

JUSTICE POLICY DOCUMENT
MAY 2023

Building a Just Republic

YFG
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YOUNG FINE GAEL

Foreword



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*President of Young Fine Gael
2023-2024*

As President of Young Fine Gael it is my great pleasure to present our Justice Policy Document; **Building a Just Republic**, setting out proposals on how the Government can better improve our justice system, and protect our citizens from crime. As the Party of Law and Order, Fine Gael has stood firm in the face of crime for the past hundred years but we are now in a new age, and the State is facing new threats to our security we have never seen before. It's crucial that our approach to Justice evolves to better face the challenges of the modern world.

This document is filled with practical proposals that would help build a more compassionate criminal justice system for victims, effectively police our communities and protect our citizens from crime, and create a more just system in relation to sentencing and rehabilitation. We look forward to discussing these with you in more detail as we meet with you, and always welcome your feedback and reflections.

In the last year the Central Statistics Office noted a significant increase in a number of crimes. These include an increase in violent crimes such as assaults, attempts to murder, burglaries and robberies. Behind all of these statistics are stories from thousands of victims and their families. All of these stories impact the community as a whole, one of those was the brutal aggravated burglary and assault on a Sligo pensioner last year.

This document aims to provide a number of solutions to how the justice system can cater for the challenges that the rise in crime presents, not just in how it deals with the perpetrators, but also the victims of crime. However, the solutions must go beyond just throwing away the key. An adequate Garda presence is also vital. As well as ensuring that criminals cannot escape justice by hiding in other countries. Domestic violence is also a huge issue, and this document aims to address some aspects of it. Finally, we propose a number of rehabilitation solutions too, that aim to give people a second chance and get people out of crime.

Kenneth Henry

*Chair of YFG Policy
Subcommittee 2022-2023*

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Compassion for Victims

Compensation for Victims of Crime

1.1 YFG calls for the introduction of Immediate Interim Care Awards for victims of violent crime.

Victims can spend years waiting for an award from the Criminal Injuries Compensation Tribunal (CICT)¹. Based on the medical needs of the victim, Immediate Interim Care Awards would cover in full immediate and essential treatment outlay such as medical bills including physiotherapy, counselling, and other recommended health supports. Instead of a purely monetary figure, Immediate Care Awards could consist of the package of recommended medical treatments. Medium and long-term support to assist the victim's recovery could be dealt with at a later date in the final awards.

1.2 YFG calls for the introduction of a Victims' Commissioner, similar to the framework used in England and Wales to represent victims of crime.

A dedicated advocacy service should be set up to represent them from the beginning of the recovery process, possibly within the framework of a Victims' Commissioner. The Victims' Commissioner is an advocacy service that already exists in England and Wales². A Victims' Commissioner could oversee a number of Victims' Advocates who would reach out personally to victims and oversee their cases.

1.3 YFG calls for a tariff-based scheme for final awards to be considered when reforming the CICT.

The tariff system is very simply a list of injuries (mental, physical, sexual, etc.) and the compensation victims ought to get for each injury³. A tariff-based scheme would be sustainable, less complex, and bring Ireland into line with other EU member states.

1.4 YFG calls for the perpetrators of violent crimes to reimburse the State for the financial cost of assisting the victim's journey to recovery.

While it is essential that an award must be made immediately by the State to the victim, the perpetrator's assets, including future earnings, should be used to recoup costs incurred by the State through the CICT in assisting the victim's recovery. This would improve the sustainability of the CICT.⁴

1.5 YFG calls for a statutory duty to resolve all claims made to the CICT within a reasonable period of time.

There should be a clear duty to make final awards within a year. Personal Injuries Assessment Board (PIAB) has a statutory duty to dispose of all cases within 9 months: see

1. Case of Alwyn Byrne, who waited 13 years for her final award from the CICT: <https://www.irishtimes.com/news/crime-and-law/courts/high-court/iron-bar-assault-delay-to-award-a-breach-of-duty-over-justice-1.2953866>

Link to her court case against the CICT (Byrne v CICT [2017] IEHC 28): <https://www.casemine.com/judgement/uk/5da05df84653d07dedfd6814#-:text=1.&text=5%20of%20the%20European%20Convention,European%20Convention%20on%20Human%20Rights>

2. Victims' Commissioner website <https://victimscommissioner.org.uk/>

3. Page 43, Annex E of UK Criminal Injuries Compensation Scheme 2012 gives a good overview of the tariff system: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/808343/criminal-injuries-compensation-scheme-2012.pdf

4. Article 26 of the Proposed EU Directive on Combating Violence Against Women and Domestic Violence, which Ireland is opting into, states that EU member states will be required to ensure that offenders pay full compensation to victims of the crimes that it will apply to.

