expensive and, in many cases, a more effective way of managing offenders.
2. Provide the resources necessary for the Probation and Welfare Service to ensure that custody alternatives function effectively and in a manner that inspires public confidence.

Tackling Crime

Goal 10

There is provision for a well-structured broadly-based and well informed discussion on crime issues as an aid to crime policy and strategy formulation.

This Goal is not being realised as things stand; the Department of Justice considers this to be an impediment to the evolution of more effective crime strategy.

While it would be unrealistic to expect that a stage will ever be reached when public debate on crime would be characterised only by reasoned argument — a level of anger and emotion is inevitable, certainly in the wake of serious incidents — the Department considers that more enlightened debate could be greatly facilitated by the formal establishment of a forum for this specific purpose.

Therefore, as already announced by the Minister, the Department proposes that a Crime Council be established.

It is not envisaged, as the Minister has already stated, that the Council would simply be a “talking shop” but that the outcome of its deliberations should be seen as an important source of advice to the Government on matters relating to crime policy.

As to how the Council would be structured, how its deliberations might be fed into the policy formulation process and so on, there are various options, some of which are set out in this paper. To be consistent with the underlying aim of a Council — i.e. facilitating public debate — the final “shape” of the Council itself should not, in the Department’s view, be settled until people at least have the opportunity of commenting on this discussion paper.

There is further discussion in Chapter 17

Proposed Strategies

1. Consider any submissions made in relation to the establishment of a Crime Council in the general lines indicated in this paper.
2. Complete consideration of the proposals submitted by the Dublin Chamber of Commerce and the Garda Síochána for the establishment of a Crime Council.
3. Establish a Crime Council as soon as possible.

Goal 11

There are proper State-assisted supports in place for the victims of crime.

The provision of adequate victim support is one of the essential requirements for any defensible crime policy.

The importance of this issue has come to be much better appreciated in recent years and this has been reflected in various ways, including the increased Budgetary provisions for victim support.

Goals and Strategies

One of the more significant developments has been the recent publication of a Charter for the Victims of Crime, which was promised in the current Programme for Government.

A major issue, of course, in the general area of victim support, is whether the "pain and suffering" element which was removed from the Criminal Injuries Compensation Scheme in 1986 should now be restored. The estimated cost of doing so is very substantial (estimated at £40m+per annum). The Department is examining the options in this regard (including the creation of a fund to which the perpetrators of crime would contribute).

There is further discussion on this subject in Chapter 15.

Proposed Strategies

1. Examine, on an ongoing basis, further means by which the criminal justice system can support victims of crime, with the advice and assistance of the Irish Association for Victim Support.
2. Complete the review of the scheme for the payment of compensation for criminally inflicted injuries.

Goal 12

The role and functions of the Central Government agency with primary responsibility for matters relating to crime (i.e. the Department of Justice) are clearly defined and known, there are adequate resources in place to discharge those functions in a satisfactory manner.

As already stated in this paper the Department has published a statement as part of the SMI exercise — "Community Security — Challenge and Change" — which outlines its Mission and its plans, acknowledges its shortcomings and describes the challenges it faces (See Appendix 1).

Insofar as tackling crime is concerned, the Department has a central role in relation to the provision of resources, broad policy formulation and ensuring that the law and order system functions cohesively. The Department's challenge is to bring about the organisational and other changes which will be necessary to perform these tasks more effectively in the future.

There is further discussion on this subject at Chapter 3.

Proposed Strategies

1. Proceed with the structural and organisational changes within the justice system which were outlined in the Department's SMI Statement — "Community Security — Challenge and Change".
2. Produce, on the basis of comments received on this paper, a more detailed and developed statement of strategy for tackling crime, including where possible appropriate, timeframes for the delivery of specific elements of the strategy.

APPENDIX

COMMUNITY SECURITY —
CHALLENGE AND CHANGE

The Strategic Management Initiative
of the Department of Justice

1997

COMMUNITY SECURITY CHALLENGE AND CHANGE

The Strategic Management Journal
of the Department of Justice

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MESSAGE FROM THE MINISTER

The Strategic Management Initiative represents a new and fundamental change of direction for the civil service and more broadly for the public service.

We are all aware of the significant changes that the last decade has brought — changes which will continue into the next century. It is a time of more awareness, a time of positive change, a time for constant assessment and reassessment of the purpose, method and value of our work, both as individuals and as team members.

The Department of Justice, like most other bodies, is examining its organisation and structure, how it can best contribute to the overall effectiveness of the justice system and how it can improve its service to the public.

I have the job of Minister at a critically important stage in the Department's history. It is the stage at which a process of fundamental organisational change, which has already begun, has been given renewed vigour and focus as a result of the Strategic Management Initiative (SMI).

The Department of Justice and the agencies associated with it — the Gardai, the Prisons and the Courts — tend to be associated in the public mind with many of the negative sides of modern society, and one of the most negative realities of today's society is crime in all its forms.

It is the case, not just in Ireland, but worldwide that criminal elements are becoming more powerful, more callous, more vicious and there is an expectation that the institutions whose business it is to respond to that phenomenon will perform effectively and coherently — an expectation not always realised.

