

Public Order Offences in Ireland



*A Report by The Institute of Criminology, Faculty of Law,
University College Dublin for The National Crime Council*

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OVERVIEW AND RECOMMENDATIONS FROM THE NATIONAL CRIME COUNCIL



OVERVIEW AND RECOMMENDATIONS FROM THE NATIONAL CRIME COUNCIL

PART I: OVERVIEW

Introduction

1. The National Crime Council is an independent body established in July, 1999 by the Minister for Justice, Equality and Law Reform to act as a forum for the development and contribution of recommendations that will assist public policy making on issues relating to the reduction and prevention of crime.
2. In commissioning this research in March, 2001 into public order offending in Ireland the National Crime Council was aware of the concern about this particular type of behaviour. Whilst much of the behaviour, as this report shows, may be of a minor nature the fallout from public order offences can extend beyond the individuals involved, for example:
 - Exposure to public order offending (in either a residential community or a city/town centre) can affect the general 'quality of life' of citizens, while also increasing the 'fear of crime', especially among the more vulnerable members of society and the parents of young adults;
 - How incidents broadly classified as 'public disorder' are reported in the media can contribute to a disproportionate fear among the public about the true nature and extent of this type of offending;
 - Injured and intoxicated individuals frequently require medical attention in Accident and Emergency Departments, with financial and capacity implications for the health sector;
 - There is an economic cost to employers through sick leave and absenteeism;
 - Businesses carry the costs associated with damage to their property;
 - Much of the time and resources of An Garda Síochána during the late night hours are taken up with policing public order type incidents; and
 - Prosecutions for public order offences are adding to court backlogs.
3. The Council's main objective was to establish the level of public order offending in Ireland and also to identify the likely contributory factors, including (but not exclusively) alcohol consumption. In commissioning this research the Council acknowledged that the statistical base needed to establish the true extent of this offending may not be available across a range of agencies and that an innovative approach would be required by the researchers. However, the Council believed that even if the level of offending could not be measured to a high degree of accuracy, every effort should be made to utilise all possible sources of data. Whilst there are limitations to the statistics available, the researchers ensured that all of the data

made available, was utilised to its full potential. The Council notes that it was not possible to access the descriptive component of the PULSE data for reasons of confidentiality. Nevertheless, this wide-ranging report on patterns of public order offending in Ireland provides valuable information on a heretofore under-researched area.

4. The Institute of Criminology, Faculty of Law, University College Dublin was commissioned to carry out this research in March, 2001. We would like to thank the principal researchers, Dr. Emma Clare and Ms. Alison Digney and also, Professor Finbarr McAuley and Dr. Ian O'Donnell, for completing this report on behalf of the Council. The Council also wishes to thank all of the agencies and individuals who provided assistance to the research team.

Scope of the Report

5. The history of public order legislation in Ireland is traced from nineteenth century statutes to the present Criminal Justice (Public Order) Act, 1994 (hereafter CJPOA). The report looks at the proceedings taken under the CJPOA from 1996 to 2001 which reveal significant increases. Closer attention is given to particular sections of the Act and the trends which have developed with regard to these individual sections.
6. This report analyses public order offences occurring 'before and after' the enactment of the CJPOA, from 1988 to 1994 ('before the Act') and from 1996 to 2001 ('after the Act'), such an approach allows for an assessment of the impact of the enactment of the CJPOA.
7. In the main, only those offences defined exclusively under the CJPOA are included. It is important to note that this definition was necessary in order to place realistic parameters on the research and to ensure a high level of consistency of definition. The following are a summary of behaviours defined as prosecutable offences under the Act:
 - Intoxication in a public place¹;
 - Disorderly conduct in a public place;
 - Threatening, abusive or insulting behaviour in a public place;
 - Failure to comply with the direction of a member of An Garda Síochána;
 - Entering a building, etc., with intent to commit an offence; and
 - Failure to surrender intoxicating liquor, etc.

¹ For the purposes of the Act a public place includes any highway; any outdoor area to which members of the public have access and which is used for public recreational purposes; any cemetery or churchyard; any premises or other place to which members of the public have access or any train, vessel or vehicle used for the carriage of persons for reward.

8. In addition to the CJPOA, a significant number, albeit a decreasing number annually, of public order incidents are still prosecuted by the Gardaí under the pre-CJPOA legislation. In 2001 there were 1,480 such prosecutions. The most frequently used are offences against the intoxicating liquor laws, namely drunkenness, simple and drunkenness with aggravation; in 2001 prosecutions were proceeded with in 834 and 422 cases respectively.
9. Since 2000 and the introduction of the PULSE system, the Annual Report of An Garda Síochána describes all offences as either headline offences or non-headline offences². The official Garda statistics for headline offences detail the number of crimes which have been reported to or are known to the Gardaí; this is the level of recorded crime. Currently, in the presentation of most non-headline offences, which includes public order, no information is provided on the recorded crime level, that is the number of offences reported to or known to the Gardaí, rather just the number of offences in which proceedings were taken is provided³. The recorded statistics from An Garda Síochána are the main source of information on crime in Ireland and for that reason this report has had to rely heavily on them. While recorded statistics are a good source of information on which to identify trends, it would be inappropriate to rely solely on them as indicators of the incidence of crimes, in this case the incidence of public disorder. For instance, the observational data from this research shows that over half the incidents of public disorder observed were dealt with informally by members of An Garda Síochána.
10. The nature of public order incidents are examined by utilising quantitative data from An Garda Síochána; specifically the PULSE system and the Annual Reports of the Commissioner⁴, data from the Courts Service and data yielded from 200 hours of direct observation of Garda patrols⁵. There were two observation sites, one in Dublin city centre ('Liffeside') and one in the Dublin suburbs ('Parkway'). The researchers accompanied Garda patrols for an average of three nights per month for the six months – October, 2001 to March, 2002 inclusive – and observed public order incidents as they happened. In addition to this interviews were conducted with 50 members of An Garda Síochána, based in Dublin, to provide general information to the researchers on their perceptions of public order offending. Finally, the report considers the response of the criminal justice system to public disorder. The data indicate there are often resource implications of public order offending for both An Garda Síochána and the Courts Service.

² Prior to 2000 and the introduction of PULSE, all offences in the Annual Report of An Garda Síochána were described as either indictable or non-indictable.

³ In the forthcoming Annual Report of An Garda Síochána for 2002 and subsequent Annual Reports the non-headline statistics will include details of all offences reported to or known to the Gardaí.

⁴ Data from An Garda Síochána provided nationwide figures.

⁵ Data from the Courts Service and observations of Garda patrols relates to Dublin only.

Trends in Public Order Offending disclosed by the Report

11. The trends and patterns in public order offending before and subsequent to the introduction of the CJPOA are explored in the report. In recent years public order offending, particularly when committed by juveniles and young people (or 'youths' as they are often referred to), has received considerable media coverage. The majority of the public order offences as described in the report are of a relatively minor nature and are more of a social nuisance than a threat to public safety, for example, consuming alcohol in a public place or loitering. The report also suggests that the behaviour is quite tightly contained; the majority occurring on certain days of the week (more specifically at the weekend), within a relatively short time-frame (the very early hours of the morning) and in a limited number of locations. However, breaches of public order may lead to incidents of a more serious nature and can have serious consequences. These crimes of a more serious nature are, therefore, recorded and prosecuted under other legislation and so do not feature in this report.

Pre-Criminal Justice (Public Order) Act, 1994 Legislation

12. Prior to the introduction of the Criminal Justice (Public Order) Act in 1994, public order type offences were prosecuted under a variety of different Acts, such as the Dublin Police Acts, 1836 and 1842 and the Licensing Acts, 1872 and 1874. This report examines public order offences prosecuted under this legislation for the fourteen years from 1988 to 2001. From 1988 to 1993, the year before the CJPOA was enacted, public order offence prosecutions rose consistently, with the exception of 1990 when there was a very slight decrease. These offences were predominantly of aggravated drunkenness and threatening, abusive or insulting behaviour. Following the enactment of the CJPOA in 1994 the number of public order offences prosecuted under the old legislation naturally began to decline, as offences previously proceeded with under the old legislation have since been taken under the CJPOA. As there is no data available on CJPOA prosecutions for 1994 and 1995 the precise transition to the CJPOA cannot be accurately described.

Criminal Justice (Public Order) Act, 1994

13. Proceedings taken under the CJPOA are analysed for the six year period 1996 to 2001 inclusive, 1996 is taken as the base year rather than 1994 or 1995, as it was the first year following its enactment that proceedings were recorded in respect of all sections of the Act. The year 1997 showed a 57 per cent increase over 1996 in proceedings commenced under the new Act, representing the largest yearly increase during the six year period considered. Increases of such magnitude are not uncommon, however, following the introduction of new legislation and so should be treated with caution. The rate of increase from 1998 onwards is slower, with 1999 to 2000 showing the next largest increase of 22 per cent. The consistent trend upwards in public order offences prosecuted under the CJPOA can be partly explained by the increased attention given to such offences by An Garda Síochána and its commitment to the prosecution of such offences. Though public order offences have increased since the enactment of the CJPOA, they still represent just 13 per cent of all non-headline offences proceeded with, increasing from three per cent in 1996. Proceedings taken in respect of all non-headline offences decreased by 28 per cent over the same six year period (1996 to 2001 inclusive).
14. Proceedings taken under section 4 (intoxication in a public place) and section 6 (threatening, abusive or insulting behaviour) tend to dominate the total figures. Prosecutions taken under both of these sections have increased substantially from 1996: in the case of section 4 offences there were 3,983 proceedings in 1996 which increased to 17,805 proceedings in 2001; and with section 6 offences there were 6,667 proceedings in 1996 which increased to 15,718 proceedings in 2001. Again, most of these increases occurred in the earlier years of the CJPOA legislation, from 1996 to 1998. Since 1999 yearly increases have been more moderate. From 1997 to 2001⁶, an average of 42 per cent of all section 4 offences proceeded with were recorded in the Dublin region; along with an average of 46 per cent of section 6 offences and 44 per cent of all section 8 offences (failure to comply with a direction of a member of An Garda Síochána). Two thirds of all proceedings taken in respect of section 11 offences (entering a building with intent to commit an offence) between 1997 and 2001 related to offences committed in the Dublin region. The average conviction rate across the six years, 1996 to 2001 inclusive, for all public order offences was 63 per cent.
15. Two sections of the legislation showed a decline in prosecutions since 1996; entering a building with intent to commit an offence (section 11) and failure to surrender intoxicating liquor (section 22). The number of prosecutions for each of these in 2001 were 592 and 22 respectively. As well as falling prosecution rates, failure to surrender intoxicating liquor consistently exhibits the lowest conviction rates with an average of 37 per cent between 1999 and 2001. The number prosecuted under the control of access to certain events (section 21)

⁶ Regional figures were not provided in the 1996 Commissioner's Report.

are the lowest of all sections of the Act listed, predominantly in single figures. Prosecutions pursued under section 8 (failure to comply with direction of a member of An Garda Síochána) and section 11 (entering a building with intent to commit an offence) demonstrate the highest conviction rates, both averaging 66 per cent between 1996 and 2001. Figures on public order offending by juveniles in the official statistics are presented in such a way that detailed analysis proved problematic. Referrals to the Garda National Juvenile Office are discussed briefly in the report.

16. The PULSE data clearly identified specific times and days of the week when public order offending reached a peak. As one might expect given the nature of public order offences the most prolific offending times were in the late evening and early hours of the morning, PULSE data showed that just over 70 per cent of all such incidents occurred between 22.00 and 04.00. Similarly, the peak days were very early on Saturday (the follow-on from Friday night) and very early on Sunday (the follow-on from Saturday night). Typically there was very little offending between 06.00 and 20.00 on any day of the week. On Tuesdays and Wednesdays there were also very low levels of incidents.
17. PULSE data revealed that over 90 per cent of public order offences took place either 'on the street' or 'on the road'. More detailed information relating to Dublin over a 26 month period, showed that there were 18 streets which could be classed as having high levels of public order offending, that is 100 or more offences were recorded. Over a quarter of the incidents of public order which occurred on these 18 high incidence streets, actually occurred on O'Connell Street. A further 21 streets, again all focused around the north and south inner city, revealed medium level activity, between 50 and 99 incidents.
18. The records of court disposals in respect of public order prosecutions made by the five main Dublin city centre Garda stations between January, 2000 and March, 2002 are examined. These show that 33 per cent of prosecutions were struck out due to non-appearance by the Gardaí in court or due to lack of evidence. In almost one in five cases the public order incident was taken into consideration when the offender was being convicted of another offence. Only slightly over one per cent of the prosecutions resulted in imprisonment, the majority of these were for offences under section 6 of the Act, involving threatening, abusive or insulting behaviour.



PART II: RECOMMENDATIONS

The Council believes that the responsibility for managing the behaviours identified in this report rests with a range of service providers and extends beyond the sole responsibility of An Garda Síochána. It is vital that, amongst others, publicans, restaurateurs, fast food outlet proprietors and security staff in late night venues accept their responsibility to tackle anti-social behaviour which occurs in and around their premises and between their clientele. This responsibility must include an awareness of the negative implications of responses that simply transfer the problem from their premises outside to the public domain.

The recommendations of the Council are as follows:

1. An Garda Síochána

- (a) A more co-ordinated approach should be developed to manage public order offending, involving An Garda Síochána taking the lead role and working with other interested parties such as the licensed trade, fast food outlet proprietors, the security industry and the local community. Such a co-ordinated approach would be adapted to suit the specific needs of different areas and communities.
- (b) The Gardaí should further develop community policing structures that are responsive to community needs. These structures should be developed in conjunction with local community and youth leaders.
- (c) The Council recognises that the unpredictable nature of public order offending poses challenges for members of An Garda Síochána, in light of this the Council recommends that members of An Garda Síochána receive ongoing training in how best to deal with this type of offending. This training should pay particular attention to maintaining a non-confrontational style; the avoidance of stereotyping and discrimination towards individuals and different sections of the community; and on how and when the different sections of the Criminal Justice (Public Order) Act, 1994 should be utilised.
- (d) Members of An Garda Síochána should receive specific, ongoing training in how to relate to young people and on how to deal with situations involving young people.
- (e) The Council welcomes the proposed Garda Inspectorate for the independent investigation of complaints and the independent oversight of Garda operating standards and recommends that this Inspectorate be established as soon as possible.

- (f) The Council recommends that bona fide researchers be granted greater access to both internal Garda research and data from the PULSE system, mindful of privacy and anonymity considerations.
- (g) The Report shows that some public order incidents are still being prosecuted under the old nineteenth century, pre-Criminal Justice (Public Order) Act, 1994 legislation. The Council recommends that research be undertaken to ascertain why this older legislation is still being used.

2. Closed Circuit Television

The analysis of CCTV in this report, suggests that it is most successfully employed when those monitoring the CCTV have training and experience in the use of the system and there is dedicated monitoring of the cameras. The Council recommends that:

- (a) All Garda CCTV systems should have dedicated, trained personnel assigned to monitor the cameras. The necessary resources must be deployed for this purpose to ensure the most effective use of this technology and the Council sees no compelling reason why trained, civilian personnel could not be employed for this purpose; and
- (b) A standardised code of practice governing all aspects of the use of Garda CCTV and CCTV footage be developed, having regard to privacy and other issues and this code of practice should be made public.

3. Licensed Premises

- (a) Consideration should be given to the extension of closure orders, as provided for in the Intoxicating Liquor Act, 2000, to other offences committed by the licensee in respect of their licensed premises, such as the serving of alcohol to intoxicated persons.
- (b) A court considering any application under the Intoxicating Liquor Acts should be empowered to enquire into the incidents of public order offending inside or adjacent to the premises.
- (c) The Council recommends that anyone working in either a licensed premises or an off-licence, should be given specific training on how to deal with incidents of public order offending or situations which could become violent or threatening during the course of their work.

4. The Judicial Response to Public Disorder

- (a) The Council recommends that research be conducted to ascertain how the courts deal with public order offending on a nationwide basis.
- (b) Efforts must be made to ensure that court delays are minimised so that public order offenders can be dealt with by the courts in a reasonable length of time.

5. Alcohol Policies

- (a) The evidence from the report suggests an association between alcohol consumption and public order offending. The Council endorses the findings of the Strategic Task Force on Alcohol Interim Report of May 2002 and recommends the implementation of the findings of that report on alcohol policy as a matter of priority.
- (b) The Council recommends that a new National Alcohol Strategy be developed to provide a framework which would set out clearly defined objectives and measurable criteria for implementation in a co-ordinated way by relevant Government Departments and agencies.

6. Young People and Public Order Offending

- (a) The Council recommends that steps be taken to improve and extend the range and variety of youth services so that young people can meet and engage in age appropriate leisure time activities.
- (b) In the planning and refurbishing of estates, planners should be required to make provision in their plans for the needs of the local community by providing appropriate and safe facilities that can be used by young people, thus fostering community integration and mutual respect for local residents.