The Directive: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0105>

Ireland opting into the Directive: <https://www.oireachtas.ie/en/debates/debate/seanad/2022-06-22/18/>



section 49(2) of the Personal Injuries Assessment Board Act 2003 which reads:

(2) In particular, and without prejudice to the generality of subsection (1), it shall, subject to subsection (4), be the duty of the Board to ensure that every assessment is made within a period of 9 months beginning on (without prejudice to subsection (3))—

(a) if there is only one respondent as respects the relevant claim concerned, the date on which it receives the respondent's consent to an assessment being made under section 20 in relation to that claim,

(b) if there are 2 or more respondents as respects the relevant claim concerned—

(i) where only one of them consents to such an assessment being made in relation to that claim (irrespective of whether there is a failure of the kind mentioned in subsection (3) on the part of the other or others), the date on which it receives that consent,

(ii) where 2 or more of the respondents consent to such an assessment being made in relation to that claim (irrespective of whether there is a failure of the foregoing kind on the part of the other or others), the date it receives those consents or, if the dates on which it receives those consents are not the same, the earlier or earliest of the dates on which it receives one of those consents.⁵

16 YFG calls for an increase to the time limit for bringing a claim before the CICT.

Currently, survivors must submit their claims to the CICT no later than three months after the criminal act has occurred. In extraordinary circumstances, the time limit can be extended to two years at the discretion of the Tribunal⁶. This is far from victim friendly. Survivors contend with the fear of not being believed, retraumatization, and recovering from the aftermath of an attack, which may understandably delay their claim being made.

Recommendation: The time limit to submit a claim should be at minimum two years and a maximum of six years, in line with the statute of limitations currently in place.

17 YFG calls for a change in the eligibility requirement under the CICT whereby only survivors who report the crime to the Gardaí 'without delay' may avail of the Scheme.

Disqualifying victims who do not immediately report a crime from receiving compensation is unfair. A Department of Justice report from 2019 stated that there were many reasons why victims do not always report a crime immediately, including fears of secondary victimisation.⁷

Having regard to the many legitimate reasons why a survivor may delay coming forward, the time limit to submit a claim to the CICT should be 'as soon as it is reasonably practicable' for the survivor to do so. As in the Northern Ireland Scheme⁸, there could be a general rule that the application should usually be made within 2 years, but subject to an extension where, in the particular circumstances of the case, it would not have been reasonable to expect that the application was made within the 2-year period.

18 YFG calls for the examination of the legacy cost of the 'Same Roof' rule, which operated under the CICT up until recently.

Up until April 2021, the CICT prohibited compensation from being paid where the offender and the victim were living together as members of the same household at the time the injury was inflicted. Many applicants were denied compensation on the basis of the same-roof rule⁹.

Recommendation: Cases where the rule was applied should be re-examined to determine who was unfairly denied compensation.

5. *Personal Injuries Assessment Board Act 2003*, from the *Irish Statute Book* available at: <<https://www.irishstatutebook.ie/eli/2003/act/46/enacted/en/html>>.

6. Available at <https://www.victimscharter.ie/support-reporting/criminal-injuries-compensation-tribunal/>

7. *Exploring Victims' Interactions with the Criminal Justice System: A Literature Review* (17 October 2019) Available at: https://www.gov.ie/en/publication/6e6d52-exploring-victims-interactions-with-the-criminal-justice-system-a-li/?referrer=http://www.justice.ie/en/JELR/Victim_Interactions_with_the_Criminal_Justice_System.pdf/Files/Victim_Interactions_with_the_Criminal_Justice_System.pdf

8. *The Northern Ireland Criminal Injuries Compensation Amendment 2020 Scheme (2009)* Available at: <https://www.nidirect.gov.uk/sites/default/files/2021-10/the-northern-ireland-criminal-injuries-compensation-amendment-2020-sch.pdf>