It is said that too little is known about the structure and workings of the institutions in question, particularly the Department of Justice.

While there is of course need for confidentiality in relation to certain matters dealt with by the Department, there is now much greater recognition, not least within the Department itself, of the equal need to keep the public as well-informed as possible and to confine the plea of secrecy or confidentiality to situations where that course is clearly justified.

The publication of this Strategy Statement affords an opportunity to address these issues and to outline to the public the Department's structure, range of activities and future plans. The Department will also publish in the near future — as part of the SMI process — a statement of goals and strategies to tackle the problem of crime. I hope that these documents will promote feedback from the public at large so that the views of the public can be factored into the Department's longer-term strategic planning. Such longer-term planning is constantly under pressure now due to the necessity, all too often, to find what are referred to as "fire-brigade" solutions.

Over the past two years, as Minister for Justice, I have come to know the staff of the Department. I have come to respect them as people who are talented, conscientious, and human with all that that entails. They remain committed to perform their duties despite relentless daily pressures and criticism which to my

personal knowledge is often unfair. There exists a strong willingness to embrace constructive ideas and challenges and a constant search to move away from traditional ways of doing things if they are no longer effective.

I know that they are determined to deliver the plans described in this Strategy Statement and, with my encouragement and support and that of my successors, I have every confidence that they will do so.

NORA OWEN, T.D.

INTRODUCTION

Tim Dalton, Secretary

Over the past ten to fifteen years the Department of Justice has faced an enormous increase in the pace and pressure of its work. This is attributable mainly to:

- an escalation in the volume, sophistication and viciousness of crime
- consequential pressure on courts and prisons, leading, in the case of prisons, to overcrowding and endless pressure for early prison releases
- significant involvement in European Union work as a result of the "Third Pillar" provisions of the 1993 Maastricht Treaty
- central involvement, particularly at Ministerial and senior official levels, in the Northern Ireland Talks Process and Peace Process generally
- ever increasing (and understandable) demand for information about matters coming within the Department's remit. The number of Dáil Questions, for example, went up from 667 in 1986 to 2116 by 25th November this year.

The increased work pressures on the Department and on the law and order system generally were not matched by corresponding increases in resources. The reason for this is that, for most of the period in question, there was a competing — and compelling — need for public expenditure containment, set against the background of constant pressure for public expenditure increases in other areas, such as health, education and social welfare.

It was time, therefore, to look at what the Department was actually doing, could do and should or should not be doing — a process which had, incidentally, begun prior to SML.

The preparation of a Strategy Statement represents both an opportunity and a real challenge for the Department. It is the first time we have attempted to set out in a single document *what we are, what we do and the problems and challenges we face*.

We hope the Statement will give a better understanding of what we do, our place in the overall law and order system and what our plans are for the future.

Our strategies aim to improve not only the way we ourselves do things but also the way in which the justice system as a whole performs.

We recognise that, as an organisation, we have various shortcomings — not least in explaining our work publicly. For one thing, we know that we are considered by some to be over-secretive and there is a view also that we are opponents of progress and change.

A certain level of secrecy and confidentiality is of course necessary because of some of the issues we are expected to deal with and advise upon — security of the State, crime, management of offenders and so on. Failure to maintain an appropriate level of confidentiality in these matters would not be in the public

interest and would render it impossible for the Department to maintain an effective working relationship with organisations such as the Garda Síochána. Much of the information we receive comes into the possession of the Department in confidence and is intended to be treated as such.

However, there is a growing and very understandable public demand for more information about the purpose, activities and plans of all organisations. We are glad to respond to this demand and we welcome the SMI as the mechanism through which this is being furthered.

Though not perhaps widely appreciated, a process of change has, in fact, been underway in the Department and in its related organisations for some time, certainly over the past few years. This has been evidenced by, for example:

- The publication in 1994 of the Prisons Strategy Document *The Management of Offenders — A Five Year Plan* and subsequent proposal (1995) for an independent Board or Agency to run the Prisons
- The Garda Síochána *Corporate Strategy Policy Document, 1993-1997*
- The proposed establishment of a Refugee Applications Commissioner and a Refugee Appeal Board provided for in the Refugee Act, 1996
- The recommendation by the Working Group on a Courts Commission for an independent Courts Service — a proposal recommended to the Group by the Department and now to be implemented by the Government
- The planned conversion of the Land Registry to a Semi-State organisation.

In addition to these, the Department will soon be publishing a Statement on Strategy for Tackling Crime which will provide a forum for the public to respond to key aspects of the crime situation.

One of the more important features of the SMI process is its emphasis on staff consultation. There has been wide ranging consultation within the Department in the lead up to the publication of this Strategy Statement.

This is clearly as it should be. The Department's most valuable asset is its staff — the staff, in a sense, are the Department. It is critically important, therefore, that all staff should have a sense of commitment to — ownership of — the map which attempts to chart our course for the years ahead.

We will need to keep our Strategy Statement relevant and up to date but, more importantly, we will need to ensure that the strategic management process itself becomes fully embedded as a fundamental feature of the way we do our work. We have already established various structures within the Department for this purpose.