7. Transport Plan

The Council recommends that an integrated transport plan be put in place to ensure that transport is available at appropriate times and of sufficient frequency to ensure the safe and speedy dispersal of large numbers of people away from entertainment venues and the potential to engage in acts of public disorder.

8. Research and Statistics

- (a) There is a lack of research based evidence to support much of the comment around public order offending. The Council recommends that relevant and useful information should be collected on a regular and co-ordinated basis across the agencies of the criminal justice system as well as from other relevant bodies which would seek, inter alia, to ascertain:
 - (i) the extent of public order offending;
 - (ii) the link between alcohol consumption and public disorder; and
 - (iii) the costs associated with public order offending to a range of services including the health service, business and Local Authorities.
- (b) Following the Government's acceptance of the Council's earlier recommendation that regular National Crime Victimization Surveys be conducted, the Council recommends that dedicated questions related to public order offending should be included.
- (c) The forthcoming National Longitudinal Study of Children is an invaluable opportunity to collect a wide spectrum of data in respect of young people's attitudes towards crime and the Gardaí. The Council recommends that the survey instrument should contain a section dedicated to young people's involvement in and opinions of anti-social behaviour as well as crime generally. The results should be reported to the relevant agencies at the earliest date to help inform future policy.



EXECUTIVE SUMMARY



EXECUTIVE SUMMARY

Introduction and Context

1. This report provides a comprehensive analysis of the scale of public order offending in Ireland.
2. Incidents of public disorder are examined according to the day, time and place of their occurrence. A further breakdown is provided by Garda region.
3. The primary sources of national-level data utilised were the annual reports of An Garda Síochána for the years 1988 to 2001, and records from the PULSE computer system for the period October 2001 to March 2002.
4. Two sites in Dublin – ‘Liffeside’ and ‘Parkway’ – were selected for closer scrutiny. Gardaí were accompanied on patrol in these areas for a total of more than 200 hours. During this time the researchers observed the Garda response to 177 public order incidents. In addition, lengthy interviews were carried out with 50 members of the Force.
5. Supplementary data were collected from the Courts Service, the Probation and Welfare Service and the Irish Prison Service.

Trends and Patterns

6. Between 1996 and 2001 the number of offences proceeded with under the Criminal Justice (Public Order) Act, 1994 increased by 161 per cent. Each year, around two thirds of these cases resulted in a conviction.
7. Section 4 (intoxication in a public place) and section 6 (threatening, abusive or insulting words or behaviour) were the most frequently invoked sections of the Act. In combination they accounted for almost 80 per cent of proceedings taken in 2001.
8. All of the Garda regions showed increases in the number of proceedings taken under the CJPOA between 1997 and 2001. The highest increase was recorded in the Eastern region (Longford/Westmeath, Louth/Meath, Laois/Offaly and Carlow/Kildare).
9. Between 1996 and 2001 the number of public order related referrals to the Garda Juvenile Diversion Programme grew by 162 per cent; almost identical to the growth in proceedings taken. The most striking change was in referrals for intoxication in a public place, which increased seven-fold.

Nature of Public Order Incidents

10. The social meaning of public order incidents can be difficult to decipher. Typically they begin and end within a matter of minutes and it is sometimes difficult to identify a clear victim or perpetrator.
11. *Time:* Almost one in three public order offences was recorded between midnight and 02.00. The periods of peak disorder were observed at the weekends: the majority of public order offences (55 per cent of the total PULSE sample) were recorded between 20.00 on Friday and 04.00 on Monday.
12. *Location:* The observational data revealed that 40 per cent of incidents in 'Liffeside' took place on or outside licensed premises. Very few occurred in the vicinity of fast-food outlets or at taxi ranks. A small number of streets accounted for the majority of incidents.
13. *Alcohol:* The PULSE data suggested that alcohol had been consumed by the offender in 97 per cent of cases where this facet of the incident was recorded, and 98 per cent of the Gardaí interviewed believed that alcohol was the primary causal factor in public order offending. But analysis of the incidents observed by the researchers yielded a lower estimate: alcohol played a role in just over half of the total.

The Response of the Criminal Justice System

14. When the Gardaí arrived at the scene and determined that action was required, their response was either 'informal' or 'formal.' The former typically involved a request to desist or move on, or a verbal warning. The latter involved the taking down of details from participants, the confiscation of alcohol, or arrest.
15. There were significant differences in the styles of policing observed at the two sites. In 'Parkway' the approach was sometimes confrontational: the targets were usually groups of young people, and the Gardaí regularly directed strong language at their 'charges.' In 'Liffeside' a more benign approach prevailed.
16. The nature of public disorder differed at the two sites. In 'Parkway' the offenders were young, often teenagers; the problems frequently occurred in parks and open spaces; and the offences typically involved loitering or the possession of alcohol. In 'Liffeside' the offenders were older; the offences took place later at night and around licensed premises; and they were of a more serious nature – assaults, rows and disturbances were common.
17. The majority of public order offences dealt with by the Dublin District Court resulted in the matter being struck out or dismissed. In one per cent of cases a sentence of imprisonment was imposed.



Chapter One

INTRODUCTION AND BACKGROUND TO REPORT



Chapter One

INTRODUCTION AND BACKGROUND TO REPORT

INTRODUCTION

In March 2001, the National Crime Council commissioned the Institute of Criminology, at University College Dublin, to carry out a study of *'the commission of offences affecting public order with particular reference to factors that give rise to public disorder including the issue of alcohol consumption'*. For the purpose of the study the term 'Public Order Offence' was intended to cover a spectrum from noisy and disorderly conduct to seriously intimidating and aggressive behaviour engaged in by an individual or by a group of people in a public place.

The terms of reference of the study were:

- to provide a comprehensive analysis of the scale of public disorder drawing on the sources of data available from An Garda Síochána, the Courts Service, the Probation and Welfare Service, and the Irish Prison Service;
- to explore possible contributory factors to public disorder;
- to identify the time of day during which the greatest number of public order offences occur;
- to describe the most common locations of public disorder;
- to study the Garda response to public disorder (including the introduction of Closed Circuit Television); and
- to examine the effect of the Criminal Justice (Public Order) Act, 1994 (hereafter the CJPOA).

Context of the study

Prior to the introduction of the CJPOA public disorder was dealt with by a battery of nineteenth century statutes: *viz*: the Dublin Police Acts of 1836 and 1842, the Summary Jurisdiction (Ireland) Act, 1851, the Summary Jurisdiction (Ireland) Amendment Act, 1871, and the Licensing Acts of 1872 and 1874⁷. The limitations of this legislative scheme were obvious. By definition, the Dublin Police Acts could only be applied within the Dublin Metropolitan Area. Moreover, as the Law Reform Commission pointed out, the level of penalties for public order offences had been fixed historically, with the result that their deterrent efficacy had been eroded with the passage of time. For example, by virtue of section 14(13) of the Dublin Police Act, 1842, even in the mid 1980s a person found guilty of using threatening, abusive or insulting words could only be fined a maximum of £2. To meet these difficulties the Law Reform Commission recommended a radical overhaul of the legislation relating to public order, including the range of penalties available to the courts.⁸

⁷ For detailed information on these measures see pages 36-37.

⁸ Report on Offences Under the Dublin Police Acts and Related Offences (1985) and Report on Vagrancy and Related Offences (1985).

Concern about the level of public disorder was a notable feature of the criminal justice debate in Ireland throughout the 1990s. Public concern was focused primarily on the perceived connection between intoxication in public places and the commission of public order offences. This concern was reflected in contemporary Dáil Debates, which were speckled with references to the ‘gradual coarsening of life on our streets’, the ‘noticeable increase in public drunkenness and disorderly conduct in our towns and cities’ and the ‘loud, aggressive drunkenness that threatened passers-by’ and ‘can spill over into crimes of violence’ (433 *Dáil Debates* 933; 2 July 1993). The CJPOA was introduced against this background. Building on the recommendations made by the Law Reform Commission, the Act constituted a substantial attempt to modernise the law on public order.

However, concern about public order continued unabated after the passage of the Act. Moreover, it was accompanied by an increasingly tough stance by the political parties on the ‘crime problem’ in general: thus in the 1997 general election campaign all of the major parties made crime the number one issue. In addition, in the ensuing period the so called ‘get tough’ or ‘zero tolerance’ ideology that had been imported from the United States gave rise to a raft of new initiatives in the area of ‘low level’ criminality: beggars, prostitutes and vagrants became the target of more intensive policing designed to rid the streets of what were perceived as criminogenic elements. At the other end of the spectrum tough new laws were introduced to facilitate the confiscation of criminal assets and the handing down of stiffer sentences to drug offenders (O’Donnell and O’Sullivan, 2001). As will be seen in Chapter 4, there is *some* evidence that these new ‘get tough’ policies may have had a ‘trickle-down’ effect on policing styles at one of the observational sites studied by the researchers.

Defining public order

The similarities between the nineteenth-century legislation and the CJPOA are apparent both in terms of the language used and the types of behaviour encompassed therein. Like its precursors, the 1994 Act deals with a miscellany including public drunkenness (section 4), disorderly behaviour (section 5), threatening, abusive or insulting words or behaviour (section 6), assault (section 18) and obstructing or assaulting a peace officer⁹ (section 19). In addition, section 8 (failure to comply with the direction of a member of An Garda Síochána) gives the Gardaí power to order unruly persons to desist, and to move them along. Moreover, failure to comply with such an order was itself made an offence (section 8 (2)).

The Act categorises public order offences as non-indictable; as such they are dealt with before the District Court. Arguably this arrangement reflects the absence of the element of person-to-person victimisation typical of more serious criminal offences.

⁹ A peace officer can be a member of An Garda Síochána, a prison officer or a member of the Defence Forces.



Applying the CJPOA

The language used to describe public disorder in the media tends to be imprecise. Often the most frequently used terms – ‘street violence’ and ‘hooliganism’ – denote a wide variety of disparate behaviours.

This problem of precision and certainty in the definition of public disorder also besets the CJPOA. For example, a row between two drunken young men in a public place could be categorised in several different ways. If the Gardaí intervene at the point where insults are being traded, charges may well be brought under section 6 (threatening, abusive or insulting words or behaviour). If blows have already been exchanged the charge may be preferred under section 5 (disorderly conduct in a public place). If an injury has already been sustained by the time the Gardaí intervene, the charge may be one of assault. Indeed, in the latter case the charge is apt to be brought under section 2 of the Non-fatal Offences against the Person Act, 1997 rather than under section 18 of the CJPOA, thus suppressing its public order dimension.

It should also be remembered that public order offences are particularly susceptible to what might be described as the Bishop Berkeley effect: the fact that, given the relatively low level of independent reporting of offences of this type, unless and until they have been observed by the police, public order offences do not ‘exist’ and, consequently, are not officially recorded. Moreover, even when the police *do* intervene their response may be informal and thus the event will not appear in the official statistics.

Although section 18 of the CJPOA deals with assault, it does not appear to have been used to date. Similarly, no proceedings have been recorded under section 19 which deals with assault or obstruction of a peace officer. Street assaults are dealt with under separate legislation. This practice means it is not possible to separate ‘public order assaults’ from other non-indictable assaults. It must also be remembered that Garda counting rules effectively distort the distribution of recorded public order offences. For example, in the sequence of events described in the penultimate paragraph, the Gardaí will classify the event in terms of its most serious element – in that case as assault (by virtue of the injury).

The offence of criminal damage presents similar problems. Undoubtedly some cases of criminal damage are caused by intoxicated or disorderly persons. However, if the offence is recorded under the rubric of criminal damage its public disorder dimension is lost. Moreover, the Garda counting rules problem also applies here: the event is classified in terms of its most serious element for recording purposes. For example, in a case of public drunkenness leading to damage to property, the event would be classified and counted as criminal damage, not as public disorder.

It follows that it would be unsafe to include undifferentiated official data on assault and criminal damage in any analysis of public disorder. For this reason, we have confined our inquiries to those offences that fall exclusively within the jurisdiction of the CJPOA.

The present study


The present study is based on an analysis of quantitative data collected from a variety of criminal justice agencies within the State. The researchers also used participant observation and interviews to generate supplementary 'field' data of a more qualitative kind. In respect of the latter, the researchers were allowed to accompany the Gardaí on duty at two sites, one in Dublin city centre ('Liffeside') and one in the Dublin suburbs ('Parkway'). There the researchers observed public order incidents as they happened. In addition, interviews were conducted with members of An Garda Síochána to ascertain their views on public order offences and offenders. The interviews were semi-structured and tape recorded.

Quantitative data analysis – national survey

In respect of the quantitative data, analysis took the form of a study of public order offences occurring 'before and after' the introduction of the CJPOA. The research timeframe ran from 1988 to 1994 ('before the Act'); and from 1996 to 2001 ('after the Act'), thus facilitating a comprehensive overview of the incidence of public disorder, including the impact made by the introduction of the CJPOA. For the purposes of interpretation, it is important to stress that comprehensive Garda records regarding the operation of the 1994 Act were only available from 1996 onwards.

Garda data

An Garda Síochána was the only criminal justice agency in a position to provide statistical information on public order offences for the research period 1988 to 2001. The relevant information is to be found in the Report of the Commissioner of An Garda Síochána which is published annually (henceforth the Commissioner's Report). An analysis of the tabular data on non-indictable offences in the Commissioner's Report provides information on trends and patterns in the number of public order offences *proceeded with*, the number of convictions recorded and the number of persons convicted. The report also provides information on the relative frequency with which various sections of the CJPOA were invoked, and on the number of public order offenders who are referred to the Juvenile Diversion Programme as an alternative to prosecution. Analysis of this information has enabled the researchers to present a broad picture of the scale of public disorder for the relevant period.



The data presented in the Commissioner's Report have several limitations. As already noted, public order offences are non-indictable. Accordingly the available information on them is confined to incidents in respect of which proceedings have been issued, the Report being silent on the volume of incidents known to the Gardaí but not proceeded with. The more recent Commissioner's Reports (from 2000) have partly corrected this deficit: for a limited number of non-indictable offences (*excluding* offences under the CJPOA), information is provided both on cases 'known' to the Gardaí and proceedings taken.

The other main limitation of the Commissioner's Report in this context is that it is not possible to obtain detailed information on the nature of the offence recorded. For example, the report gives us the annual number of proceedings for intoxication in a public place, but provides no information on when and where these incidents occurred or on the social dynamics surrounding them. In other words, the data consist essentially of aggregate information on offence categories with little or no detail on the content thereof. This problem is vividly illustrated by the category of public drunkenness which fails to discriminate between incidents of high spirits following youthful celebrations, on the one hand, and scenes of prepotent violence involving drunken groups directing their ire at the Gardaí, on the other.

Supplementary data sources

In addition to the information gleaned from the Commissioner's Report, data were obtained from the Courts Service, the Probation and Welfare Service and the Irish Prison Service. Unfortunately, the problem of the lack of internal differentiation noted above also beset these sources of information.

The Courts Service is a relatively new organisation having been established in November 1999. The researchers contacted the Chief Clerk and the Custody Officer for the Dublin Metropolitan Area and data were duly obtained from the Computerised Case Tracking System (CCTS) for the period January 2000 to March 2002. This system at present covers the Dublin and Limerick regions. However, the information thus obtained was of limited value: in most cases it ran only to details of the offence charged and the outcome of the case. In order to maximise its potential for research purposes, it was decided to concentrate the analysis on the data available for the Dublin region. This enabled the researchers to compare and contrast interview data on Garda perceptions of how the courts responded to public order offending with the actual performance of the courts.

Public order offences are included in the 'miscellaneous category' in the Probation and Welfare Service statistics: there is no offence-specific information on public order incidents.

The statistical information provided in the Annual Report on Prisons and Places of Detention also posed problems. Once again no specific breakdown was available or could be generated for CJPOA offences.


The researchers also contacted organisations outside the criminal justice system. These included Dublin Bus, Iarnród Éireann, the Dublin Chamber of Commerce, the Dublin City Centre Business Association (DCCBA), the Irish Hotels Federation, the Irish Insurance Federation, the Irish Security Federation, the Irish Taxi Drivers' Federation, the Licensed Vintners' Association and the Vintners' Federation. These organisations were chosen as representative of bodies that might be affected by public disorder. Responses were received from Dublin Bus, the Dublin Chamber of Commerce, the DCCBA, the Irish Insurance Federation, the Vintners' Federation and the Licensed Vintners' Association. Of these groups only Dublin Bus were in a position to supply any figures regarding public order incidents. However, the bulk of the data supplied related to assaults and criminal damage which, as explained above (p.28), fall outside the scope of this inquiry. The remainder of the data concerned breaches of Dublin Bus passenger regulations, and thus was deemed to fall below the threshold of public disorder.

Research (Shepherd et al, 1989) has shown that a considerable number of assaults treated in Accident and Emergency Departments are the result of public order incidents that have not been brought to the attention of the police. The research team contacted a number of Accident and Emergency consultants regarding this matter. The information thus obtained was anecdotal in nature and no useful conclusions could be drawn from it.