9. *Irish Judicial Studies Journal 2022, Vol.2, Article by Liam O'Driscoll: The Criminal Injuries Compensation Tribunal and The 'Same Roof' Rule In Ireland: Exclusion, Inclusion And Reform.*

1.9 YFG calls for a re-examination of the 'bad character' rule.

In some cases, the previous convictions of an applicant to the Tribunal can prevent them from accessing compensation.¹⁰ This continuing punishment of offenders after they have been released from prison undermines the idea that people released from Irish prisons are rehabilitated and ready to reintegrate into society.

1.10 YFG calls for a public information campaign that promotes the existence of the Criminal Injuries Compensation Tribunal.

According to Liam O'Driscoll, public awareness about the existence of the Tribunal is "very low".¹¹

Recommendation: To increase awareness of the CICT, a public awareness campaign should be launched across social media, television, radio, newspapers, and other written publications. This could be done in a similar way to the recent Department of Justice's campaign on victims' right to be heard at parole hearings.

1.11 YFG calls for mandatory trauma-informed training to be rolled out across the board for all people who engage with victims/survivors of crime.

An NHS report¹² commissioned by the Scottish Government Victims Taskforce found that most victims of crime felt that the criminal justice system made their experience of trauma worse. In order to have a justice system that is compassionate towards survivors, it's vital that everyone who engages with them have adequate trauma-informed training.

Miscellaneous

1.12 YFG urges the Government to comply with Ireland's obligation under the Istanbul Convention by creating the 470 refuge spaces for victims of domestic violence.

The target of 280 refuge spaces set out in the Department of Justice Zero Tolerance strategy¹³ is an incredibly positive move. However, this number of spaces will not be sufficient to meet Ireland's obligation to have at least 470 under the Istanbul Convention (Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence)¹⁴.

1.13 YFG calls for character references in rape and sexual assault cases to be subject to cross examination.

Letters or statements from seemingly influential people, speaking to the sex offenders 'good character,' can be both insulting and re-traumatising to the victim.

Recommendation: The prosecution should be afforded the opportunity to cross examine any character referee in relation to said reference.

1.14 YFG calls on the government to fully fund and implement the Department of Justice's Zero Tolerance Action Plan.

Society-wide change is required to tackle domestic, sexual, and gender-based violence. The Zero Tolerance Action Plan¹⁵ is the most profound commitment to ending gender-based violence in the history of the state, and for it to succeed it must be properly funded and implemented in full.

10. 'Liam O'Driscoll: State must fund a compensation scheme for victims of violent crime' Irish Examiner (07 March 2022) Available at: <https://www.irishexaminer.com/opinion/commentanalysis/arid-40822288.html>

11. Liam O'Driscoll speaking on the My Life in a Suitcase podcast from minutes 34-37:50, (University College Cork 98.3FM), 17 February 2023. Available on Spotify at: <https://open.spotify.com/episode/3rQ7vTFd1PmPZEzYg0tfms>

12. Trauma Informed Justice: A Knowledge and Skills Framework for Working with Victims and Witnesses. Available at:

<https://transformingpsychologicaltrauma.scot/media/fvgnixfv/executive-summary-trauma-informed-justice-knowledge-and-skills-framework.pdf>

13. Zero Tolerance: Third National Strategy on Domestic & Gender-Based Violence (2022-2026) available at: <<https://www.gov.ie/pdf/?file=https://assets.gov.ie/228480/67b6e3af-a0d2-4d70-889f-0b1e2001995b.pdf#page=null>>.

14. 'Just 36 new refuge spaces open in Ireland for women seeking escape from domestic violence' Irish Mirror (13 January 23) Available at: <https://www.irishmirror.ie/news/irish-news/just-36-new-refuge-spaces-28949940>.

15. Government publishes Zero Tolerance Strategy to tackle domestic sexual and gender-based violence (28 June 2022) available at: <<https://www.gov.ie/en/press-release/5b6b5-government-publishes-zero-tolerance-strategy-to-tackle-domestic-sexual-and-gender-based-violence/>>.



Safeguarding Communities

Policing

2.1 YFG calls on the Government to introduce an Armed Response Unit in every Garda division, as opposed to existing on a regional basis, as is the case currently.