People outside the Department may have comments about this Strategy Statement. We will be glad to hear all of them — whether positive or negative — because we want to be sure that we have set out in the right direction and that we will stay on course.

Tackling Crime

Above all else, we want to deliver on our plans and provide as good a service as we can to our customers.

T. DALTON.

MISSION

Maintaining community security through policies and services which

- preserve the security of the State
- deal effectively with crime
- ensure the effective functioning of agencies for which the Department has responsibility
- protect individual rights and freedoms consistent with the law and the common good

Achieving the Mission

The Department seeks to achieve its mission, primarily, by

Providing services and policy advice to the Minister for Justice, securing resources and implementing policies which:

Support the work of the Garda Síochána

Ensure that the concerns of the victims of crime are appropriately addressed

Ensure that the criminal law is updated to meet current needs in a balanced and proportionate way

Ensure that crime is comprehensively addressed and tackled in cooperation with other agencies

Ensure that the management of offenders is effective and humane

Deliver effective administrative support for the Courts

Ensure that immigration procedures are fair and effective

Ensure that an effective system is in place for the registration of title to property

Ensure that mechanisms are in place so that all of the foregoing results are delivered in a way that respects the rights and freedoms of individuals consistent with the law and the common good.

Tackling Crime

OVERVIEW

The task

The Department of Justice is the organisation which carries central responsibility for some of the most sensitive and controversial areas of public policy and administration. Included are law enforcement aspects of the drugs problem, counter-terrorism, treatment of offenders, administration of the Courts, aspects of the Northern Ireland Peace Process and all-Party Talks, immigration and asylum issues and a growing range of issues which are the shared concern of our European Union partners.

The Department is at the hub of the law and order system being the agency through which relations between the Government (in the person of the Minister for Justice) and the law and order agencies (Garda Síochána, Prisons, Courts) are mediated. The Department relates to each of these organisations in different ways. In the case of:

Prisons — The Department is currently responsible for the management and running of the Prisons and, therefore, has responsibility on a day-to-day basis for the care and custody of all prisoners.

Garda Síochána — The Department is responsible for certain policy matters and for the provision of financial and other resources required by the Force. The Commissioner of the Garda Síochána is responsible, in law, for the day-to-day management and operational activity of the Force, whereas the Secretary of the Department is the Accounting Officer for the Force. The Minister for Justice is answerable to the Dáil for matters relating to crime and law and order and for Garda performance generally.

Courts — The Department is responsible for the provision of resources and administrative support for the Courts. However, the Constitution provides for the independence of the Judiciary, which in practice means that the operation and administration of the business of the Courts are matters for the Judiciary.

A range of other responsibilities are also exercised outside of the Department by agencies operating on either a statutory or administrative basis. The principal examples are the Probation and Welfare Service and the Land Registry and Registry of Deeds.

A number of issues need to be addressed in relation to the exact nature of the Department's relationships with all of these agencies and the roles which each should have. Developments and reviews currently taking place concerning a number of them, such as the Courts and the Prisons, will have a direct bearing on future relationships between these agencies and the Department.

Constraints on the Department

The Department's staff is its single most valuable asset.

Current limitations on staff numbers in the Civil Service seem likely to continue for some time to come. Even with maximum efficiency and commitment from its staff, it has become increasingly clear that the Department cannot meet all of the

demands now being made on it. Therefore, we need to ensure that our resources are allocated in the way that is best suited to meet Government priorities in the law and order area.

That is why it is now essential to decide what the core business of the Department actually is and to identify the strategies best geared to secure effective discharge of that business. These strategies must result in the shedding of areas of work, development of new structures, priorities and so on. It will require constant review of all our services and procedures and will require, in particular, effective communication with the public who will need to feel comfortable with the changes that will emerge.

International commitments

At international level the Department of Justice takes part in work at United Nations, Council of Europe and European Union levels. The extent of the Department's commitments internationally has increased dramatically in recent years, especially at European level, following the introduction of the Treaty of European Union in 1993 (the Maastricht Treaty). That Treaty provided for three pillars of the EU, the third pillar of which is cooperation in the sphere of Justice and Home Affairs (Title VI of the Treaty). The Maastricht Treaty introduced a new Council of Ministers for Justice and Home Affairs (JHA) and a formal structure for cooperation in a large range of areas of common interest. Prior to the Maastricht Treaty, Member States had cooperated on an intergovernmental basis, and largely outside the Community framework, on Justice and Home Affairs issues.

Since the introduction of the Third Pillar of the EU the volume of business within the JHA Council has mushroomed to become the second largest in the EU Council. This has involved a corresponding increase in the demands on the Department, which had to service about 280 JHA meetings in 1995. European leaders have placed action against drug trafficking and all forms of organised crime at the top of the EU agenda. In 1996, the Government identified action in these areas as priorities for the Irish Presidency. Progress on various initiatives by the Irish Presidency has involved extensive consultation within Government, with other Member States, EU Institutions and internationally, in the lead up to and during the current Presidency. Significant progress has been achieved in these priority areas of the European agenda and will be reported to the European Council at the end of the Irish Presidency.