Qualitative data analysis – Dublin only

In order to meet the terms of reference set by the National Crime Council, it was decided that qualitative data needed to be collected to complement the data sources described above. Our reasoning was that such data would shed light on the following crucial issues: viz; the time and place of public order incidents; the number of persons involved in them; details of victims and offenders (e.g. age, gender, victim-offender relationship); whether alcohol or other drugs were involved; and so on. The main source of this more detailed data was the PULSE computer system.

Garda interviews proved to be another valuable source of data. Owing to the interpersonal nature of public order offences, many of the nuances surrounding them would be lost in an analysis restricted to documentary sources alone. Very often the tone or 'temperature' of an incident will be obvious to an observer, yet difficult to capture in a formal report. Such nuances are best brought out by close qualitative study. This has been confirmed by the findings of recent British research (see Brown and Ellis, 1994). In this context the qualitative element is provided by participant observation designed to probe the interpersonal relations between the key actors. Typically the researchers study the dynamics of a particular situation and subsequently interview



the participants with a view to recording reactions to and interpretations of the event. It should however be stressed that participant observation is primarily an exploratory tool and should not be expected to yield a definitive account of the situation. In short, it is intended to play a purely complementary role in the research exercise. The results of this facet of the research are discussed in later chapters.

In the course of their observations, the researchers accompanied the Gardaí on routine patrols for an average of three nights per month for six months (October 2001 to March 2002). Over 200 hours were expended on the observation phase. The research team had an opportunity to observe the entire spectrum of disorderly behaviour during this exercise. The research period included Halloween, New Year and St. Patrick's weekend. Following discussions outlining the nature of the research, two sites were identified by the Garda Community Relations Office: one in Dublin city centre ('Liffeside') and one in the Dublin suburbs ('Parkway'). Both sites were regarded as high incidence locations. Separate observational arrangements were negotiated in respect of each site, as noted below.

At 'Parkway' the researchers accompanied the public order unit on their routine shifts from 20.00 to 02.00. This unit was manned on an overtime basis by members of the regular station staff. It operated on Thursday, Friday and Saturday nights. On quieter nights the public order unit did not go out on patrol; instead the researchers accompanied regular Gardaí on patrol duties. In the result, the researchers had an opportunity to observe a variety of Garda units and personnel at work. At 'Liffeside' the researchers accompanied a specialist unit, whose members typically undertook public order patrols under Operation Oíche, between the hours of 22.00 and 04.00. As in the case of 'Parkway', the researchers were also given the opportunity to observe non-specialised patrols and Gardaí at work, outside these core hours.

In addition to the observational component, tape-recorded interviews were conducted with 50 members of the Force (40 Gardaí and 10 Sergeants). Interviewees were drawn from both regular and specialist units. Less formal interviews were conducted with members of Community Policing Units including a Juvenile Liaison Officer and officers of the rank of Inspector and above. Interviews ranged in length from just under one hour to over three hours, with an average duration of one and a half hours. These interviews were designed to explore the differing perceptions of public disorder held by members of An Garda Síochána, both at operational and managerial level. An attempt was also made to set these perceptions in the context of the difficulties experienced by officers working at the coalface of public disorder.

Limitations of the present study


It was noted in the original tender for this study that the quality of the analysis would be directly affected by the quality of the data available to the research team. This proved to be the case. The quality of the public order data available from criminal justice agencies varied considerably: in some instances the data were of extremely limited value, in others at least tentative conclusions could be drawn from it.

It was hoped that the most fruitful source of data would be provided by the PULSE computer system. Initially, An Garda Síochána indicated that it would be possible for the research team to access PULSE data for a six month period. In the event, access was denied in respect of the descriptive component of recorded offences as this material was deemed to raise issues of confidentiality, touching, in particular, the identity of individuals. Alas, it was precisely this material that would have enabled the researchers to probe the nature of the offences in question. Its loss was, therefore, a serious blow to the research endeavour and prevented the team from exploring the related issue of the typical profile of public order offenders.

Nor was it possible to resolve the profile issue by other means. Originally interviews with a small number of public order offenders were contemplated. Difficulties in establishing a contact point with such offenders proved insurmountable; the courts were not in a position to provide one and since many offenders were either in an intoxicated or uncooperative state at the time of their original contact with the Gardaí, interviews were ruled out. The alternative tack was to make questionnaires available at the two research sites to be distributed to public order offenders at a time when they were not intoxicated. As it happened, the response rate to these questionnaires was extremely low and yielded no reliable information. The only other possible source of information in this regard was the Probation and Welfare files. Unfortunately these were found to be limited to the small – and unrepresentative – number of public order offenders who appeared in court and were referred to the service.

As was clearly envisioned by the terms of reference, the potential of CCTV as a source of information is obvious. Regrettably a reliable assessment of its effectiveness would have required a study on a scale way beyond the resources of this exploratory effort.

Nor did it prove possible to assess the relative incidence of public order offences in Ireland as compared with other countries. Typically international comparisons of crime trends are confined to *serious* crime. Comparative data published by, for example, the Home Office are based on figures for homicide, violent crime, domestic burglary, theft of a motor vehicle and drug trafficking. International data, thus, do not include information on public order offences.



Funding exigencies made it impossible to obtain details on the *nature* of public order offences *outside* the Dublin region. The inherent limitations of the official data have already been mentioned. Constraints of time made the ideal solution – a national survey – effectively impossible. The compromise was to conduct an in-depth study at two Dublin research sites. It goes without saying that extrapolation from these findings should be made with caution.

Initially, this strategy contemplated the collection of supplementary information from non-criminal justice agencies, especially Accident and Emergency Departments. Unfortunately, as already indicated, the level of information gleaned from these sources never transcended the anecdotal and so was of limited scientific value.

The foregoing limitations should not, however, be viewed in an entirely negative light. As a result of this study, it is now clear that the social dynamics of public order incidents are much more complex than the official data suggest. As already indicated, the official data measure public disorder in terms of broad offence labels. By highlighting the role of several key situational variables, such as time and location of the incident, individual Garda attitudes and policing strategies, the following pages represent an important step towards uncovering the ‘deep structure’ of the behaviour classified under these labels. Future work might usefully build on these findings.

Structure of the report

The structure of the report is simple. Chapter Two examines trends and patterns in public order offending between 1988 and 2001. Chapter Three explores the nature of public order offences. Chapter Four assesses the criminal justice response to public order offences, with particular reference to the perspective of An Garda Síochána. Chapter Five reviews some of the main conclusions of the Report and outlines issues for further consideration.

Chapter Two

TRENDS AND PATTERNS IN PUBLIC
ORDER OFFENCES



Chapter Two

TRENDS AND PATTERNS IN PUBLIC ORDER OFFENCES

The Commissioner's Report is the main source of information on recorded crime in Ireland. The Gardaí are responsible for the collection and collation of the data presented in this Report. The Commissioner's Report includes data on the number of indictable¹⁰ offences 'known to the Gardaí' as well as the number of non-indictable offences in respect of which proceedings have been taken.

The information on non-indictable offences includes the CJPOA data. The relevant tables in the Commissioner's Report detail the number of offences proceeded with, the number of convictions, and the number of persons convicted or against whom charges were proved or orders made without conviction. In addition, they include details of charges dismissed or withdrawn, adjourned or otherwise disposed of. The information is not broken down by the age or sex of the offender.

Public order offences before the Act

Prior to the introduction of the CJPOA, public disorder was regulated by a number of nineteenth-century statutes. The Dublin Police Acts, 1836 and 1842, the Summary Jurisdiction (Ireland) Act, 1851, the Summary Jurisdiction (Ireland) Amendment Act, 1871, and the Licensing Acts, 1872 and 1874 are good examples. The Dublin Police Act, 1842 penalised various nuisances and breaches of public peace and order. The central importance of these Acts in dealing with public order was confirmed by key representatives of the various criminal justice agencies involved in this study and in interviews with a small sample of Gardaí working in the Dublin region. These discussions also confirmed that drunk and disorderly conduct and breach of the peace were the most common offences prosecuted under the legislation. A more detailed discussion of that legislation follows.

- Section 15 of the Dublin Police Act, 1842 provided that any person found drunk in any street or public thoroughfare who committed any violent or indecent act was guilty of an offence and liable to a fine not exceeding £2 or imprisonment for not more than seven days.
- Section 14(13) of the same Act provided that a person who used threatening, abusive or insulting words or behaviour, with intent to provoke a breach of the peace was guilty of an offence and liable to a fine not exceeding £2.
- Section 27 of the 1842 Act enabled a police constable to take into custody without a warrant all 'loose, idle and disorderly persons' found disturbing the public peace. The section also provided a power of arrest in respect of persons found lying or loitering in any highway, yard or other place between sunset and the hour of eight in the morning.
- Section 8 of the Summary Jurisdiction (Ireland) Amendment Act, 1871 made it an offence to conduct oneself in an 'offensive or riotous' fashion in a theatre or place of public amusement.

¹⁰ From 2000 indictable offences were recategorised and renamed as 'headline' offences.

The penalty in this case was a fine not exceeding £2 or imprisonment for any period not exceeding one month.

- Section 12 of the Licensing Act, 1872 made it an offence to be found drunk or engaging in riotous or disorderly behaviour.
- Sections 12 and 25 of the Licensing Act, 1874 made it an offence to be drunk and incapable in specified public places. Anyone so found could be detained by a constable until fitness was regained.

The introduction of the CJPOA repealed some but not all of the nineteenth-century legislation. For example, Section 9 of the Dublin Police Act, 1836, Section 14(13) of the Dublin Police Act, 1842, and Section 13(3) of the Summary Jurisdiction (Ireland) Act, 1851 *were* repealed by the 1994 Act. This point is important because the Commissioner's Report does not identify the sections of the Acts under which proceedings have been taken. Thus it is unclear which particular elements of these old statutes are still in use, and how they contribute to the figures shown in **table 1**.

Table 1 Proceedings taken and convictions obtained under the pre-CJPOA legislation 1988 to 2001

Offence	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Drunkenness, simple	1,253	1,660	1,714	1,620	1,599	1,494	1,724	1,380	1,040	1,131	946	1,190	1,047	834
Convictions obtained (%)	73	76	79	82	77	68	73	77	70	76	71	66	72	69
Drunkenness, aggravated	3,465	3,755	4,082	4,275	4,431	5,105	3,553	1,744	1,026	907	801	781	998	422
Convictions obtained (%)	78	74	80	80	79	76	72	75	65	54	59	60	68	70
Dublin Police Acts	2,425	2,633	2,534	2,437	2,533	3,547	2,268	477	371	339	399	182	180	95
Convictions obtained (%)	57	60	64	69	65	62	59	35	38	32	46	62	72	64
Summary Jurisdiction (Ireland) Act 1851	455	591	199	451	477	865	608	315	281	283	366	331	98	129
Convictions obtained (%)	38	61	49	54	43	42	40	25	46	28	35	38	65	46
Total public order offences	7,598	8,639	8,529	8,783	9,040	11,011	8,153	3,916	2,718	2,660	2,512	2,484	2,323	1,480
Convictions obtained (%)	68	70	75	76	73	68	66	67	61	58	58	60	70	67
% change in total proceedings taken		+14	-2	+3	+2	+23	-27	-52	-31	-2	-6	-1	-7	-36

[Source: Commissioner's Report]

Proceedings taken under the pre-CJPOA legislation made up less than one per cent of all non-indictable offences prosecuted during the period 1988 to 1993. The bulk of non-indictable offences involve road traffic and licensing matters. An *increase* of 45 per cent (3,413) was recorded for all pre-CJPOA offences between 1988 and 1993, with 1993 recording the highest number of proceedings for the period. Proceedings for aggravated drunkenness¹¹ accounted for 46 per cent of the total. Offences under the Dublin Police Acts (which also include offences of drunkenness) comprised 28 per cent of the proceedings taken. Simple drunkenness made up 17 per cent of the total.

Proceedings taken under the old legislation still comprised less than one per cent of all non-indictable offences between 1994 and 2001, but an 82 per cent (6,673) *decrease* was recorded in the number of such proceedings. All categories showed a downward trend, the biggest being recorded for aggravated drunkenness (down 88 per cent) and offences under the Dublin Police Acts (down 96 per cent). Proceedings under the Summary Jurisdiction (Ireland) Act were also down – by 79 per cent, while proceedings for offences of simple drunkenness decreased by 52 per cent.

Proceedings taken under the 1994 Act

No proceedings were recorded in respect of the first year of operation of the 1994 Act. No proceedings were recorded in respect of sections 4, 8 and 11 (see below) of that Act in 1995. Between 1996 and 2001, the Commissioner's Report records 'proceedings taken' in respect of seven sections of the CJPOA: *viz*: section 4 (intoxication in a public place), section 5 (disorderly conduct in a public place), section 6 (threatening, abusive or insulting behaviour in a public place), section 8 (failure to comply with the direction of a member of An Garda Síochána), section 11 (entering a building with intent to commit an offence), section 21 (control of access to certain events), and section 22 (surrender and seizure of intoxicating liquor). An eighth category of 'other' was made up of offences committed under sections 7 (distribution or display in a public place of material which is threatening, abusive or obscene), 9 (wilful obstruction) and 13 (trespass on building) of the Act.

The first year in which proceedings were recorded in respect of *all* sections of the Act was 1996. The analysis that follows is accordingly restricted to the period from 1996 onwards. Given the brevity of the period conclusions drawn from the data presented in **table 2** should be treated with circumspection.

¹¹ Offences of aggravated and simple drunkenness are dealt with under the Licensing Acts and listed under Offences against Intoxicating Liquor Laws in the Commissioner's Report.

Table 2 Proceedings taken and convictions obtained under sections of the CJPOA

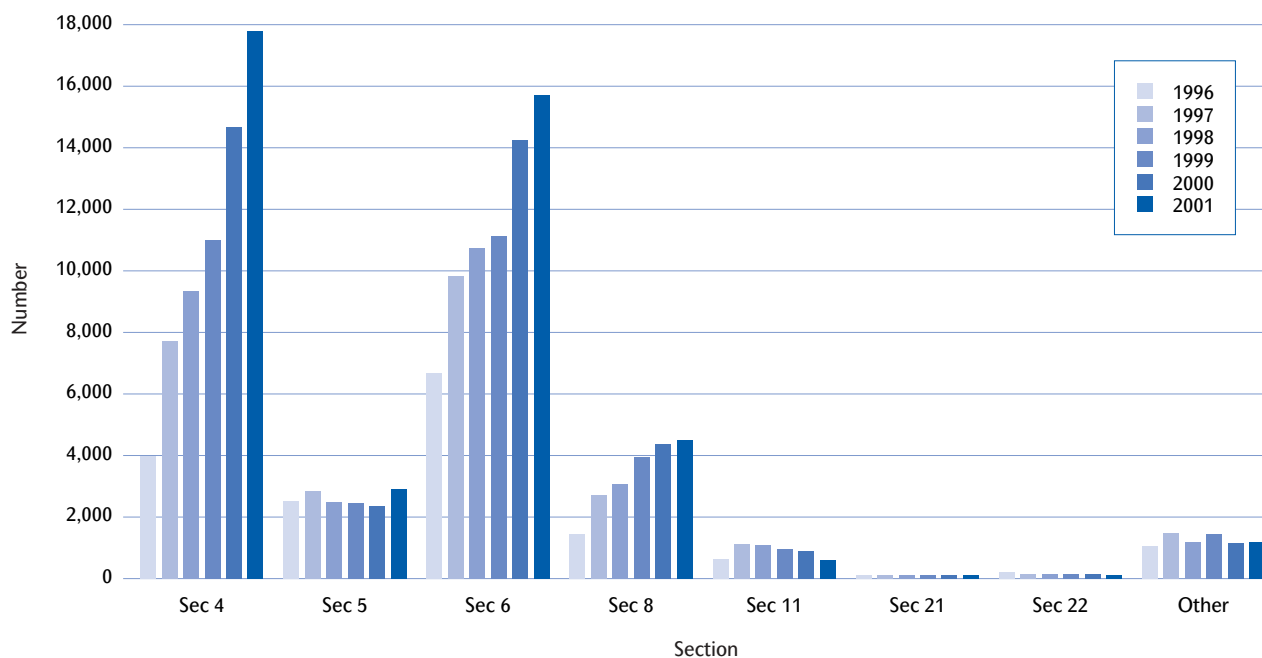
Offence	1996	1997	1998	1999	2000	2001
Intoxication in public place (section 4)	3,983	7,724	9,334	11,009	14,687	17,805
<i>Convictions obtained %</i>	71	64	66	66	56	61
Disorderly conduct (section 5)	2,509	2,855	2,473	2,445	2,341	2,924
<i>Convictions obtained %</i>	67	65	54	68	66	66
Threatening, abusive behaviour etc (section 6)	6,667	9,817	10,732	11,140	14,251	15,718
<i>Convictions obtained %</i>	70	63	64	62	58	58
Failure to comply with Garda direction (section 8)	1,450	2,708	3,080	3,948	4,364	4,502
<i>Convictions obtained %</i>	69	65	69	65	65	63
Entering building with intent (section 11)	620	1,118	1,090	966	904	592
<i>Convictions obtained %</i>	71	67	69	61	66	64
Control of access to certain events (section 21)	1	9	16	5	6	7
<i>Convictions obtained %</i>	0	22	50	40	50	71
Surrender/seizure intoxicating liquor etc (section 22)	112	34	39	46	31	22
<i>Convictions obtained %</i>	54	47	69	37	39	36
Other	1,042	1,490	1,181	1,434	1,165	1,185
<i>Convictions obtained %</i>	58	60	64	63	62	36
Total CJPOA	16,384	25,755	27,945	30,993	37,749	42,755
<i>Convictions obtained %</i>	69	64	64	64	59	60
% change in total proceedings taken		+57%	+9%	+11%	+22%	+13%

[Source: Commissioner's Report]

In 1996 offences under the CJPOA comprised four per cent of all non-indictable offences. By 2001 this figure had increased to 13 per cent, the highest level recorded. Although the *overall* number of non-indictable offences proceeded with declined, there were increases in the number of public order offences recorded each year. The highest yearly increase (57 per cent) was in 1997. It should, however, be noted that increases of this magnitude are not uncommon following the introduction of new legislation (see Institute of Criminology, 2001).