The Armed Response Unit exists to give swift support to Gardaí in crisis situations. Reports therefore that the Armed Response Unit can take up to three hours to arrive at the scene of a violent incident poses a serious risk to the safety of our Gardaí.¹⁶ To combat these response times, YFG recommends that the Armed Response Unit be organised on a divisional basis as opposed to a regional one.

2.2 YFG calls on the Government to increase the number of personnel in the Emergency Response Unit to 300 over ten years.

The rise in gangland violence coupled with increased security threats to the State highlight the need to increase our tactical and counter terrorism capabilities.

Recommendation: YFG believes that over the next ten years the government should increase the number of personnel serving in the Emergency Response Unit (ERU) from 100 to 300. This would represent a dramatic increase in our tactical capabilities.

2.3 YFG supports An Garda Síochána remaining a predominantly unarmed force.

The foundation of An Garda Síochána as an unarmed civic guard in 1922 was a revolutionary step toward establishing the peace, and rule of law we now take for granted.

Recommendation: YFG urges the government to resist calls to arm the Gardaí. We believe that to do so would not only jeopardise An Garda Síochána's reputation as guardians of the peace but also instigate an arms race between law enforcement and criminals. The effects of escalation in law enforcement have been well documented in the United States and we do not want a similar increase in violence to take place here.

2.4 YFG calls on the Government to examine the viability of reopening some of the rural Garda stations that were closed during the recession.

During the recession, the Irish government closed 140 Garda stations. The closure of these Garda stations have only saved approximately €500,000 per year¹⁷.

Recommendation: We believe a review is required to examine our current policing capacities in rural areas is required, with the aim to reopen certain Garda stations in key strategic areas.

2.5 YFG calls for the establishment of a Garda Bureau that deals with Theft and Burglaries.

This body will be tasked with tackling large scale burglary gangs, the Bureau will also be tasked with dealing with armed robberies, tiger kidnappings, and tool theft. Although this currently comes under the jurisdiction of the Garda Drugs and Organised Crime Bureau. The establishment of a second Bureau would reduce pressure on the Drugs and Organised Crime Bureau.

16. 'Garda Armed Response Unit can take up to three hours to get to violent incident, according to claims' Irish Mirror (23 August 2020) Available at: <https://www.irishmirror.ie/news/irish-news/garda-armed-response-unit-can-22564100>.

17. 'Garda station closures saved us €500k' Irish Examiner (29 September 2015) Available at: <https://www.irishexaminer.com/news/arid-20356431.html>

2.6 YFG calls for a cybercrime bureau to have a base in every Garda division.

Cybercrime is a relatively new phenomenon, but the cybercrime economy is already worth more globally than the illegal drugs trade. In 2021, Cybersecurity Ventures estimated that cybercrime damages could reach USD\$6 trillion.¹⁸ This value is equivalent to the Gross Domestic Product (GDP) of the world's third largest economy, Japan, based on 2019 World Bank figures¹⁹. Effectively tackling cybercrime is vital and must become a major priority going forward.

2.7 YFG calls for Garda cars to be outfitted with frontal protection systems, in line with EU Regulations.²⁰

Recommendation: The government needs to always prioritise the protection of Gardaí when on duty. Investment in frontal protection systems on Garda cars would protect our Gardaí while on patrol or during a pursuit. Furthermore, the events that were witnessed in Cherry Orchard, Dublin in September 2022 highlighted just how necessary this change is.²¹

2.8 YFG calls for the establishment of a public transport police.

We are all familiar with the shocking acts of violence that took place on our public transport system.

Recommendation: YFG believes that a dedicated public transport police is needed to tackle the issue. This police force should have a base in Dublin Connolly, Dublin Houston, Cork Kent and Limerick Colbert stations. Furthermore, it should have the resources to deal with threats on the bus network.