It is likely that the fight against drugs and all forms of organised crime will remain a priority for EU action in the future, and that further strategic responses will be developed over a wide range of policy areas for which the Department of Justice has primary responsibility.

In addition, the Intergovernmental Conference which is reviewing the Treaty of European Union may result in substantial changes to the scope and operation of the Third Pillar. The Department is contributing to this review.

Tackling Crime

Interaction of the Department with the public — the internal challenge

The public perception of the Department and its work is not as we would wish it to be. The Department has at times been portrayed as being excessively secretive, inward looking and generally opposed to change. The Department itself, not surprisingly, does not share this view of itself and believes that it may be based, at least partially, on impressions of the Department and information about its activities which are now very much out of date.

Because the Department deals with issues considered by Government — all Governments — to be amongst the most sensitive matters dealt with by them, it is not surprising that, when dealing with various media queries, etc., it would find itself pleading “confidentiality” to a greater extent than most others. Corresponding Departments in other jurisdictions find themselves in the same situation.

But a process of reform and change has been underway in the Department. For example, we favour the move to have the Land Registry established as a Semi-State agency, we recommended to the Working Group on a Courts Commission (the Denham Group) the establishment of a separate Courts Agency and also favour the establishment of an independent Prisons Board or Agency — we welcome the fact that the Government has agreed these proposals.

In other words, we will support change — including fundamental structural change — provided that it serves the public interest and makes sense, in cost and other terms. We will not resist change (as sometimes alleged) simply on the ground that it might result in a diminution of day-to-day Departmental involvement in the delivery of particular services. We believe that it is right however that the Government, through the Minister for Justice, should retain overall responsibility and accountability for these services. We will do our utmost to serve the Minister in discharging these responsibilities.

The Department recognises that it is not enough simply to assert that its approach has been changing. We fully recognise that we need to improve our communication skills and disseminate more information about what we do. This document attempts to go some way towards achieving this.

One of the principal internal challenges we face is to produce the cultural change within the Department which will be necessary if we are to meet the information and other demands we will face in the future, including the very far-reaching demands of SMI, and the effects of other changes, such as Freedom of Information (FOI).

A changing world — the external challenge

The pace of change, worldwide, in all fields — social, economic, cultural, communications — has accelerated enormously over the past ten to twenty years.

Some of this change has been positive, enlightened and clearly for the benefit of mankind. There is also, however, the negative side — social exclusion, inequality, selfishness, alienation — side by side with a growing incidence and viciousness in crime.

These negative developments are presenting an increasingly difficult challenge to law and order systems and general stability throughout the world. The task of the Department of Justice is to try to meet this challenge in this jurisdiction.

KEY FOCUS AREAS

It is the duty of the Department of Justice, in common with all other Government Departments, to implement Government policy. The challenge to the Department is to do this in an efficient and effective manner.

Because we are entrusted with public moneys to meet our responsibilities, we have a duty to ensure value for money.

The Department is most closely identified in the public mind with the Garda Síochána, the Courts, the Prisons, Immigration problems and the reform of the Criminal Law. The relationship between the Department, the Garda Síochána and other agencies within the general justice area has already been outlined briefly.

The Strategic Management Initiative provides the framework within which the Department can organise itself in order to achieve its strategic goals and fulfil its mission. It allows us to draw together the strands of change which we had been pursuing. How we are organised ourselves, therefore, is central to the whole process.

As a first step, we have identified what we call *key focus areas*. This exercise has helped us to work out how we can most effectively achieve our mission and provide the best possible service to all the Department's customers. The exercise has, in particular, enabled the Department to identify a range of specific medium-term plans for achieving its Mission.

The *key focus areas* are briefly outlined in this document and will be developed in greater detail in the Department's Business Plan. The Department's Principal Medium-Term Plans are summarised in the next part of the document.

CRIME STRATEGY

Crime Prevention and Detection

In relation to crime prevention and detection our objectives are to:

- secure necessary resources for the Garda Síochána
- formulate and promote policy initiatives, and implement approved policy, to optimise the effectiveness of the Garda Síochána
- ensure that the issue of crime is addressed in the context of economic and social initiatives undertaken by the State

Tackling Crime

- develop initiatives to increase the cost-effectiveness of the Garda Síochána, such as through greater civilianisation, and delivering better value for money.
- In the foregoing context, the review of the Garda Síochána (under the SMI initiative) which is currently underway is obviously of central importance.

The benefits to be derived are:

- an effective and fully operational Garda Síochána
- a full and comprehensive response to dealing with the crime situation.

Crime Policy

The Department's objective is to further develop a comprehensive strategy for tackling crime by:

- publishing, in the first instance as a discussion paper, a Statement on Strategy for Tackling Crime
- outlining, within that Strategy Statement, plans for establishing a Crime Council to facilitate ongoing, well-informed, broadly-based discussion on crime
- proposing, also within the Strategy Statement, plans which are aimed at ensuring that all relevant agencies both within and outside the law and order area will deal with crime in a cohesive way.