Over the six-year period, the number of offences proceeded with under the new legislation rose by 161 per cent (26,371). This steep upward trend partly reflected the increased Garda attention given to such offences and the Force's commitment to the prosecution of public order crime. Notwithstanding these increases, public order offences still represented only *one in eight* of all non-indictable offences proceeded with – although it should be borne in mind that the comparable ratio under the old legislation was *one in a hundred*.

Figure 1 Proceedings taken under the CJPOA 1996 to 2001



[Source: Commissioner's Report]

As **figure 1** shows, section 6 offences (threatening, abusive or insulting behaviour in a public place) comprised the largest category of offences proceeded with up until 1999. Between 1996 and 1999, section 6 offences comprised an average of 38 per cent of all public order offences proceeded with. During the same period, section 4 offences (intoxication in a public place) were the second largest category. Between 1996 and 1999, they comprised an average of 31 per cent of all public order offences proceeded with. In 2000 and 2001, section 4 offences were the largest category of all public order offences proceeded with, comprising 39 per cent and 42 per cent, respectively.

For the six years under analysis, section 8 offences (failure to comply with the direction of a member of An Garda Síochána) comprised the third largest category of offences proceeded with, representing nine per cent of all public order offences in 1996 and 11 per cent in 2001. Section 11 offences and 'Other' offences both exhibited a downward trend in the numbers of proceedings taken between 1996 and 2001. Throughout the period of analysis, section 22 (surrender and seizure of intoxicating liquor) and section 21 (control of access to certain events) accounted for less than one per cent of all public order offences.

Proceedings taken under the new legislation by Garda region

Since 1997 the Commissioner's Report has provided a breakdown by Garda region of public order offences proceeded with. For section 4 (intoxication in a public place), section 6 (threatening, abusive or insulting behaviour), section 8 (failure to comply) and section 11 (entering a building) offences more proceedings were taken in Dublin than in any other part of the country. Since 1997, an average of 42 per cent of all section 4 cases proceeded with were recorded in the Dublin region; along with an average of 46 per cent of section 6 cases and 44 per cent of section 8 cases. An average of 66 per cent of all proceedings taken for section 11 cases was recorded in the Dublin region between 1997 and 2001.

A slightly different pattern is recorded for proceedings taken under section 5. Between 1997 and 2001, an average of 23 per cent of all section 5 proceedings (disorderly conduct in a public place) were recorded in the Eastern region (Carlow/Kildare, Laois/Offaly, Longford/Westmeath, Louth/Meath), with 22 per cent being recorded in the Southern region (Cork City, Cork North and Cork West, Kerry and Limerick). Dublin recorded an average of 16 per cent. Section 5 of the CJPOA is used more commonly outside the Dublin region.

The reason for the relatively low incidence of section 5 proceedings in Dublin is not obvious. One possibility is that disorderly conduct in a public place (section 5) is being charged as threatening, abusive or insulting behaviour (section 6) in the Dublin context. Alternatively, it may be that the reverse process is at work *outside* Dublin. Although there is no direct evidence for charge substitution of the kind just described, the hypothesis should not be discounted given the counter-intuitive nature of the disparity it seeks to explain. Other things being equal, one would have expected at least *twice* as many section 5 proceedings in the Dublin region on the basis of its population.

In 2001 15 public order offences per 1,000 population were proceeded with in the Dublin region, 14 in the Eastern region (Longford/Westmeath, Louth/Meath, Laois/Offaly and Carlow/Kildare) and 12 in the Northern region (Sligo/Leitrim, Donegal and Cavan/Monaghan). The corresponding rate for the Southern region (Cork City, Cork North, Cork West, Kerry and Limerick) was 10, with both the South Eastern (Waterford/Kilkenny, Wexford/Wicklow and Tipperary) and Western regions (Galway West, Clare, Mayo and Roscommon/Galway East) recording nine public order offences per 1,000 population.

All regions recorded increases in the rates of public order offences proceeded with between 1997 and 2001. The Eastern region recorded the highest increase, doubling from seven per 1,000 population in 1997 to 14 in 2001. The lowest increase was recorded in the Southern region from seven in 1997 to 10 in 2001.

To say the very least, these trends indicate that the public order problem is *not* confined to the capital. Indeed, the highest rate of increase in proceedings taken was recorded *outside* the Dublin region.

Convictions recorded under the pre-1994 legislation, 1988 to 2001

Between 1988 and 1993, convictions were obtained in an average of 71 per cent of proceedings taken for offences of drunkenness and public disorder. Convictions for simple drunkenness decreased by five per cent over the period, and convictions for aggravated drunkenness were down by two per cent. Convictions for offences under the Dublin Police Acts increased by five per cent (57 to 62 per cent) and offences under the Summary Jurisdiction (Ireland) Act increased by four per cent (38 to 42 per cent). These trends are shown in **table 1** above.

Between 1994 and 2001, convictions were obtained for an average of 63 per cent of proceedings taken for offences of drunkenness and public disorder. During this period, convictions for simple drunkenness decreased by four per cent and for aggravated drunkenness by two per cent. Convictions for offences under the Dublin Police Acts increased by five per cent to 64 per cent in 2001; and offences under the Summary Jurisdiction (Ireland) Act increased by six per cent to 46 per cent in 2001 (see **table 1** above).

Overall the number of convictions under the pre-1994 legislation has been decreasing since 1994: 5,412 convictions were recorded in 1994, the number decreasing to 992 in 2001, an overall decrease of 82 per cent. But as **table 1** illustrates, despite the divergent trends described in the two preceding paragraphs, *convictions as a percentage of proceedings taken have remained relatively stable.*

By 1996, convictions for these offences represented less than one per cent of all non-indictable convictions recorded.

Convictions by section of the CJPOA

In contrast, the number of convictions for public order offences under the *new* legislation shows an upward trend, although as a percentage of convictions for all non-indictable offences, the figure remains relatively low.


Thus, in 1996 11,286 convictions were recorded for public order offences. This figure increased to 25,803 by 2001, a rise of 129 per cent. However, the number of convictions obtained as a percentage of proceedings taken *decreased* during the same period (see **table 2**). Indeed, between 1996 and 2001, all sections, with the exception of section 21, of the CJPOA recorded a decrease in the proportion of convictions recorded.

In 1996 convictions were obtained in 69 per cent of all proceedings taken. In 2001 convictions were recorded for 60 per cent of all proceedings taken. The largest decreases in convictions were recorded for section 4 (10 per cent) and section 6 (12 per cent), and the category of 'Other' (22 per cent). Section 8 and section 11 convictions recorded a six per cent decrease between 1996 and 2001; with section 5 recording the smallest decrease (one per cent). Only Section 21 offences recorded an increase (71 per cent), although the actual numbers involved were extremely small and no convictions were recorded in 1996 (see **table 2**).

Offences under the pre-CJPOA legislation: outcomes other than convictions, 1988 to 2001

Between 1988 and 1993 an average of nine per cent of all proceedings taken for offences under the pre-1994 legislation were *withdrawn or dismissed*. During the period 1994 to 2001, this percentage increased. In some categories, such as simple drunkenness, the increases were small: on average one per cent. The number of proceedings under the Summary Jurisdiction (Ireland) Act remained constant at 13 per cent. Aggravated drunkenness exhibited the highest increase, 10 per cent, with an average of 18 per cent of charges being withdrawn or dismissed during this period. Proceedings under the Dublin Police Acts dealt with in this way increased by five per cent. An average of 14 per cent of all proceedings taken under the pre-1994 legislation were withdrawn or dismissed between 1994 and 2001.

Between 1988 and 1993, an average of eight per cent of all proceedings taken for offences under the pre-1994 legislation resulted in the *charges being proved and an order made without conviction*. An average of nine per cent of all proceedings were dealt with in this manner during the period 1994 to 2001. The number of proceedings for simple drunkenness and proceedings under the Summary Jurisdiction (Ireland) Act was stable, while proceedings taken under the Dublin Police Acts decreased by one per cent. Proceedings for aggravated drunkenness dealt with in this way increased from six to nine per cent.



Between 1988 and 1993 an average of 12 per cent of all proceedings taken for offences under the pre-1994 legislation were *adjourned or otherwise disposed of*. Fifteen per cent of all such proceedings were dealt with in this manner during 1994 and 2001, an increase of three per cent. Proceedings taken under the Dublin Police Acts dealt with in this way recorded the greatest average increase (10 per cent), with proceedings taken under the Summary Jurisdiction (Ireland) Act recording an increase of six per cent. Simple drunkenness and aggravated drunkenness showed increases of two and three per cent, respectively.

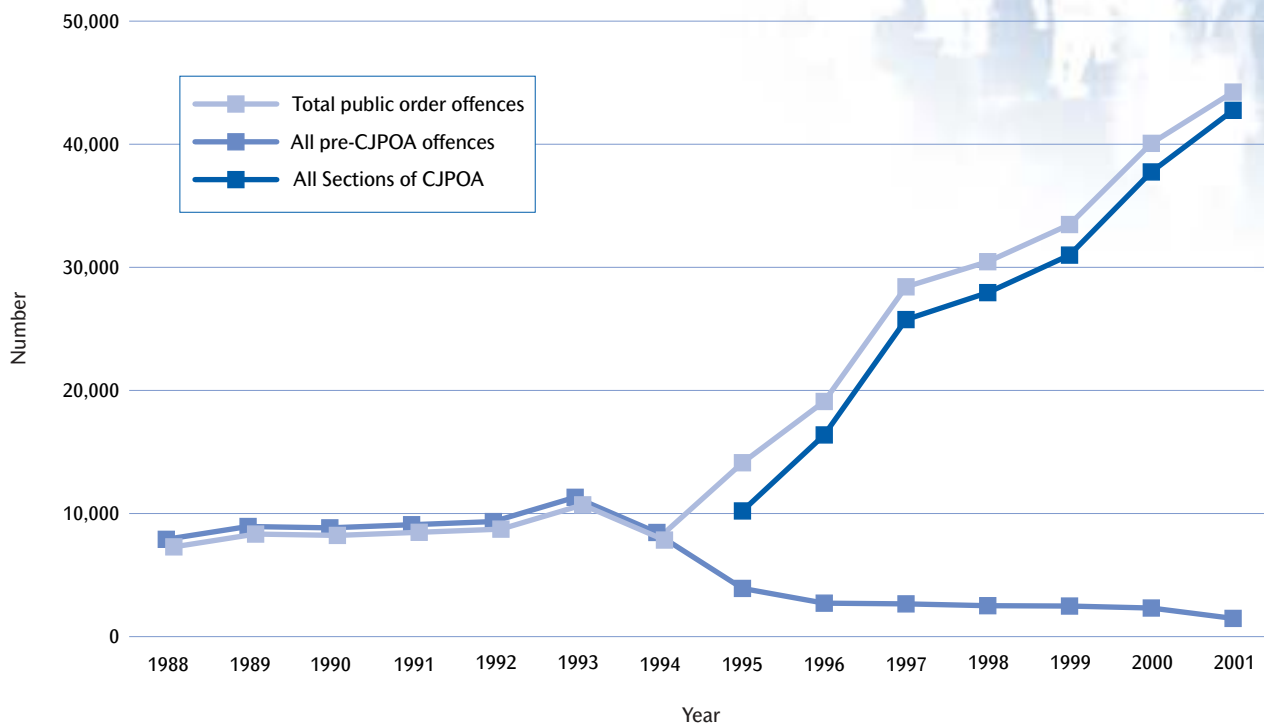
Offences by sections of the CJPOA: outcomes other than convictions, 1988 to 2001

Between 1994 and 2001, an average of 13 per cent of all proceedings taken under the CJPOA were *withdrawn or dismissed*. An average of 11 per cent of all proceedings taken under section 4 and section 5 were withdrawn or dismissed during this period; along with an average of 13 per cent of section 8 proceedings, 14 per cent of section 6 proceedings, 17 per cent of section 11 and 'other' proceedings. Section 21 and section 22 attracted the highest proportion of charges withdrawn or dismissed, an average of 22 and 27 per cent, respectively, but the numbers involved were small compared with those for other sections of the Act.

Charges were proved and orders made with no conviction in an average of 10 per cent of public order offences under the CJPOA. For sections 4, 5 and 22, 10 per cent of proceedings were dealt with in this manner. This outcome was recorded in nine per cent of section 6 and 8 proceedings, eight per cent of proceedings recorded under the 'other' category and seven per cent of section 11 proceedings. Again, section 21 recorded the highest number with an average of 20 per cent of proceedings having the charges proved and order made with no conviction.

Between 1994 and 2001, an average of 13 per cent of all proceedings taken under sections of the CJPOA were *adjourned or otherwise disposed of*. The figures for the various sections were as follows: section 5 – 11 per cent; section 4 – 12 per cent; section 8 – 13 per cent; section 6 – 14 per cent, section 11 and category of 'other' – 17 per cent; section 21 – 30 per cent; and section 22 – 27 per cent.

Figure 2 Total proceedings taken in public order offences 1988 to 2001



[Source: Commissioner's Report]

Overall trend in public order offences 1988 to 2001

Increases in the number of proceedings taken for offences of drunkenness and public disorder were evident from 1988 onwards. In the six years prior to the introduction of the CJPOA an increase of 45 per cent in proceedings taken was recorded. Following the introduction of the Act the number of proceedings taken for public order offences continued to increase. Between 1996 and 2001 the number of proceedings taken under the CJPOA increased by 161 per cent. This trend is shown clearly in **figure 2**.

Increases recorded prior to the introduction of the Act indicate some 'real' changes in the volume of persons tried for public order offences. The significant increase recorded in the years since the introduction of the legislation, however, partly reflects the increased Garda attention given to policing and prosecuting public order offences.

Garda Juvenile Diversion Programme: CJPOA referrals 1994 to 2001

The analysis of the Commissioner's Report presented thus far is based on the number of public order cases where criminal proceedings were taken. In addition the Report presents a limited amount of information relating to offenders who are cautioned and referred to the Garda Juvenile Diversion Programme as an alternative to prosecution.

Prior to 1994 no breakdown was provided of such referrals by offence type. This means that it is not possible to examine the period 1988 to 2001 in order to ascertain the impact over time of the CJPOA. Furthermore, the grouping of public order offences involving juveniles in the Commissioner's Report does not contain *all* CJPOA offences. The figures relating to public intoxication, assault on a Garda/Peace Officer, and trespass/found on enclosed premises are not included¹². Furthermore, the categories of juvenile offending shown in the Commissioner's Report are not mapped onto specific sections of the Act. This means that the following analysis is, of necessity, somewhat approximate.

Table 3 is an attempt to draw together all of the data relating to CJPOA offences, as far as can be ascertained from the figures presented in the Commissioner's Report. The trend is clear: *both* the number of CJPOA offences *and* the percentage of all juvenile referrals that relate to public order matters have increased substantially. The magnitude of the overall increase between 1996 and 2001 was 162 per cent. This is almost identical to the increase in proceedings taken against offenders of all ages – 161 per cent – as shown above in **table 2**.

Two thirds of juvenile referrals in 2001 were for intoxication in a public place or threatening behaviour. These are also the primary offence categories where proceedings are taken, in which case they accounted for three quarters of the total in 2001. The most striking change is in the number of referrals for public drunkenness, which increased seven-fold between 1996 and 2001. The qualification pertaining to increased Garda activity made at the close of the preceding section also applies to the trends noted here.

¹² See for example pp 111 and 112 of Commissioner's Report for 2001.