Miscellaneous

2.9 YFG calls on the Government to introduce a new criminal offence of 'threat to rape' into law.

Although it is an offence to threaten to kill someone, it is not currently an offence to threaten to rape someone. If we are serious about having a zero-tolerance approach to sexual violence, then this has to change. Legislation has already been enacted in Victoria, Australia making it a crime to threaten to commit a sexual offence.²² *R v McCraw* is a Canadian case that establishes a threat to rape is a threat to cause serious harm, but a standalone offence would clarify the law beyond doubt.²³

Recommendation: YFG believes such legislation should be enacted in Ireland. We call on the Minister for Justice to draft and move legislation. Alternatively, a rewording section 5 of the Non-Fatal Offences against the Person Act 1997 Act, the offence of threatening to kill or cause serious harm. Section 5 could be reworded to say "threat to kill, threat to rape or threat to cause serious harm."

18. 'Cybercrime To Cost The World \$10.5 Trillion Annually By 2025' Cybercrime magazine (13 November 2020) Available at: <https://cybersecurityventures.com/cybercrime-damages-6-trillion-by-2021/>

19. GDP (current US\$) of All Countries and Economies, World Bank available here: https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?most_recent_value_desc=true
20. REGULATION (EC) No 78/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 January 2009, Chapter 3, Article 10 and Annex I Section 5 & 6. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R0078&from=EN>

21. Garda car damaged by roadside gang near infamous ramming location, Dublin Live (online) available at: <https://www.dublinlive.ie/news/garda-car-damaged-roadside-gang-26287066>.

22. Crimes Act 1958 s43, Act of the Parliament of Victoria (Australia). Available at: <https://content.legislation.vic.gov.au/sites/default/files/2022-12/58-6231aa295-authorized.pdf>

23. *R v McCraw* [1991] 3 SCR 72, Available at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/790/index.do?q=first+nationR>.



2.10 YFG calls for sobriety tags to be introduced in Ireland.

Sobriety tags have proved to be effective in combating alcohol-fuelled violence in England and Wales.²⁴ The ankle tags sample the wearer's sweat every 30 minutes to determine whether alcohol has been consumed in breach of an alcohol abstinence order.

Recommendation: YFG calls on the Minister to engage with the probation service to explore introducing them in Ireland.

2.11 YFG calls for online tracking-based advertising to be replaced with context-based advertising.

Recommendation: The online tracking-based advertising system generates a risk of significant data leak, therefore a change is required. Context based advertising is about placing advertisements on websites based on the content of that particular page. An example would be an advert for Easons on a website listing best books to read.

2.12 Following an increase in dog attacks on livestock, particularly on sheep. YFG calls for the maximum fine to be increased to €10,000 for dog owners & robust enforcement of the Control of Dogs Act 1986.

Dog attacks on livestock can have both huge financial and psychological impacts on farmers. Therefore, its essential reckless dog owners are held accountable. With 241 incidents of livestock worrying in 2020, the current fine of €2,500 is wholly insufficient.²⁵

While YFG welcomes a recent suggestion that the fine would be increased to €5,000 we believe that this is not sufficient. In 2021 the Scottish Parliament passed legislation to deal with dog attacks with a maximum fine of €40,000 and/or 12 months' imprisonment.²⁶

Recommendation: A review of enforcement of the Control of Dogs Act is needed to ensure that the current situation where 40% of fines are going unpaid is not allowed to continue into the future.

2.13 YFG calls for the expansion of the Department of Justice Community-based CCTV Grant Aid Scheme so small and medium sized businesses can avail of it.

CCTV is crucial in tackling crime, but the costs associated with installing it can act as a barrier to many SMEs. Grant aid is currently available to help communities install CCTV.

Recommendation: The Community-based CCTV Grant Aid scheme should be expanded to cover small and medium sized businesses.²⁷

2.14 YFG calls for the introduction of an alarm grant to be available for small businesses.

Recommendation: Businesses who wish to qualify would be subjected to an assessment where a number of factors would be taken into consideration. This could include factors as the value of the items in the property, value of tools, or income of the business.

2.15 YFG calls on the Government to establish additional extradition treaties with non-EU states to assist in the apprehension of organised criminals who flee the Irish jurisdiction.

Part II of the Extradition Act 1965 governs extradition arrangements between Ireland and non-EU countries.²⁸ Ireland currently only has bi-lateral extradition treaties with the United States, Hong Kong, and Australia.²⁹

Recommendation: Bi-lateral extradition treaties should be established as a matter of priority to tackle organised criminality.