The benefits to be derived are:

- an effective multi-faceted response to crime
- public feed-back which can be taken into account in policy formulation and execution
- informed community contribution to the debate on crime, backed up as required by independent research.

Victims of Crime

Our objective is to ensure that the concerns of the victims of crime are appropriately addressed by:

- continuing to provide financial support for the Irish Association for Victim Support
- publishing a Charter for Victims of Crime
- addressing the concerns of victims as part of the Department's forthcoming Statement on Strategy for Tackling Crime.

The benefit to be derived is:

- the concerns of victims are appropriately addressed and remain a central element of strategic planning to tackle crime.

MANAGEMENT OF OFFENDERS

The Department of Justice aims to provide and maintain a viable, secure, and progressive system of containment and rehabilitation for offenders committed to custody, and to treat offenders while in custody with care, justice, dignity and respect. Of equal importance is the fact that we strive to facilitate the optimum development of community-based alternatives to custody.

The Programme for Government *A Government of Renewal* (December 1994) envisages that we should examine the case for the establishment of a Prisons Board to manage the day-to-day running of prisons and the establishment also of a Parole Board. The Government has now decided to establish an independent Prisons Board or Agency. The detailed aspects of the project are now being examined by an expert Working Group. The Working Group will be asked to consider whether the Probation and Welfare Service of the Department should be the responsibility of the new Prisons Board or Agency or should become a separate agency in its own right. The Department is examining the case for a Parole Board and will report to the Government on that proposal in the near future.

Pending the establishment of a Prisons Board or Agency the Department's objectives are to:

- maintain an effective prison system which serves the community
- treat those committed to custody with care, dignity and respect
- develop an improved management system for the prison system, particularly through the delegation of functions and responsibilities to local prison management
- assist and encourage greater expertise, professionalism and teamwork in the prison service
- promote an environment in which every person committed to custody is offered the support necessary to prepare for a constructive life in the community on release
- promote probation and community sanctions and measures as a viable alternative to custody.

The benefits to be derived are:

- better arrangements for the management of offenders
- the reduction of recidivism
- increased community confidence in the treatment of offenders
- increased commitment from staff.

The Department will revise its statement of objectives for Prisons when the new Board or Agency is established.

Tackling Crime

THE COURTS

A system of criminal and civil justice is essential to the maintenance of a civilised society — an integral element of this are the courts of justice to which every citizen has a right of access. It can fairly be said that as things stand access to the Courts is too slow, costly and complex.

The constitutional independence of the Courts — the citizen's guarantee of impartiality — must be protected in every way possible while, at the same time, ensuring full cooperation and consultation between the Judiciary and the Department of Justice in the interests of maintaining an efficient Courts system.

The Department wholeheartedly endorses (and recommended) the proposal by the Working Group on a Courts Commission (the Denham Group) that an independent and permanent body to be known as the Courts Service should be established to manage a unified Courts system.

In advance of the formation of a Courts Service and transfer of functions the Department will deliver a good service and endeavour to position the Courts to best effect the transition to agency status. This will be achieved by:

- providing a high quality service to court users which they understand and is responsive to their needs
- continuing the building and maintenance programme designed to provide suitable accommodation for the discharge of court business
- developing a human resource management policy for staff, centred on the maximisation of their potential
- strengthening links with the Judiciary in the interests of promoting the efficient operation of the Courts
- providing an efficient and cost effective Criminal Legal Aid system.

The benefits to be derived are:

- circumstances are created to enable the Courts to take advantage of change
- a modern, responsive courts system, capable of responding to the challenges of a modern society
- value for money in all court business, including Legal Aid
- a customer service driven courts administration
- the provision of a stock of modern court buildings, conducive to the efficient discharge of business.

LAW REFORM

Reform of the criminal law is a key priority of the Department. Criminal law reform must take place against the background of the need to protect fundamental human rights and freedoms consistent with Constitutional obligations and international commitments (e.g. European Convention on

Human Rights) while at the same time ensuring that the law is such that it can afford protection to society from the activities of criminals.

In addition to reform of the criminal law, the Department has responsibility in relation to areas of civil and administrative law primarily related to functional areas of Departmental responsibilities.

The negotiation of EU instruments in the area of judicial cooperation in criminal matters to ensure that persons who commit criminal offences can be effectively prosecuted and dealt with throughout the Union also falls to the Department. In addition, the task of preparing legislation to give effect to EU instruments (e.g. directives and conventions) and to enable Ireland to comply with the obligations that arise under non-EU international conventions adopted by bodies such as the United Nations and the Council of Europe, has assumed ever-increasing importance in recent years. The range of issues that has to be covered is very wide — war crimes, drug trafficking, exploitation of children, etc. — and, in many cases, new legislation is required.

The Department's objectives are to:

- implement the Government's legislative programme in the Justice area
- assess and, where appropriate, give effect to proposals for legislative change
- initiate proposals for law reform to keep criminal law, and administrative or civil law related to the functional areas of the Department, up to date and responsive to modern realities
- fulfil EU commitments and, where necessary, prepare legislation to enshrine conventions, directives, etc. in national law
- deal with non-EU international obligations arising in relation to matters for which the Department has responsibility and, where necessary, give effect to those obligations in national law
- follow up on legislative change and deal effectively with related matters.