Table 3 CJPOA referrals to Garda Juvenile Diversion Programme

	1994	1995	1996	1997	1998	1999	2000	2001
Intoxication in public place (section 4)	22	59	207	550	630	760	976	1,418
Disorderly conduct in public (section 5)	68	132	133	164	75	84	114	198
Threatening behaviour (section 6)	89	250	400	646	553	569	597	887
Failure to comply with Garda direction (section 8)	52	94	160	226	285	329	246	260
Wilful obstruction (section 9)	7	15	6	5	6	13	2	6
Riot (section 14)	0	0	0	11	0	2	2	2
Violent disorder (section 15)	5	4	7	11	12	9	6	17
Affray (section 16)	5	0	5	5	0	0	4	1
Assault garda/peace officer (section 19)	37	34	38	18	13	19	10	48
Trespass/enter building/found on enclosed premises (sections 13 and 11)	109	264	387	56	503	529	469	527
Other	0	9	5	34	29	28	12	171
Total CJPOA referrals	394	861	1,348	1,726	2,106	2,342	2,438	3,535
% annual change		+118	+57	+28	+22	+11	+4	+45
Total Juvenile Referrals	14,720	13,487	14,285	15,075	15,005	14,948	14,488	19,080
CJPOA referrals as % of total referrals	3	6	9	11	14	16	17	19

[Source: Commissioner's Report]



Chapter Three

THE NATURE OF PUBLIC ORDER INCIDENTS



Chapter Three

THE NATURE OF PUBLIC ORDER INCIDENTS

The previous chapter outlined the pattern of public order offending in Ireland over the period 1988 to 2001. It is evident from the overview presented there that the Commissioner's Report does not provide sufficiently detailed information within individual offence categories. For example, a charge of 'intoxication in a public place' or 'threatening or abusive behaviour' gives no details of the incident, where and when it took place, or the context in which it occurred. To address this deficit, other sources of information had to be unearthed. Two such sources were utilised: observations and interviews with Gardaí from two research sites ('Liffeside' and 'Parkway'); and records from An Garda Síochána's PULSE system (Police Using Leading Systems Effectively).

Observations and interviews with An Garda Síochána

An observational component was incorporated into the project. Gardaí were observed managing public order incidents at both of the research sites and a series of interviews was carried out (see pp. 31-32).

The research sites

'Liffeside' (the city centre site) covered a small geographical area comprising an active entertainment zone, locations of cultural and historical importance and a number of residential communities. This diversity contributed to the number of specialist units and policing strategies deployed there. In contrast, 'Parkway' covered a large geographical area with a predominantly residential population. A smaller number of specialist policing units worked out of the station there.

Public order incidents observed between October 2001 and March 2002

A field situation involving Garda action was classified as an 'incident' if one of the following conditions was met: it was brought to the officers' attention by the Garda radio system or by a citizen on the street; a complaint was made to the Garda station; the officer noticed a situation and decided it required attention. A small number of incidents involved cases observed by the Gardaí but in respect of which a decision was made not to act.

When considering the data analysis a number of points should be borne in mind. First and foremost, the possibility that the presence of the researchers may have coloured the ways in which the incident unfolded should not be discounted. Similarly, it should not be forgotten that the tone, rather than the content, of what was said often determined the course of an incident. Moreover, it will become clear to the reader that additional background factors affecting the perception of an incident included the lateness of the hour, the volume of people present, fears of escalation and the known 'reputation' of persons at the scene.

Table 4 Public order incidents observed October 2001 to March 2002

Incident	Total	'Liffeside'	'Parkway'
Nuisance behaviour	66	43	23
Row or disturbance	39	38	1
Loitering	23	1	22
Assault	24	22	2
Confiscating alcohol	25	1	24
Total	177	105	72

[Source: Observation data]

A total of 447 incidents were witnessed during the six months of fieldwork. As **table 4** shows, of these 177 (40 per cent) fitted the definition of public order incidents as outlined in Chapter 1. Viewed through the lens of the CJPOA, the subgroups devised by the researchers can be matched with the sections of that Act as follows: nuisance behaviour broadly equated with section 4 (intoxication in a public place); row or disturbance with sections 5 (disorderly conduct) or 6 (threatening, abusive, or insulting behaviour); loitering with section 8 (failure to comply with direction of a member of An Garda Síochána) and the confiscation of alcohol falls within section 22 (surrender and seizure of alcohol).

The category of assault presents special difficulties. Although section 18 of the CJPOA covers assault with intent to cause bodily harm, no offence has ever been proceeded with under this section; assaults are typically dealt with under the Non-fatal Offences against the Person Act, 1997.

Table 4 illustrates the nature of the public order incidents observed at the two research sites. Nuisance behaviour was the largest category of public order incidents observed, accounting for 66 of the 177 incidents (37 per cent). Incidents involving rows or disturbances comprised the second largest category (22 per cent) and assaults and incidents involving the confiscation of alcohol comprised 14 per cent each. Incidents involving loitering comprised 13 per cent of all public order incidents observed.

Incidents involving nuisance behaviour

Of the 66 incidents falling under this heading, 43 took place in 'Liffeside' and 23 in 'Parkway'. The range of behaviour involved people lying or sitting on the street or road in a drunken stupor; people walking out in front of traffic or staggering in the road (usually drunkenly); and people urinating in the street. The researchers also observed cases of groups making too much noise, kicking rubbish in the street, people walking around with bin lids on their arms or placing bricks on window sills. At the other end of the scale, nuisance behaviour involved a number of more

serious incidents: viz; a robbery in the street (albeit involving foodstuff), two incidents of criminal damage and one where an extremely drunk young man jumped into the river Liffey. The types of nuisance behaviour observed at 'Liffeside' and 'Parkway' were broadly similar: the release of fireworks, public urination, revelry outside pubs. Differences in the age range of those involved in incidents observed at the two sites was striking: 11 incidents of nuisance behaviour in 'Parkway' involving people aged under 18 years as compared to one in 'Liffeside'.

Incidents involving rows or disturbances

In terms of seriousness this category could be ranked above nuisance behaviour. In most cases it involved incidents of verbal abuse and fighting. Only one such incident was recorded at 'Parkway'. Of the 39 incidents in total, 14 involved people fighting. The majority involved people arguing or being verbally abusive to one another with a palpable risk of escalation into violence. In these cases the Gardaí were either called to the scene or were already in the vicinity and decided to intervene. In 15 of them the people involved had left the scene by the time the Gardaí arrived or other Garda units were already present and dealing with the situation.

Incidents in this category encompassed the following typical situations: arguments with security personnel outside pubs or nightclubs; disputes in shops; arguments between partners; people (usually men) fighting. It should be noted that the social meaning of these incidents was often ambiguous as the participants sometimes claimed to be 'just messing around' when the Gardaí arrived.

Incidents involving assaults

A total of 24 assaults were responded to by Garda units accompanied by the researchers: 22 at 'Liffeside' and two at 'Parkway'. At the latter location there was no evidence on arrival that any assault had occurred. In four of the incidents responded to in 'Liffeside', there was nothing in progress when the Gardaí arrived. In a further five cases other units were already dealing with the incident at the time of arrival.

In three relatively serious cases (including a stabbing and an incident that left a man unconscious) the victim did not wish either to press charges or follow up the incident. In a fourth the protagonists informed the Gardaí that nothing had happened and that they were friends. One incident involved a group of young men who were refused entry to a nightclub, and then proceeded to throw things at the premises with one of them headbutting the glass doors. A second allegation of assault was linked to this incident when a man claimed that one of the door staff had cut his arm by pushing him aside and onto broken glass.

Our earlier point about the social meaning of public order incidents also applies here: in one incident a man accused by another of sexually touching him in a crowded place denied the accusation completely.

As **table 4** shows, the paucity of assault incidents in 'Parkway' was offset by the predominance of loitering behaviour at that site.

Incidents involving loitering

Incidents were categorised as loitering by the researchers when the main reason for the intervention of the Gardaí was to disperse people who had gathered in groups. In total 23 of the 177 public order incidents observed fell into this category, 22 of them occurring in 'Parkway'. This was consistent with the pattern of policing in 'Parkway' which typically involved vehicle patrols as a way of monitoring young people. As a practical matter, this strategy involved 'swoops' on green areas, parks and other public places where young people tended to foregather. It also had a 'cat and mouse' dimension, with groups of young people anticipating Garda action in a particular area but moving on before effective Garda intervention was possible. Sometimes groups of young people stood their ground – at Halloween for example – emboldened by older and larger crowds or the excitement of a bonfire.

Incidents involving the confiscation of alcohol

Garda intervention in incidents of this type was normally triggered by a search for alcohol. This type of incident was also prominent in 'Parkway': 24 of the 25 incidents were recorded there. Confiscation typically occurred at bus stops, outside pubs, on the street or in local parks. The confiscation of alcohol, like the moving on of groups of youths, was a key component of policing in 'Parkway'. This was partly in response to residents' concern over these issues in their area. Only one such incident was observed in 'Liffeside'.

Conclusion

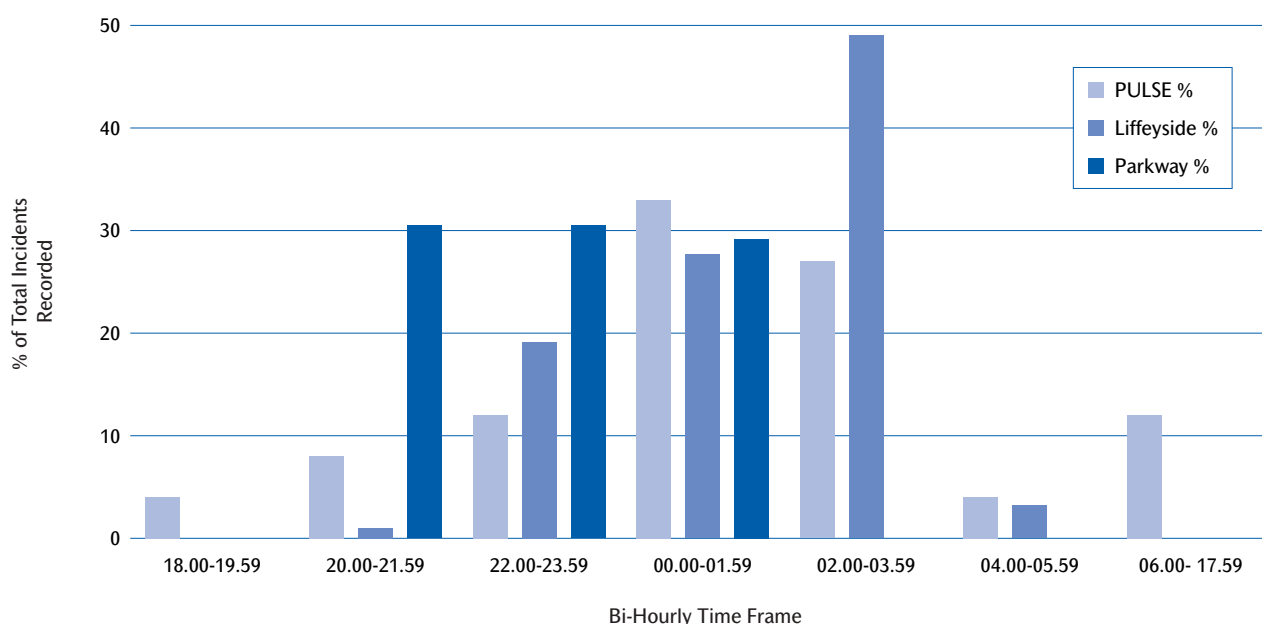
The majority of public order incidents observed were of a minor nature, encompassing intoxication and the type of behaviour that accompanies it, such as staggering around or behaving in an inconsiderate manner (for example, not being aware of traffic, urinating on the street).

Evidence of mild forms of disorderly conduct or threatening or abusive behaviour was also observed and typically involved arguments and disputes. Only a small proportion of the incidents observed were originally reported as involving violence (n=23) and the actual use of violence could only be confirmed in a fraction of these (n=6). In some of the loitering incidents in 'Parkway', no disruptive behaviour had taken place but groups of young people were dispersed as a 'preventative' measure.

Three key situational dimensions of public order incidents were singled out by the researchers for examination: respectively, time, day and place of occurrence.

Time

Figure 3 Time of incident as recorded in Observation and PULSE data October 2001 to March 2002



[Source: PULSE and Observation data]

The data for 'time of incident' given in **figure 3** are derived from all recorded public order incidents in PULSE and 94 per cent of the research observation sample. In the remaining incidents this information was missing. The majority of public order incidents took place between the hours of 24.00 and 04.00. According to PULSE 32 per cent of such incidents occurred between midnight and 02.00 and 27 per cent between the hours of 02.00 and 04.00.

A further 12 per cent were recorded as occurring between the hours of 22.00 and midnight. Broadly similar findings were reflected in the observational data: 28 per cent of all public order incidents were recorded between midnight and 02.00; 30 per cent between 02.00 and 04.00; and 24 per cent between 22.00 and midnight.

These findings reflect the increased policing that occurs between these hours during nocturnal operations such as Oíche and Encounter. Operation Oíche was introduced in Dublin in October, 2000, aimed at providing an enforcement response that would produce a more broadly-based approach to the issues of public disorder, intoxication and underage drinking. In March, 2002 a second initiative, Operation Encounter, was introduced by An Garda Síochána, with the aim of extending Operation Oíche nationwide. Operation Encounter was to involve closer liaison with the owners of nightclubs, pubs and fast food outlets.

Some differences emerged between the two research sites. These can be summarised as follows: 61 per cent of all public order incidents in 'Parkway' were recorded between the hours of 20.00 and midnight; 29 per cent were recorded between midnight and 02.00; whereas in 'Liffeside' the pattern was 20 per cent between 20.00 and midnight; 28 per cent between midnight and 02.00; and 49 per cent between the hours of 02.00 and 04.00.

Once again these variations largely reflect differences already described in this chapter in the composition of the areas being policed. In particular, it should be noted that the main focus of policing in 'Parkway' was on gatherings of youths and underage group-drinking in open spaces in the relatively early evening. In contrast, 'Liffeside' focused on the entertainment areas within the city centre where trouble was a notable feature of closing time in places of entertainment and recreation.

Day

Table 5 Number of public order offences recorded by day of the week October 2001 to March 2002

Time	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Total	%
00.00-01.59	546	273	213	322	485	1,007	1,212	4,058	32
02.00-03.59	318	138	99	190	347	938	1,391	3,421	27
04.00-05.59	46	34	20	35	56	137	201	529	4
06.00-07.59	10	11	3	9	13	23	19	88	1
08.00-09.59	15	9	11	11	13	12	15	86	1
10.00-11.59	33	33	35	34	53	60	41	289	2
12.00-13.59	37	38	38	35	54	48	38	288	2
14.00-15.59	43	35	41	45	52	69	44	329	3
16.00-17.59	64	50	75	72	72	77	67	477	4
18.00-19.59	67	52	72	70	79	89	94	523	4
20.00-21.59	108	88	120	120	193	174	158	961	8
22.00-23.59	122	85	132	170	401	366	266	1,542	12
Total	1,409	846	859	1,113	1,818	3,000	3,546	12,591	100

[Source: PULSE]

The early hours of Saturday and Sunday mornings, from midnight to 04.00, saw the highest concentration of public order incidents: in the PULSE sample 36 per cent fell into this category (4,548). Overall, of all the public order offences recorded during the six month period, 24 per cent took place between 22.00 on Saturday night and 04.00 on Sunday (2,969). In total 55 per cent of public order offences took place between Friday night and Monday morning during the hours of 20.00 and 04.00 (6,970). This pattern is shown in **table 5**.

Location

Table 6 Location of incidents observed October 2001 to March 2002

Location	'Liffeside'	%	'Parkway'	%
On the street	52	49	34	47
Outside licensed premises	22	21	2	3
On licensed premises	20	19	3	4
Greens/parks/play areas	0	0	14	19
Late night shop/garage	3	3	1	1
Fast food/take-away	2	2	3	4
Industrial estate	0	0	2	3
School grounds	0	0	1	1
Small cluster of shops	0	0	3	4
Motorway	0	0	1	1
Missing	6	6	8	12
Total	105	100	72	99¹³

[Source: Observation data]

At both research sites the largest proportion of incidents occurred 'on the street': 52 of 105 in 'Liffeside' and 34 of 72 in 'Parkway'. The nature of the built environment in the two places differed however. In 'Parkway' the relevant context included housing estates and residential areas, whereas in 'Liffeside' it was typically a busy mix of closed retail outlets, late night shops, licensed premises and nightclubs, as well as small residential developments. A further 14 incidents in 'Parkway' were recorded as taking place in parks or green spaces.

In 'Liffeside', 22 of the 105 incidents were identified as taking place *outside* licensed premises. A further 20 occurred *on* licensed premises. An incident was categorised as taking place on a licensed premises when this was the location identified either in the radio call to Gardaí or by people present at the scene. Very few incidents took place near or on licensed premises in 'Parkway'.

Only a very small number of incidents were recorded as occurring near fast food outlets or take-aways at either site (see **table 6** above). This was also the case in respect of incidents recorded as occurring near late night shops or garages.

¹³ Column totals in tables do not always add up to 100, owing to rounding.

Table 7 Location of public order incidents as recorded by PULSE October 2001 to March 2002

Location	PULSE	%
Street	7,618	61
Road	3,987	32
Car park	417	3
Square	184	2
Park	110	1
Rail station	88	1
Footway/footpath	77	1
Fast food outlet/take-away	36	0.3
Bus station	28	0.2
School grounds	21	0.2
College	14	0.1
Town centre	6	0.05
DART line	5	0.04
Total	12,591	102

[Source: PULSE]

Although it was originally assumed by the researchers that PULSE would be the best source of information on the question of location, the system lacked precision and focus. PULSE records 13 categories of scene of incident – bus station, car park, college, DART line, fast food outlet/take away, footway/footpath, park, rail station, road, school grounds, square, street and town centre. **Table 7** shows that the location for the great majority of public order incidents recorded on PULSE was either ‘on the street’ or ‘on the road’.

When combined these locations accounted for 93 per cent of all recorded public order incidents. Car parks accounted for an additional three per cent and squares for two per cent of the total. Parks, rail stations and footpaths each accounted for one per cent of the total. Fast food outlets/take-aways, bus stations, colleges, town centres and DART lines each accounted for less than half of one per cent of all incidents.

The lopsidedness of this distribution suggests that the PULSE categorisation scheme needs to be revisited. In particular, the ‘street’/‘road’ categories need to be further broken down; particular attention might usefully be given to the proximity of incidents to licensed premises and fast food outlets. As matters stand, the aggregate data are of little value for research purposes.

Location of public order offences by main prosecuting Dublin City Centre Garda stations

More detailed information regarding the location of public order offences was obtained from court statistics. These show that between January 2000 and March 2002 (26 months) 10,388 incidents were prosecuted under sections 4, 5, 6 and 8 of the CJPOA by the five main Garda stations in Dublin city centre – Fitzgibbon Street, Harcourt Terrace, Kevin Street, Pearse Street and Store Street. This information allowed the researchers to identify the precise streets on which the sample of incidents took place.

These streets were grouped in terms of the number of incidents that occurred over the 26 month period. 'High spots' were streets where 100 or more incidents were recorded during this period; 'medium spots' were those where between 50 and 99 incidents were recorded; and 'low spots' those where between 10 and 49 incidents were recorded. Streets recording 10 or fewer incidents were excluded from the analysis as they displayed no discernible pattern. The incidents contained within this last category comprised 14 per cent (1,419) of incidents prosecuted by the five Garda stations.

Table 8 *Location of public order offences by main prosecuting Dublin City Centre Garda stations January 2000 to March 2002*

High Spots	No. offences	%	Medium Spots	No. offences	%
O'Connell Street	1,591	27	Earl Street North	93	6
Parnell Street	477	8	Findlater Place	90	6
Grafton Street	338	6	Henry Street	85	6
Abbey Street	327	6	Leeson Street	81	6
Temple Bar	321	6	Amiens Street	81	6
Dame Street	287	5	Eustace Street	77	5
Fleet Street	273	5	Gardiner Street	75	5
Marlborough Street	264	5	Aston Quay	74	5
Store Street	255	4	Crown Alley	73	5
Harcourt Street	249	4	Camden Street	71	5
Westmoreland Street	223	4	Anglesea Street	70	5
Pearse Street	208	4	Eden Quay	66	5
Saint Stephen's Green	207	4	Nassau Street	65	4
Talbot Street	206	4	Great George's Street South	62	4
Bachelor's Walk	194	3	Ormond Quay	63	4
Cathal Brugha Street	188	3	D'Olier Street	60	4
Essex Street East	146	2	College Street	56	4
Parliament Street	105	2	Townsend Street	55	4
			College Green	54	4
			Marlborough Place	50	3
			Cope Street	50	3
Total	5,859	102		1,451	99

[Source: Courts Service]

Table 8 lists the streets that were identified as ‘high’ and ‘medium’ spots for public order offending. Of the 10,388 public order incidents prosecuted, 56 per cent (5,859) were concentrated on 18 streets within the city centre area. Of these 5,859 offences, 27 per cent took place on O’Connell Street. ‘Medium’ spots comprised a further 14 per cent (1,451) of the total and occurred across 21 streets within the area. The third category of ‘low spots’ accounted for 1,659 offences spread across 84 streets. Most of the ‘low spot’ streets were side streets leading off the major thoroughfares.

As can be seen from the map (see Appendix) ‘high spots’ typically included the main entertainment areas and thoroughfares of the city centre. The second category – ‘medium spot’ locations – comprised streets leading away from the city centre; in the nature of things, people tended to move along these streets rather than congregate on them.

As previously observed, the figures used in this analysis refer to incidents that were prosecuted by the Gardaí. Consequently they may tell us more about patterns of policing than the underlying level of public disorder. It is also possible that they contain a disproportionate number of ‘serious’ offences and so may be unrepresentative of public order offences as a whole.

The finding that patterns of disorder ripple out from the city centre replicates the results of other city centre studies. Bromley and Nelson (2002) maintain that a proper understanding of spatial and temporal patterns of alcohol-related crime and disorder is crucial to the development of appropriate policing strategies, as well as urban design and planning policies. This claim would appear to be supported by the findings obtained at ‘Parkway’, where, as we have seen, the pattern of public disorder differed from that at ‘Liffeside’.

Garda Síochána PULSE data

PULSE involved the development of a Garda Central Records System to replace the existing Garda Mainframe System. The idea was to link all Garda stations in the Dublin Metropolitan Area (DMA) and Divisional and District headquarters outside the DMA through a series of computer networks. PULSE became fully operational in 2000 in respect of the recording of information on indictable offences. The system was extended to non-indictable offences in October, 2001. Data may be recorded in any station in the country and accessed nationally.

Component parts of the system introduced to date include the provision of information on incident response reports, interim court outcomes, firearms, general inquiries, photographs, property and incident analysis. Additional components include information on warrants, summonses, bail, charge sheets, final court outcomes, driving licences, the electoral register, barring and safety orders, traffic accident analysis and letters to victims of crime. These systems went live during 2001 and, according to the Commissioner’s Report, 73 per cent of PULSE ‘functionality’ had been achieved by the end of that year.

An Garda Síochána provided the researchers with data recorded on PULSE for the six month period, October, 2001 to March, 2002. From October, 2001, all non-headline incidents dealt with by the Gardaí were to have been entered into the computerised system. The information recorded on PULSE includes incident type and category, date and time of occurrence, data on contributory factors, and a narrative account of the event.

It was anticipated that the researchers would be given access to all of this information. Because of the issues of confidentiality mentioned in Chapter One, the Garda authorities took the view that this would not be possible. In the result, the narrative element of the PULSE system – the data source identified as most likely to yield detailed information on the nature of public order incidents – could not be accessed.

Data were obtained from PULSE on three offence categories: affray/riot/unlawful assembly, drunkenness and public order, respectively. Between October, 2001 and March, 2002, a total of 12,591 such offences were recorded. Incidents recorded as 'public order' comprised the largest category of offences within this total, 64 per cent (n=8,037), with offences of public drunkenness contributing 36 per cent (n=4,540) and affray/riot/unlawful assembly representing less than one per cent (n=14). No breakdown of the offences within the categories of 'public order' or 'drunkenness' was recorded.

The PULSE system also had a facility for recording information on whether the Gardaí believed that the offender had consumed drugs or alcohol. In a large number of cases no such information was recorded (66 per cent, 8,352). In the 4,239 cases where this information was recorded, either the witness believed the offender consumed alcohol (61), the offender admitted to consuming alcohol (487) or the Gardaí believed alcohol had been consumed (3,579). In the remaining 112 cases, alcohol was not believed to be involved. Thus, in 97 per cent of the cases where information of this kind was recorded, alcohol was identified as a contributory factor in the offence.

The vast bulk of PULSE incidents came to the attention of the Gardaí as a result of the activity of the 'uniform mobile patrol' (63 per cent, 7,990) or the 'uniform foot patrol' (22 per cent). Community police personnel detected a total of five per cent of the incidents. Of the remaining 10 per cent, four per cent were 'not detected' and six per cent were detected by a variety of different units and patrols. As it was not possible to disaggregate the information provided under the headings of public order and drunkenness, the researchers were not in a position to probe the degrees of seriousness within these categories.

Public expectations of the system notwithstanding, the paucity of recorded information on public order offences remains striking and has not been significantly improved by the introduction of PULSE (see discussion at p.33). The continuing information deficit makes it difficult to provide a comprehensive picture of the public order problem.

Chapter Four

CRIMINAL JUSTICE RESPONSES TO
PUBLIC ORDER OFFENCES



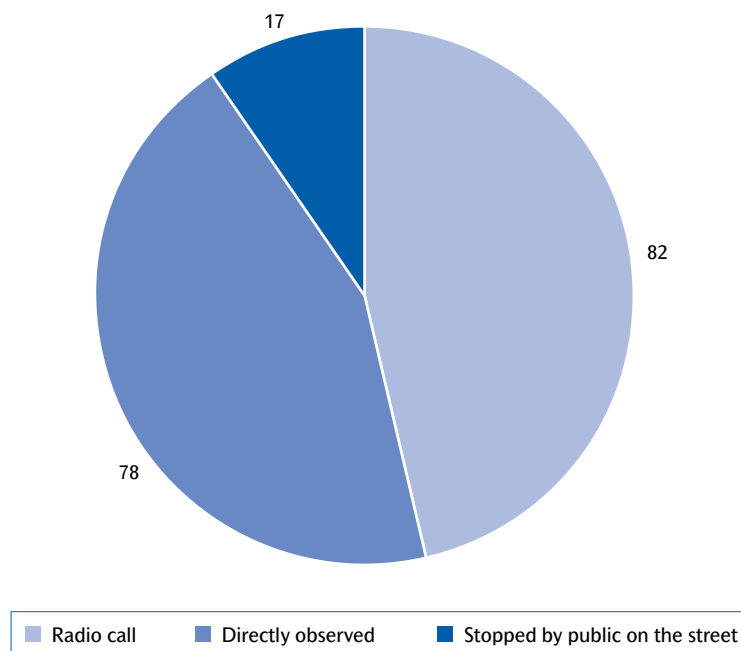
Chapter Four

CRIMINAL JUSTICE RESPONSES TO PUBLIC ORDER OFFENCES

The criminal justice system may be described as a mansion of many rooms and the police as its 'gate-keepers'. They represent the first point of contact with the system. By parity of reasoning, lack of contact with the Gardaí usually betokens lack of involvement with other parts of the system. This chapter examines how the Gardaí have discharged their 'gate-keeping' role in the context of public order offending. It also draws attention to Garda perceptions of the performance of other actors in the criminal justice system and an attempt is made to assess the impact of these perceptions on the policing of public disorder.

How public order incidents come to the attention of An Garda Síochána

Figure 4 Discovery of incidents observed at both sites



[Source: Observation data]

The way in which offences come to the attention of the police varies according to their nature. **Figure 4** illustrates the main ways public order incidents came to the attention of the Gardaí during the observation period. In 46 per cent of cases, the Gardaí were notified by radio that an incident was in progress or had been reported. In a further 44 per cent of cases, the Gardaí observed the incident while out on routine patrol. In the remaining 10 per cent, members of the public brought the incident to the attention of the Gardaí. These results suggest that many recorded public order offences were in progress when the Gardaí arrived at the scene. To that extent, public order offences are atypical, as generally speaking offences are made known to the Gardaí by the victim after the event.

Several differences were observed in the ways incidents came to the attention of the Gardaí at the two research sites. More incidents were directly observed in 'Parkway': 60 per cent compared to 33 per cent at 'Liffeside'. A higher number of radio calls were observed in 'Liffeside': 51 per cent compared to 39 per cent at 'Parkway'. Public complaints to the Gardaí were a more common occurrence in 'Liffeside': 15 per cent compared to one per cent at 'Parkway'. Of the directly observed incidents, four per cent of those in 'Parkway' resulted from pre-planned checks of areas.

These variations reflected differences in the areas being policed. There were more people on the streets in 'Liffeside', whereas the physical geography of 'Parkway', together with its more scattered population, necessitated a greater emphasis on pre-planned checks.

The bulk of incidents responded to by the Gardaí were extremely short-lived: many lasted no more than two or three minutes. Quite often the Gardaí would arrive at a scene with minimal details regarding the situation. It was common for units to be asked to respond to 'disorder', 'disturbances' or 'fights' with no other information being provided. Although the Gardaí often had a general idea what to expect, in many cases they entered a situation without knowing how many people were involved or what exactly was going on. This meant their decisions had to be made on the spot. The speed with which public order incidents occurred and were dealt with was perhaps their most notable feature.

The use of Garda Closed Circuit Television (CCTV) in relation to public order incidents

In October 1995, the Temple Bar area of Dublin was chosen for a pilot project on crime prevention and detection using CCTV. Cameras were installed and monitored by Pearse Street Garda Station 24 hours a day, seven days a week. The number of streets monitored has increased since 1995 and now includes the Grafton Street and Dame Street areas. In 1997 a separate CCTV system was installed in the greater O'Connell Street area. These two locations are the principal CCTV sites in Dublin.

The O'Connell Street system is virtually a dedicated facility; while the Pearse Street one is situated in a busy city centre station. In addition to their monitoring function, the Pearse Street operators discharged the following duties: answered telephone calls to the local station number; managed and allocated all Command and Control calls (999 calls); co-ordinated Gardaí on the beat; and answered queries from them (such as checking vehicle registration numbers). The difficulties associated with multi-tasking were exacerbated during the busy night-time hours. Moreover, poor radio signals between the station and members on the beat often made communication difficult. Some Gardaí were of the view that this diversification diluted the effectiveness of camera use in this station.

In contrast, the 'dedicated' CCTV office in O'Connell Street allowed the Gardaí there to focus all their attention on building-up knowledge of their area and developing a finely-tuned appreciation of signs of potential disorder. In addition, some of the Gardaí had been working in the office since its establishment and had accordingly acquired considerable expertise in the use of the system, including an appreciation of its limitations.

The 'dedicated' nature of the office meant that Gardaí were in a position to pass on their technological expertise to colleagues – for example, when demonstrating how to use the cameras effectively to follow the movement of suspects through the streets. Indeed this feature of the operation was identified by the Gardaí themselves as a key element in the successful deployment of CCTV.

Public order incidents can be difficult to 'read' from a policing point of view. By the time the Gardaí arrive at the scene, it is often difficult to establish exactly what has taken place. This difficulty is compounded where the individuals involved claim that the other person was responsible. The recording of an incident on CCTV can help to resolve these difficulties. Moreover, when an incident has been monitored from the beginning, i.e. before the Gardaí arrive, the chain of events at its heart can be readily discerned.

CCTV footage has occasionally been used in the prosecution of public order offences. There is evidence that the existence of such footage can prompt a guilty plea.

Resolution of public order incidents

One hundred and seventy seven public order incidents were observed between October, 2001 and March, 2002. Of these, 105 were observed at 'Liffeside' and 72 at 'Parkway'. Each incident was analysed in terms of the initial Garda response and final resolution. Responses fell into six main categories as outlined in **table 9**.

Table 9 Responses to public order incidents encountered

Incident response	Total	%	'Liffeside'	%	'Parkway'	%
Gone on arrival	20	11	8	8	12	17
Unsubstantiated calls	12	7	9	9	3	4
Dealt with by another unit	10	6	8	8	2	3
No action required	10	6	6	6	4	6
Formal	51	29	30	29	21	29
Informal	71	40	43	41	28	39
Missing	3	2	1	1	2	3
Total	177	101	105	102	72	101

[Source: Observation data]

The classification presented in **table 9** is deserving of comment. ‘Gone on arrival’ refers to calls where no evidence of the incident was apparent on arrival at the scene: this response was recorded in 20 of the cases observed. ‘Unsubstantiated calls’ were those where inaccurate details rendered the information of dubious value and the Gardaí decided no response was possible. Such calls accounted for 12 of the incidents. In a further 10 cases, another unit had already arrived at the scene and was dealing with the situation. This meant that the unit accompanied by the researchers departed without knowing the final outcome. Incidents where ‘no action’ was required cover cases where the Gardaí deemed that a response would be inappropriate following an appraisal of the scene. There were 10 such incidents observed. In the remaining 122 incidents a response was required by the Gardaí. In these cases the resolution was either ‘formal’ or ‘informal’.

Use of informal resolution methods

Table 10 *Informal resolution methods employed by the Gardaí*

Informal resolution	Total	%	‘Liffeside’	%	‘Parkway’	%
Asked to move on or desist	30	42	13	30	17	61
Intervention by Garda	27	38	22	51	5	18
Cautioned	6	8	3	7	3	11
Garda arrival resolved situation	5	7	3	7	2	7
Held at scene	2	3	2	5	0	0
Searched	1	1	0	0	1	4
Total	71	99	43	100	28	100

[Source: Observation data]

Of the 122 incidents requiring action, 71 (58 per cent) were resolved using what we describe as ‘informal’ methods. By this we mean action that did not involve any official record-taking on the part of the Gardaí in relation to the incident. A one-off request for people to move on or stop what they were doing was employed in 30 of the incidents encountered. In 27 of the incidents, further intervention was required before matters were resolved. This response most often took the form of the Gardaí spending a few minutes talking with the individuals concerned, calming them down or explaining the consequences of non-cooperation to them.