The benefits to be derived are:

- legislation which is up to date and responsive to modern realities
- the State will have available to it legal means to deal effectively with crime
- EU instruments and legislation which ensure that crime is tackled, where appropriate, by joint European action
- enshrinement of internationally recognised rights and duties in national law.

IMMIGRATION AND CITIZENSHIP

The Department's task is to implement policy on the admission of persons who wish to visit, immigrate to, or seek refuge in the State in line with the best international practice and standards and to implement policy in the case of persons wishing to become Irish citizens.

Tackling Crime

It is our intention to further develop and administer the law and policy in relation to non-nationals in respect of admission, residence, citizenship and asylum.

We are keen to ensure that the procedures we operate are clear, fair, transparent, consistent and administered efficiently and effectively.

Our objectives are to:

- provide for the implementation of the Refugee Act, 1996, particularly through the appointment of a Refugee Applications Commissioner, Refugee Appeal Board and a legal aid scheme for asylum seekers
- improve the quality of service in all areas of immigration and provide a high quality customer-focused service
- establish clear policy on the admittance of long-stay non-nationals, migration to Ireland, and the granting or refusal of permission to remain
- facilitate, consistent with the law and Government policy, non-nationals who wish to establish employment-generating concerns within the State
- take the appropriate action, speedily and effectively, where there is non-compliance with the law
- ensure effective communication between all bodies dealing with immigration matters, particularly the Garda Síochána, Customs Officials, Department of Foreign Affairs and the Department of Justice
- contribute to immigration and asylum developments at EU and wider international levels.

The benefits to be derived are:

- introduction of transparency into formal procedures for determining refugee status and the right to a visa
- clear understanding by non-nationals of their entitlements and responsibilities
- better services for immigrants generally.

OTHER DEPARTMENTAL RESPONSIBILITIES

Northern Ireland

The Department has played and continues to play a central role in relation to matters associated with the Northern Ireland problem.

It has, for many years, participated in the Anglo Irish Conference process, focusing to a significant extent, though not exclusively, on matters bearing on security cooperation.

More recently, the Department has been closely involved in various discussions relevant to the Peace Process and in providing support for the Minister for Justice, who is a member of the Irish Delegation at the Northern Talks.

Our objectives are to:

- continue to provide support to the Minister for Justice in the Northern Talks Process and the Anglo Irish Conference
- maintain cooperation with the Northern authorities in relation to matters for which the Department of Justice has responsibility
- participate to the extent required by the Government in furthering the Peace Process generally.

The benefit to be derived is:

- a valuable contribution towards peace and stability in Northern Ireland and more widely.

Land Registry and Registry of Deeds

The Department has responsibility for the Land Registry and Registry of Deeds. In 1990 the Government decided in principle that the Land Registry and Registry of Deeds should be reconstituted as a commercial Semi-State enterprise. The intention is that the new Semi-State Body should operate on a commercial basis while adhering to the spirit of the Registration of Title Act, 1964 that the system of land registration is uncomplicated and effective.

The Government decided in November 1992 that part of the operations of the Land Registry should be transferred to Waterford City. It is expected that the decentralisation will take place towards the end of 1997.

Our objectives are to:

- proceed with the legislation necessary to establish the Land Registry and Registry of Deeds as a Semi-State body
- proceed with the transfer of approximately 150 staff to Waterford.

The benefits to be derived are:

- commercial orientation and flexibility
- a fast, efficient and modern service to the public.

Miscellaneous Departmental Responsibilities

The Department has responsibility either directly or through other agencies for a range of miscellaneous matters apart from those already mentioned in this document. Examples include:

Film and Video Censorship, Censorship of Publications, Coroners, Garda Síochána Complaints Board, Criminal Injuries Compensation Tribunal, Gaming and Lotteries legislation, Auctioneers and Valuers legislation, Deeds of Bravery Awards, Data Protection, Commissioners for Charitable Donations and Bequests, Standard Time, Dancehalls legislation, Intoxicating Liquor legislation, Street and House to House Collections, certain regulatory aspects of the Betting Act, 1931 in relation to bookmakers and betting.

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Our objectives are to:

- ensure that the case for retaining each of these matters within the Department's remit is specifically addressed
- consider, in the case of responsibilities that might appropriately be shed, how those matters could be better handled.

The benefits to be derived are:

- a better match between the Department's Mission and its actual work
- better location generally of responsibilities for the matters in question.

HUMAN RESOURCE MANAGEMENT (HRM)

The Department values its staff as representing the single most important resource in determining the success of its mission.

A revised HRM policy is being prepared, with the active involvement of staff, through a working group representing all grades. It is aimed at creating a proactive approach to managing and developing people and improvements, generally, in key areas of the personnel field.

Particular emphasis will be placed on issues such as team-working, staff training and development, and performance measurement.