Although six people were informally cautioned (i.e. given a verbal warning), in two such cases the caution followed what the Gardaí deemed to be an inappropriate response to their initial intervention. For example, when a man urinating in public made a sarcastic remark to a Garda who had reprimanded him, he was given a warning that a repetition of his behaviour could lead to a criminal charge.

The mere arrival of the Gardaí at the scene sometimes resolved the situation. Five such cases were observed. These tended to be minor incidents such as urinating in public or other nuisance behaviours.

Two 'held at scene' incidents were observed by the researchers; in both the period of 'detention' was a matter of minutes. The object of the exercise in both cases was to calm things down without the need for further action.

On only one occasion was the search option utilised. There the target was a group of youths in 'Parkway'. A bottle of pills was confiscated and the two youths searched were cautioned informally under section 8 of the CJPOA.

The use of formal resolution methods

Table 11 Formal resolution methods employed by the Gardaí

Formal resolution	Total	%	'Liffeside'	%	'Parkway'	%
Details taken	25	49	20	67	5	24
Arrested	12	24	8	27	4	19
Alcohol confiscated	11	22	1	3	10	48
Section 8 caution	2	4	0	0	2	10
Wait for emergency services	1	2	1	3	0	0
Total	51	101	30	100	21	101

[Source: Observation data]

Formal resolution methods have been defined as prescribed official courses of action taken by the Gardaí. Such methods were used in 51 of the public order incidents observed. The results of our observations are set out in **table 11**. Personal details of the protagonists were taken in 25 of the 51 incidents. This strategy was most commonly employed when dealing with incidents involving alleged assaults, fights and disturbances. As many of these cases were characterised by mutual accusation on the part of the participants, the element of even-handedness that accompanied the taking of details both defused the situation and allowed the Gardaí to follow up the incident later in the event that one of the parties wished to press charges. This approach also left the Gardaí with the option of issuing a summons. However, owing to the lack of a clearly identifiable victim and/or perpetrator there was no follow up in the majority of incidents observed.

Arrest was the formal response in 12 of the incidents observed. Eight of the arrests occurred at 'Liffeside' and four at 'Parkway'. All but two resulted in persons being charged. All of the arrests at 'Liffeside' arose from incidents involving assaults, disturbances or fights. At 'Parkway', two

arrests were made in connection with large bonfire gatherings following threatening and intimidating behaviour on the part of a crowd; a third involved a disturbance at a licensed premises; and a fourth concerned a man who had been stopped for loitering under section 8 of the CJPOA and found to be in possession of cannabis.

Confiscation of alcohol was the third most common formal resolution employed by the Gardaí. This strategy was almost exclusively observed at 'Parkway'. Only one example of it occurred at 'Liffeside'. Although section 8 of the CJPOA was often used *informally*, in particular at 'Parkway' when moving people along, only two incidents involved the *formal* citation as required by the Act.


Interactions between the public and the Gardaí

As previously, this section is based on over 200 hours of participant observation at the two research sites. It draws on the researchers' observation notes compiled while accompanying the Gardaí. These notes took the form of a contemporaneous record of when and where the incident took place; the number of people involved in it; and the language, tone and attitude of the participants. Many of the observations made in the field were substantiated in wide-ranging interviews conducted later with the Gardaí. These are also drawn on below.

A great deal of policing is dangerous, 'dirty work'. In the nature of things, policing includes getting people to do what they do not want to do, and making them desist from doing what they may wish to do. Moreover, it is widely acknowledged that the normal difficulties associated with policing are apt to be exacerbated by poor community-police relations. As O'Mahony has recently observed, urban policing in Ireland is characterised by 'mutually hostile and suspicious attitudes between the police and large sectors of the population' (2002, p. 427).

The attitudes held by the Gardaí who participated in this study were in part conditioned by the area in which they worked. 'Parkway' had an established, negative history. It had been the site of considerable difficulties in previous years and this legacy continued to inform Garda perceptions of the area and the people they policed. Broadly speaking, long-serving Gardaí at the station were of the view that 'things had quietened down considerably' in recent times; whereas other officers felt there had been no significant improvement.

By contrast, police attitudes to their 'charges' were more sanguine in 'Liffeside'. The reason for this is difficult to pin down. Arguably, anonymity is a factor. In a settled community, trouble has an identifiable 'human face', whereas this element is missing in areas with large, transient populations. In the former, trouble registers as a permanent feature of the social landscape; in the latter, it seems more like a 'passing storm'. Thus, people frequenting the city centre tended to be perceived as 'young adults with money in their wallets out for a good time'. In short, they were more likely to be seen as 'respectable' and treated accordingly.



These perceptions in turn influenced the Garda approach to policing. Research suggests that the police develop mental 'maps' of environments and the people within them and that these maps are used to make complex social reality understandable and manageable within the parameters of 'normal' policing. The content of these 'maps' affect how, when and why the police interact with citizens. In particular, it has been argued that the level of aggression used by police officers when patrolling a neighbourhood is in part determined by the content of these mental 'maps'.

For example, because of their negative assessment of the area, Gardaí in 'Parkway' tended to adopt a more confrontational approach to policing than their colleagues at 'Liffeside'. The researchers observed numerous manifestations of this more aggressive style. Perhaps its most frequent manifestation was the belligerent manner in which the Gardaí moved people on. Another was the strong language frequently used by the Gardaí in a public order context: the most common exhortation being – 'f*** off home, now'. The Gardaí were rarely heard to use such language in 'Liffeside'.

The threatened use of section 8 of the CJPOA, as well as its actual citation, were also more common occurrences in 'Parkway'. This led to a discernible air of resignation among the young people in this area. In most of the incidents observed, the mere sighting of a Garda was enough to cause them to move on.

Given that the majority of the young people involved resided in the area, the use of section 8 as a dispersal tactic seems questionable. At the very least, it is unlikely to promote good relations between the Gardaí and those at whom it is directed. The latter view their behaviour as a form of socialising, whereas the Gardaí see them as loitering. Nor should the long-term effect of these perceptions be discounted. As Bradley (1998) has found in the UK, that early negative experiences of the police can continue to colour attitudes towards them in adulthood.

Research carried out in other jurisdictions has stressed the importance of context in police decision-making. Much of this research has concluded that the central meaning of the job for most officers turns on the exercise of authority. Being seen to maintain control is an imperative for police officers, especially in public situations. Furthermore, the nature of their work gives police officers considerable scope for making their accounts of incidents the authoritative ones. In the nature of things, countervailing versions provided by alleged offenders carry much less weight.

Several of these factors were present in the interactions observed during the fieldwork. Thus 'Liffeside' Gardaí often spoke of the need to be seen to be in control and to remain calm when dealing with volatile situations and indeed in the bulk of incidents observed they acted in a measured and calm manner. Broadly speaking, this was typified by civil and non-confrontational exchanges initiated by the Gardaí. Almost invariably the clear result was the successful defusing of a potentially troublesome situation. Outlined below are illustrative examples taken from the observation notes compiled during the fieldwork:

- A drunken man had been ejected from a public house. A Garda asked him to leave the area. On four occasions the man left the vicinity only to return immediately. On each occasion the Garda remained calm and reiterated his request. At all times his tone remained courteous but firm. Realising that the officer would not be 'provoked' the man finally went on his way. ('Liffeside')
- Gardaí noticed a young male (15 years) and an older man (30 years) drinking at a bus stop. They confiscated the alcohol and a glass. While disposing of the alcohol the conversation turned to football and how their respective teams were doing. The interaction was friendly, thus ensuring that the men did not react adversely to the confiscation. ('Parkway')

The policing style at 'Parkway' was more confrontational. As already indicated, the history of the 'Parkway' area seemed to be the principal reason for this. Another factor was the perceived need to respond to requests from residents to deal with anti-social groups. Whatever the precise reason, the reality was that the Gardaí appeared to feel no sense of obligation to engage 'sympathetically' with potential public order offenders at 'Parkway'. They simply asserted their authority and appeared unconcerned about the nature of the reaction that might be elicited as a consequence. It goes without saying that a confrontational approach is likely to beget a confrontational response and that this in turn can further inflame a situation.

A confrontational approach to policing also raises the deeper issue of 'respect' for those being policed. A lack of respect was most evident in police exchanges with young people in 'Parkway'. It took several forms. Sometimes it took the form of repeated requests for information that had already been obtained. At other times it was manifested in disproportionately aggressive language. Indeed there seemed to be an inverse relationship between the level of verbal aggression and the age of the target audience. Two examples from the field are pertinent in this regard:

- Four youths were spotted sitting and standing around a petrol station wall. Two Gardaí began by asking who they were, where they were from and what they were doing. Details were taken down from all four youths. A further two officers arrived at the scene and began to ask the four youths the same questions. One of the youths tried to tell the new arrivals that they had already given their details but was ignored. Details of all four youths were taken down again. ('Parkway')
- A group of youths were spotted standing outside a Chinese take away. They were drinking from bottles which the Gardaí emptied. They were roared at to 'get in or get out' [of the take-away]. Section 8 was then roared out at them as the Gardaí prepared to leave. ('Parkway')

The question of respect has another important dimension. Frequently the police complain of a lack of respect shown to them. However, as Foster (1989, p. 134) has found, this perceived lack of respect was often a by-product of an aggressive policing style: 'the provocation often came from officers themselves setting the tone of the encounter by their attitude and stance'.

Yet another fact was found to be relevant here. The early hours of the morning often found Gardaí reacting to behaviour that would not have bothered them earlier in the night. This appeared partly to be due to the cumulative effect of dealing with minor incidents over the course of the evening combined with growing fatigue. Similarly, the boredom associated with an especially quiet night inclined some Gardaí to react to incidents that they might otherwise have ignored.

Arrest as strategy

Research suggests that the principal purpose of arrest in a public order context is to restore order by removing the participants from the streets (Brown and Ellis, 1994). This strategy was observed during the fieldwork. It was most effective when used as a measure of last resort. Two incidents illustrate this point:

- A large group of youths (40-50) had gathered on a green area around a bonfire on Halloween night. The Gardaí had already been to the scene on two occasions. On each occasion they had been subjected to verbal abuse, offensive taunts and missile throwing, following which the crowd had been dispersed. On the third visit the mood of the group had deteriorated, and the level of abuse had increased. A senior Garda then decided that the only way of dispersing the crowd for the night was to arrest some of the key instigators. The Gardaí duly positioned themselves strategically around the group and four youths were arrested. The crowd quickly dispersed. ('Parkway')
- Gardaí responded to a radio call about an assault. By the time they arrived at the scene, a large crowd had gathered and an injured man lay on the street. The alleged instigator maintained he had been assaulted by the injured man and became increasingly agitated and argumentative with the Gardaí. Amidst mounting confusion and pushing by the crowd the Gardaí arrested the man and placed him in the patrol vehicle. This reduced the level of tension and allowed the Gardaí to take details from those who had witnessed the incident. The man was later allowed to go on his way once his details had been taken. ('Liffeside')

Several aspects of these vignettes deserve to be noticed. First, they clearly illustrate the effectiveness of the arrest strategy as a means of nipping trouble in the bud. Second, they show that by removing the *dramatis personae* from the scene, the arrest strategy neuters the element of spectacle that might otherwise prove irresistible for crowds of drunken revellers and potential troublemakers. Third, they demonstrate that the removal of the element of volatility from the situation facilitates Garda questioning of witnesses.

The effectiveness of the arrest strategy was also commented on by the Gardaí themselves:

“Most people will have been drunk in public at some point in their lives. You have to use common sense when you are dealing with drunken people. Is arresting them going to achieve anything? It is like when you are out yourself drinking. You knock someone’s arm or they knock yours and words are exchanged. If you are not careful before you know it you are in a fight. You have to keep the human factor in the equation when dealing with public disorder. You could get someone who is having a bad day and acts in a way that he wouldn’t normally. It is quite common for the Gardaí to arrest someone at the scene, take their details and then release them. It defuses the situation and if it does flare up again then they have the individual’s details to follow it up.” (Garda, ‘Liffeside’).

A related technique also favoured by the Gardaí was to arrest people and bring them back to the station to ‘cool off’. Commenting on this technique, a Garda interviewee observed:

“Most of them you have to arrest, it’s the only way to defuse a situation. Sometimes there can be two parties and one of them is an injured party but you’ve to still arrest him, get him back to the station. And outside on the street they’re roaring and shouting at you, screaming at you, threatening you. Once in the station and placed in the cell a couple of minutes later they’re calm, they’re collected, they’ve sobered up, it’s a wake-up call.” (Garda, ‘Liffeside’)

In this example, the Garda went on to explain that the arrested persons were in fact the injured parties and so were themselves the victims of a crime, but had been taken in due to the level of abuse they had directed towards the officers at the scene. This tendency of ‘victims’ and ‘offenders’ to swap roles, so to speak, was a common feature of the public order incidents observed.

Our research also demonstrated that the Gardaí were no less conscious of the danger that exercising the arrest option could inflame a situation; and of the concomitant fact that a calm Garda presence ensured that it would not deteriorate. The incident outlined below highlights how eschewing the arrest option can be an effective method of resolution in certain situations:

- Gardaí responded to a radio call to the effect that a drug addict was kicking in someone’s front door. Caution was recommended and on arrival at the scene some 50 people were seen to be already present. The situation was tense and the Gardaí found themselves surrounded by an excited crowd. They were calm and professional, and spoke clearly and deliberately with individual members of the group. Personal contact was maintained as they assessed the developing situation and the mood of the crowd. Although there were several instances of physically and verbally threatening behaviour, the Gardaí maintained their composure. After some time the danger passed and the crowd dispersed. (‘Parkway’)



Public order incidents and Garda safety

Concern about their personal safety was a common theme expressed by the Gardaí who were observed and interviewed by the researchers. Of the Gardaí interviewed, 78 per cent (39) expressed concern about their safety when responding to public order incidents, particularly where drunkenness was a factor. In 66 (37 per cent) of the 177 incidents observed, the participants were visibly intoxicated; a fact which the Gardaí perceived as a potential source of danger. As we have seen, PULSE identified alcohol as a factor in 97 per cent of 4,239 public order offences.

The unpredictability of public order incidents was also stressed by the Gardaí during interviews. Although the vast majority of these offences are of a minor nature, interviewees were apt to underline the possibility of escalation. This concern was linked to a widespread worry about inadequate resources. Personal safety was an overriding concern, especially in situations where crowds were involved:

“It’s the crowd mentality, I mean you have a group of people and maybe two or three are vocal or they are the people who are creating or are involved in the public order incident. But there’s a large crowd watching and when you arrive, sometimes I think it’s almost because we’re taking away the spectacle, all these people are drunk and they’re very interested in what’s going on. It’s like someone switching off the television; they become a small bit frustrated with us”. (Garda, ‘Liffeside’)

“Depends on how many people are around. If you are coming across a group of about two or three you wouldn’t feel concerned but if you are dealing with a crowd of about 20 and there is only two of you in the car? You have to use your cop-on as well more than anything else. It’s a situation where common sense comes into play. If they are causing a hassle you call for back-up before you go in and lift people”. (Garda, ‘Parkway’)

The researchers observed no situations where Gardaí were actually assaulted. There were, however, a number of incidents where the potential for physical violence clearly existed. In the incidents referred to earlier involving the drug addict kicking in a dwelling house door, as well as that of the large group of youths surrounding a bonfire, violence could have resulted if the situation had not been managed appropriately. Incidentally, only one incident involving large numbers (above 10) was observed in ‘Liffeside’.

Moreover, it became clear from interviews that the risk of assault was an ever-present concern for Gardaí, many of whom made references to colleagues who had been beaten. In this regard it should perhaps be noted that, according to the Commissioner’s Report, there was an eight per cent *decrease* in the number of proceedings taken for assaults against Gardaí on duty between 1988 and 2001. The peak year for such assaults was 1992 when 1,267 proceedings were taken. Since 1995 the total number has remained relatively stable, fluctuating between 840 and 900 nationwide.

Garda perceptions of the courts' response to public order offences

Although the Gardaí decide which public order offenders are arrested and prosecuted, the anticipated response of the courts has an important bearing on this decision. Both the observation and interview data confirm this fact.

The general view was that there was a lack of consistency in the disposal of public order cases. There was a feeling that the outcome could be determined by the identity of the Judge rather than on the merits of the case. While over half the Gardaí interviewed saw public order legislation as having increased their powers, as well as increasing the relevant penalties, there was a perception that this was not being reflected in the outcomes in court:

“If you bring a person down for peeing in the street, first of all you are clogging up the system here. And you take their name and address for summons you might as well just make it up yourself; the chances of getting it right are slim. He is drunk, he is going to try it on. Then the Judges are going to think you are wasting their time here. The whole court is packed and you are bringing in fellows who pissed in the street. People are going to have to change their perceptions. It is all very well saying it's disgraceful but when you are out on the street and you are bringing people in, they are like, 'what are you doing he was only pissing in the street'.” (Sergeant, 'Liffeside').