Our HRM objectives are to:

- develop training and personal development initiatives
- maintain good relations with staff representatives and unions
- implement the staff appraisal scheme
- promote and encourage staff mobility
- emphasise the importance of the Employee Assistance Service
- provide staff with a user-friendly manual which seeks to explain procedures and regulations.

The benefits to be derived are:

- staff are aware of what is expected of them and are more aware of their potential
- the needs of the organisation are more closely aligned to the skills and competencies of staff
- staff have greater sense of belonging
- better relations between staff at all levels.

SUPPORT SERVICES

Successful organisations depend upon proactive support services which are designed to meet not only their current but also their future needs. The areas of Financial Management, Information Technology, Organisation and Coordination

are aligned to contribute to the achievements of the Department's objectives, and particularly to ensure that a quality customer service is provided. For this reason these areas must be flexible, capable of responding to changes in priorities or meeting increased demand from whatever quarter.

Financial Management Systems

We are committed to the principle of value for money. Our financial management systems are upgraded continuously to ensure the best possible information is made available to managers who administer large amounts of public money and to comply with new accounting requirements.

The objectives of financial management are to:

- provide fast and efficient payment service
- provide accurate and timely financial information
- maintain accurate and effective accounting procedures and controls.

Information Technology

Information technology is fundamental to supporting existing work and is also crucial in enabling change.

Our objectives are to provide:

- assistance, guidance, services and support to management and staff
- maximum identification, and early delivery, of benefit from IT
- maximum integration of systems.

The benefit to be derived is:

- improved communications within the Department and between it and other relevant organisations.

Organisation

The Department recognises that our customers and staff are entitled to conduct their business in an environment which reflects their value to the organisation.

Our objectives are to:

- implement a 5-year programme of upgrading and extending accommodation so that it meets the needs of customers and staff
- provide related support services which enables the Department to operate as efficiently and effectively as possible.

The benefits to be derived include:

- increased facilities for customers resulting in better relationships and improved services

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- provision of an environment which enables staff to operate to their optimum levels of efficiency
- increased awareness by staff of the value that the organisation places on them and the environment in which they operate.

Coordination Service

When an organisation has responsibilities for a range of key services, whether by virtue of statute, Government decision or purely from tradition, there is a need to provide a support service which has the task of coordinating responses to other agencies on an ongoing basis.

Our objectives are to:

- provide timely, well-presented coherent responses or positions which reflect the Department's view
- ensure a high quality Departmental service to outside bodies answerable to the Minister or the Department which is focused on the agreed objectives of those bodies
- maximise the contribution of voluntary organisations to the Department's areas of responsibilities
- promote change in designated areas which will improve the effectiveness of the Department in achieving its Mission
- position the Department in terms of its responsibilities arising from initiatives such as Freedom of Information.

SUMMARY OF PRINCIPAL MEDIUM-TERM PLANS

- Publish a comprehensive Statement on Strategy for Tackling Crime, which will focus on goals and strategies and propose better ways of informing and consulting the public and securing effective inter-agency cooperation on crime
- Assist current SMI review of Garda Síochána to the maximum extent possible
- Present the outcome of that SMI review to the Government and implement Government decisions on it
- Continue to contribute fully to work relevant to the Northern Ireland Peace Process and Talks
- Provide every assistance to the Working Group which has been set up to examine the detailed requirements for the establishment of an independent Prisons Board or Agency
- Present to the Government the outcome of an examination of the case for establishing an independent Parole Board and implement Government decisions on it
- Proceed with the establishment of a separate Agency to run the Courts Service in line with recommendations made by the Denham Group

- Proceed with the legislation and other steps necessary to establish the Land Registry and Registry of Deeds as an independent Semi-State agency
- Proceed with the steps necessary to establish an independent Refugee Applications Commissioner and Refugee Appeal Board as provided for in the Refugee Act, 1996
- Proceed with examination of all aspects of Immigration policy and make recommendations to the Government on this policy
- Publish a Charter for Victims of Crime
- Proceed with current plans for reform of the criminal law and certain administrative laws and with the publication of material relevant to that exercise
- Examine and make recommendations to the Government on proposals for changes to the Treaty on European Union within the context of the Intergovernmental Conference
- Examine the case for retaining within the Department's area of responsibility the extensive range of miscellaneous matters which it currently handles
- Advance the SMI process within the Department with particular reference, at an early stage, to Human Resource Management, Customer Service and Communications

CUSTOMER SERVICE

The delivery and active promotion of a quality customer service which is responsive to the needs and requirements of the customers is one of the central themes developed in *Delivering Better Government*.

In recent years there have been major improvements throughout the civil service in the quality of service provided to customers. As previously indicated, the Department of Justice, like many others, is aware that much more needs to be done. For this to happen specific initiatives are required.

Towards this end we have established a Working Group consisting of staff at all grades in the Department who have been given specific issues and questions to examine in order to produce ideas for improving the quality of our service.

The group has been asked, amongst other things, to list the Department's customers (a less straightforward task than might appear at first sight).

The work of the internal group on customer services will have a major contribution to make in promoting and developing a customer service culture throughout the Department. Included in their work is the task of drawing up a *Customer Quality Service Charter*.

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Some of the features of this Charter will be:

- a statement of principles in relation to courtesy, openness, efficiency, privacy and redress
- a complaints system for members of the public
- the introduction of a system of reviews on the type and quality of services provided by the Department
- a mechanism for measuring and assessing customer satisfaction
- the introduction of procedures which will facilitate contact and consultation between the Department and its customers.

FIVE YEARS AHEAD

As outlined in preceding chapters, we accept that urgent reforms will be needed to enable the Department to concentrate its main efforts on tackling the problems associated with crime and disorder in our society.

The change process that is needed to achieve this includes major organisational reform, greater devolution of responsibility from the centre to executive agencies, and the transfer from the Department of functions that have only a very tenuous connection with the Department's core areas of responsibility. It is also important to embark on an imaginative programme of devolution of responsibility and accountability to the lowest possible levels within the Department for the delivery of particular services.

Improving communications with the Department's various customer groups, including the general public, on a range of policy issues is also essential if this process is to work. It is an integral part of the measures that are needed to develop a quality customer service, and to improve the public perception of the Department.

But there are other aspects in the communications area which the Department will need to address in the context of the SMI. The fact that the operation of the criminal justice system involves a high degree of interdependence between a large number of agencies within the Department's area of responsibility — the Gardai, the Courts, the Prisons — argues for special arrangements and structures to facilitate communications relating to policy and operational matters both within the justice system and between it and the bodies involved in the wider process.

Subject to any relevant legal considerations, it is essential that the various components of the justice system should align their policies and practices in a way that contributes effectively to overall agreed objectives for that system. That requires a capacity to take an overview of the system. As a start, the Department has established a special Working Group within the SMI to examine how an improved communication function can contribute to this important objective. The emphasis initially will be on communication within the complex network of agencies for which the Department is responsible.

New relationships

By the year 2001 the Department expects that, as a result of the SMI process, it will have more effective arrangements in place for the management of resources which the Government allocates to the administration of justice and will be enabled, through a range of reforms, to ensure that those resources are fully targeted towards key strategic results areas, so as to maintain and enhance community security in the broadest sense.

These changes should have the effect of enabling the Department to become a policy driven organisation engaging in consultation with the public through the publication of policy and strategy documents and similar exercises, and in carrying out or commissioning research in the criminal justice area. The Statement on Strategy for Tackling Crime will be one of the key statements affecting the future both of the Department and associated agencies and will address a broad range of issues including the effect of crime on victims.

Central to this new role for the Department will be a new relationship with other agencies in the justice area for which the Minister for Justice would remain responsible and accountable, and a sifting out and 'hiving off' to other agencies of responsibilities or functions which do not have a place within the Department's core role. The Department will also pursue a proactive policy of delegation to smaller agencies under its control so that they can achieve the appropriate degree of independence. In the case of the Courts and the Prisons the Department would like to see new structures in place that would have full responsibility, subject to the requirements of public accountability, for the day-to-day running of these services.

As regards the Garda Síochána, the current review of the Force by the Steering Group under the SMI is likely to recommend changes to enhance its efficiency and effectiveness. The Department looks forward to playing a central part in implementing any reforms agreed by the Government.

The Department will be continuing its efforts over the next few years to bring about an acceptance that responsibility for dealing with the crime problem is one that must be shared by many public agencies and Departments. New relationships must be forged with communities by all the agencies involved, to tackle crime effectively. Building on the pioneering work of the report *Urban Crime and Disorder* (1992), the Department will promote a multi-agency approach to crime prevention. By the year 2001, the Department would like to see new structures in place that will be driving this approach, inclusive of all the parties and agencies that have a part to play.

The common feature of the various objectives articulated in this Strategy Statement is that they contribute, in one way or another, to the enhancement and maintenance of community security — the major strategic results area for the Department. The diversion to unrelated areas of scarce resources intended to meet those objectives is unjustified.

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THE NEXT STEPS

The immediate intention is to proceed with the implementation of the *Principal Medium-Term Plans* outlined earlier.

The full maturing of the SMI process in the Department of Justice will reinforce important changes already in progress in a number of ways.

The internal working groups on Human Resource Management and Authority and Accountability, Customer Services, and Communications will have fully reported to the Department's newly-established Strategic Management Board by October, 1997 and the recommendations and proposals which they make will be the cornerstone for the direction and development of policy in the areas which they are examining.

There is of course capacity for change in advance of this, due to the fact that these groups will be reporting on a quarterly basis on the progress which they are making.

The experience gained from the work of these groups will also enable us to assess whether there are other areas requiring similar initiatives.

The Department will also be examining the extension of the SMI to its associated agencies.

Proposals for the implementation of the various strategies proposed in this document will be contained in a detailed Business Plan currently under preparation in the Department.

This Business Plan will in effect constitute a work programme for the Department over the coming years. It will contain details of the key objectives for each area, how and when they will be achieved, the benefit of these and the sets of customers whose needs they meet. This will ensure that SMI becomes an integral part of the day-to-day functioning of the Department. It will also enable the Department to operate in the most efficient and effective manner possible to achieve its Mission.