“The courts treat them seriously enough now, you know. Not on the first instance but the second time around if you have previous convictions you have the Probation Act for public order or you'll certainly get a higher fine or some sort of sentence, maybe community service. Third time, forget about it you're going into custody. Again that depends on the courts and Judges.” (Garda, 'Parkway').

The research data also revealed an acute sense of disjunction between what the Gardaí felt they were being exhorted to do, on the one hand, and the pattern of sentencing in public order cases, on the other. Indeed, there was a discernible feeling that the courts were not taking these matters seriously and that this also influenced Garda decisions on whether or not to arrest and prosecute.

Similarly, there was a feeling amongst the Gardaí that some offenders were being 'over charged' in an attempt to secure a heavier penalty. An example cited to the researchers was that of the intoxicated offender whose charge may be 'beefed up' to a section 6 or section 8 offence. Although 'overcharging' was regarded as a feature of public order policing, *hard* evidence of its incidence was lacking.

In addition, although many Gardaí viewed public order offences as 'minor' policing issues, they nevertheless felt they had no option but to follow the 'official line' and police them diligently.

There was also a belief among the Gardaí that no real deterrent existed for public order offenders and that most of the latter did not think they had done anything wrong. Gardaí themselves felt that this was confirmed when offenders brought before the courts were ‘only’ fined or had their cases struck out.

The research revealed mixed views as to how public order offenders could best be dealt with. Given the relatively minor nature of the offences concerned, imprisonment was not normally considered appropriate. The fact of conviction was seen by the Gardaí as one way of making people take public order offending seriously: acquiring a criminal record would have an impact on their future in terms of obtaining employment and travelling abroad. On the other hand, the stigma of conviction was seen by some Gardaí as disproportionate in such cases. This led to the conclusion that a strategy not relying exclusively on the criminal justice system might be a better option when tackling public order offences, and in this regard emphasis was placed on the need for individuals and organisations outside the system to act in a responsible manner:

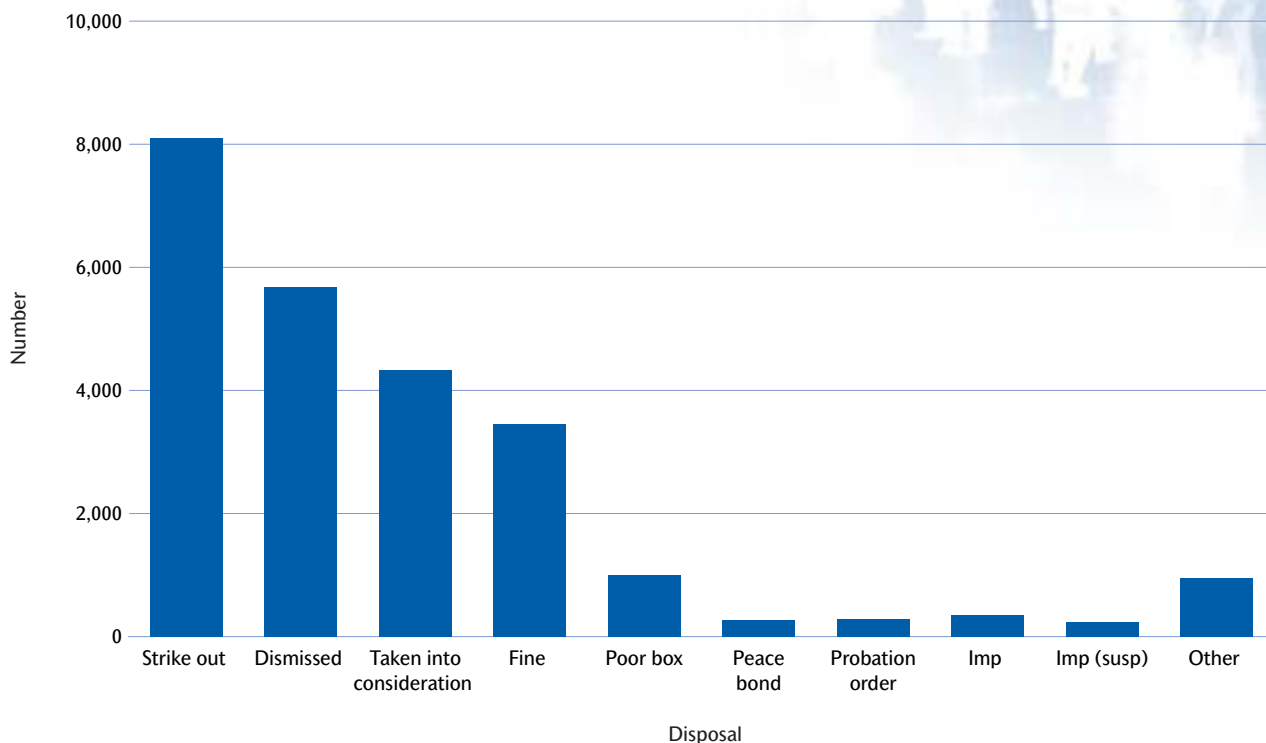
“You know off-licences don’t care, they are just taking the money, they don’t care. They don’t have to deal with the problems later on, the same with pubs. Let people drink as much as they want and then close the doors on them. It’s our problem then. The pubs could be more responsible”. (Garda, ‘Parkway’)

“Some young people not knowing any better because their parents are exactly the same. They see the mother and father drinking, they are drinking at home the whole time. Not knowing any better. So drink to them is just a progression, it’s just something that is natural that they do”. (Garda, ‘Parkway’)

Court disposals of public order offences

Garda perceptions of the performance of the courts when sentencing public order offenders should be set against the data contained in **figure 5**. This illustrates the manner in which offences under sections 4, 5, 6 and 8 of the CJPOA (dealt with in the Dublin Metropolitan Area) were actually disposed of between January, 2000 and March, 2002. The total number of offences dealt with was 24,650. Strike out was the most common disposal, with 33 per cent of cases being dealt with in this way. There are two main reasons for a case being struck out: either there was no appearance in court by the Gardaí or no evidence was presented. Under these circumstances, a person would have no conviction recorded against him but a note would be taken of the offence details. A further 23 per cent were dismissed under section 1 (22 per cent) or section 2 (one per cent) of the Probation of Offenders Act, 1908. Dismissal under section 1 means that the facts were proven but the case was dismissed before proceeding to conviction and so no conviction is recorded. Dismissal under section 2 means the facts were proven and the case was dismissed after conviction: in this case a conviction is recorded.

Figure 5 Court disposals for public order offences January 2000 to March 2002



[Source: Courts Service]

In 18 per cent of cases, public order offences were taken into consideration when sentence was being fixed for another offence. A fine was used in 14 per cent of cases. A contribution to the poor box accounted for four per cent of disposals, while the use of a probation order and peace bonds accounted for one per cent each. Imprisonment also accounted for one per cent of disposals (345 cases), the vast bulk of which were for offences involving threatening, abusive or insulting words or behaviour (section 6 of the CJPOA).

Offences under section 6 and section 4 (intoxication in a public place) comprised the majority (92 per cent) of public order charges that came before the courts. Section 6 offences accounted for 46 per cent of all public order offences struck out and 44 per cent of those dismissed. Section 4 offences accounted for 44 per cent of those struck out and 50 per cent of those dismissed. Both section 4 and section 6 cases comprised 47 per cent of offences taken into consideration. Section 4 offences comprised 52 per cent of cases dealt with by means of fines, section 6 accounting for 41 per cent of such disposals.



Chapter Five
CONCLUSION



Chapter Five

CONCLUSION

This chapter reviews and evaluates the main findings of the research. In particular it weighs the evidence for and against some of the factors that politicians and the media have suggested contribute to public disorder. The latter include: the consumption of alcohol; people congregating outside fast food outlets; and the poor level of public transport available within Dublin city centre.

Trends, patterns and data deficits

Bearing in mind the limitations of the data collected by the various criminal justice agencies, a number of conclusions can be drawn regarding the frequency of public order offending. **I**, the number of public order offences proceeded with increased dramatically (by 161 per cent) between 1996 and 2001. There was an almost identical increase in the number of referrals to the Juvenile Diversion Programme (up by 162 per cent.) **II**, the types of offences prosecuted showed little variation before and after the introduction of the 1994 Act. Between 1988 and 1993, drunkenness, threatening or abusive behaviour and breach of the peace were the most common public order offences proceeded with. Under the CJPOA regime, most proceedings involved intoxication in a public place (section 4) and threatening or abusive behaviour (section 6).

III, the incidence of public order offences was highest between Saturday night and the early hours of Sunday morning. Of the 12,591 public order offences recorded between October, 2001 and March, 2002, 1,212 (10 per cent) occurred between midnight on Saturday and 02.00 on Sunday. A further 11 per cent (1,391) took place between 02.00 and 04.00 on Sunday. The weekend as a whole saw 55 per cent of all public order offences. The lowest numbers were recorded on Tuesday and Wednesday (seven per cent each).

IV, the manner in which the locations of public order incidents were recorded on PULSE yielded little useful information. On the 'street' or 'road' accounted for 93 per cent of public order offences between October, 2001 and March, 2002. Fast food outlets/take-aways were recorded as the location of 36 (a fraction of one per cent) public order offences. It was not possible to ascertain the number of incidents that took place on or outside licensed premises. This would appear to indicate that these sites should not be seen as a major source of public disorder. However, it may be that the recording system masks the fact that many incidents of disorder occur *near* such locations.

It should also be noted that the fieldwork disclosed no evidence that fast food outlets/take-aways were a significant source of public disorder. Of the 177 incidents responded to by Gardaí and observed by the researchers, only five involved such premises. Nor was there evidence that queues for public transport caused problems. Only two calls were made during the observation period regarding disruptive behaviour at taxi ranks; and just one of the incidents observed related to public transport: an assault on an Inspector from Dublin Bus.

However, 40 per cent of public order incidents responded to in 'Liffeside' took place either on or outside licensed premises. This would suggest a significant relationship between locations where alcohol is available and this kind of crime.

V, it proved difficult to establish the precise role alcohol played in the occurrence of public order offences. The importance of alcohol varied according to the data source. It was identified as relevant in 97 per cent of the 4,239 offences in respect of which information on contributory factors was recorded on PULSE. Of the 50 Members of An Garda Síochána interviewed by the researchers, all but one identified alcohol as the primary factor in public order offending. It is, however, worth noting that the latter estimates are impressionistic and previous research has shown that police officers tend to over-estimate the importance of alcohol in offending (Robertson et al, 1995).

On the other hand, of the 177 public order incidents observed by the researchers, alcohol was identified as playing a role in only 91 (51 per cent). Moreover, in 25 of these 91 incidents, the presence of alcohol in carry-out form was the main focus of the incident. In other words, the possession of alcohol – as distinct from intoxication – was the main factor. In the remaining 66 incidents the persons being dealt with were in various states of obvious intoxication.

Differences in public order offending at the two research sites

The research findings indicate that different areas experience different types of public order problems. The 'Parkway' station policed a wider geographical area than 'Liffeside'; the area was predominately residential and contained only three licensed premises. On any given night the number of people on the street was much lower than in the city centre. 'Parkway' also encompassed many public parks where young people tended to congregate. Although there was some evidence of the type of drunken behaviour witnessed in the city centre, the public order problems experienced in 'Parkway' typically took the form of more traditional 'anti-social' behaviour: young people gathering in large numbers and causing concern for residents; and under-age drinking in public areas. Demands from the local population for effective policing of these activities influenced the approach adopted by the Gardaí.

Although alcohol was a factor in half of the incidents observed, the role it played differed between the two research sites. Two thirds of the 'Parkway' incidents involved the removal of alcohol from young people walking on the street, hanging around in public or gathering in the local parks. In the majority of these cases, the young people were not seriously intoxicated and the public order 'incident' did not go beyond the element of confiscation¹⁴. The remaining incidents involved large groups drinking around bonfires. In only two cases was intoxication per se the reason for Garda action.

¹⁴ Not all incidents of alcohol removal involved a formal confiscation of alcohol.

In contrast, obvious public intoxication was routinely observed in 'Liffeside', and typically involved people lying drunk in the street, staggering around or screaming and shouting. The effective management of this behaviour was a key component of the policing style observed there. Generally speaking, this was achieved by means of a simple request to get up and move on or desist. In 35 of the 122 public order incidents where a response by the Gardaí was deemed necessary, a single such request sufficed; in 27, more talking and negotiation were required.

Given its suburban location, the streets of 'Parkway' were largely deserted at night. Naturally the numbers on the street tended to increase after pub closing time, but the volume of human traffic never attained the levels seen at 'Liffeside'. What public disorder there was consisted largely of groups of young people being periodically moved on by the Gardaí.

The age profile of offenders at the two research sites differed. The public order incidents observed in 'Parkway' involved much younger people, predominantly aged between 14 and 17 years. In contrast, 'Liffeside' offenders were in their early to mid twenties or their early to mid thirties. The age profile in 'Parkway' led to a late evening concentration of public order offending: 61 per cent of the incidents there took place between 20.00 and 24.00; whereas the peak times in 'Liffeside', and indeed nationally, were much later (see page 54).

Effectiveness of legislation for dealing with public order offending

The absence of reliable data on public order offending makes it difficult to assess the effectiveness of the CJPOA. The Act undoubtedly expanded the powers of the Gardaí to deal with public order offending. It also increased the penalties available to the courts. As we have seen from the Courts Service data, however, the bulk of public order offences are struck out, dismissed or dealt with by fines. In the result, the data do not permit any reliable inferences to be drawn regarding the level of the fines imposed and whether these have increased.

Caution should also be exercised in interpreting the large increase in the number of public order offences prosecuted under the CJPOA. The increase does not necessarily testify to the effectiveness of the legislation, or indicate that the 'public order' problem is out of control. On the one hand, an increase in the number of prosecutions points to the success of the Act. On the other, reduced prosecutions might be regarded as evidence of its deterrent efficacy.

The fact that 56 per cent of public order offences were dismissed or struck out by the courts between January, 2000 and March, 2002 may have some implications for the potential effectiveness of the Criminal Justice (Public Order) Bill 2002. Under the Bill exclusion orders can only be made when a person has been convicted of an offence under sections 4 to 9 of the CJPOA. An exclusion order allows the District Court to prohibit a person so convicted from entering or being in the vicinity of specified premises at times determined by the court. This raises a critical issue: given that public order offenders are not normally convicted, it is difficult to see how the exclusion order will have purchase.

The portrayal of public order offending

As matters stand, the bulk of public information regarding 'crime on the streets' comes from the media. O'Connell (2002) has shown that the media portrayal of crime tends to inflate public assessments of its extent. There is also a natural tendency for opposition parties to overstate the level of crime, particularly in the run up to general elections. Equally, governments are apt to 'talk up' crime by way of signalling their resolve to deal with it. Taken in combination these factors may result in levels of anxiety about crime that are disproportionate to the actual risks involved.

National crime surveys carried out in other countries show clearly that the people least likely to be at risk – older people and women – are most likely to express fear of crime. By the same token, those most at risk – young men – are least likely to express concern about possible victimisation. A survey carried out by the Central Statistics Office confirmed that these findings are broadly applicable to Ireland. Similarly, a local survey carried out by the Chamber of Commerce in Ennis (reported on Prime Time in 2002) found that 50 per cent of those interviewed were afraid or felt threatened on the streets. This was so despite the fact that less than eight per cent of those surveyed had ever been victims of physical violence.

In 2002 the Garda Public Attitudes Survey included a series of questions about public safety and fear of crime. Just over half of the respondents (52 per cent) were worried about becoming a victim of crime; 43 per cent identified public drunkenness, and 29 per cent identified public nuisance (which included fights) as major social problems.

Effective recording of public order offending

The absence of reliable national data on public order offences has wide-ranging implications. Although Dublin continues to account for the largest proportion of public order offences proceeded with, there have been interesting shifts elsewhere. For example, the Eastern region recorded the highest increase in public order proceedings between 1997 and 2001, up from seven to 14 per 1,000 population. It is not possible to establish whether this reflects a real increase in the level of public order offending, as opposed to a change in policing and prosecution strategies in the area. The Southern region (which includes Cork city and Limerick), recorded the lowest increase in public order proceedings, notwithstanding its relatively high visibility in media coverage.

In England and Wales the Crime and Disorder Act, 1998 placed a requirement on local authorities and the police to conduct local crime audits and devise preventative strategies. These strategies are implemented by agencies such as health authorities and local statutory and voluntary bodies working together in partnership. The value of this approach in the context of alcohol-related crime has recently been reviewed by Deehan and Saville (2000). It would repay close examination in an Irish context.



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APPENDIX



APPENDIX

Map showing location of public order offences January 2000 to March 2002