24. 'England: 'Sobriety tags' to be rolled out across England' Irish Legal News (01 April 2021) Available at: <https://www.irishlegal.com/articles/england-sobriety-tags-to-be-rolled-out-across-england>

25. Steeper fines weighed up for dog owners found guilty of 'livestock worrying' Irish Examiner (09 June 2022) Available at: <https://www.irishexaminer.com/farming/arid-40890689.html>

26. Dogs (Protection of Livestock) (Amendment) (Scotland) Act 2021, Acts of the Scottish Parliament. Available at: <https://www.legislation.gov.uk/asp/2021/18/contents/enacted>.

27. Community-based CCTV Grant Aid Scheme, Department of Justice (1 February 2019). Available at: <https://www.gov.ie/en/service/3a6b2-community-based-cctv-grant-aid-scheme/>.

28. Extradition Act 1965, Irish Statute Book. Available at <https://www.irishstatutebook.ie/eli/1965/act/17/enacted/en/html>

29. Extradition, Government of Ireland (30 September 2019, updated 1 February 2022) <https://www.gov.ie/en/policy-information/282ce-extradition/>.

2.16 YFG calls for substantial investment in community rejuvenation and diversion programmes for young people who are at risk of going down a path of crime.

Recommendation: Initiatives that resemble the approach taken in the RTÉ programme 'Raised by the Village' could give at-risk children a chance to thrive away from troublesome influences. Sending them away from the zone of influence of local gangs would be crucial. At the same time, their parent(s)/guardian(s) could be given guidance on how to deal with the situation. Investment in infrastructure around communities must also be funded heavily.

2.17 YFG calls on the Government to establish Violence Reduction Units (VRUs).

Violence Reduction Units are in use in multiple parts of the United Kingdom and work by finding the root cause of crime.³⁰ These teams usually consist of a wide range of experts and view violence as a public health problem. They have been particularly successful in fighting the epidemic of knife crime in Scotland.³¹

Recommendation: A similar Violence Reduction Unit (VRU) to be set up and fully funded by the Irish Government which is based on a community-led approach. This includes strong relationships between An Garda Síochána and key workers in the health, education and social sectors to identify and interact with vulnerable young people.

2.18 YFG calls for senior Gardaí in every Garda district to be given powers to enact barring orders in cases where domestic violence victims are living under threat of violence.

In cases of domestic violence, in which victims are often living under the constant threat of violence, access to legal supports can be hard to come by. The risk of being discovered by the abuser acts as a barrier to many victims seeking help.

Recommendation: Granting senior Gardaí the power to enact barring orders would empower victims to escape their abusers.

30. Trina O'Connor (2021) Crime World Podcast, episode 23: The vulnerable kids who become the street soldiers of Ireland's crime gangs. (17/04/2021) Available at: <https://www.sundayworld.com/crime/irish-crime/episode-23-the-vulnerable-kids-who-become-the-street-soldiers-of-irelands-crime-gangs/40321050.html>

31. Paul O'Hare, How Scotland stemmed the tide of knife crime. (4 March 2019). BBC.com Available at: <https://www.bbc.com/news/uk-scotland-45572691>



A Just System

Sentencing

3.1 YFG calls on the Government to include in the Community Sanctions Bill a presumption that alternatives to short-term prison sentences must be applied by judges because there is evidence that prison sentences of 12 months or less are ineffective.

There is evidence in Ireland,³² as well as England and Scotland,³³ that short-term incarcerations do more harm than good and are linked with high rates of re-offending.³⁴ In Ireland, judges are only obliged to consider a community service order as an alternative to a prison sentence of less than 12 months.³⁵ Instead, we³⁶.

Recommendation: Ireland could move towards the Scottish PASS (Presumption Against Short Periods of Imprisonment (Scotland)) system of a general presumption against sentences of 12 months or less.

3.2 YFG calls on the Government to promote the use of consecutive sentences in criminal trials, as opposed to concurrent sentences.

Concurrent sentences dilute the impact each crime has had on its victims and reward the perpetrator for committing multiple crimes at once or within a short space of time.

Recommendation: There should be a statutory presumption in favour of consecutive sentences, which take account of each crime individually.

3.3 YFG calls for the maximum sentence for burglary to be increased to 20 years.

In light of the increase in burglaries, a zero-tolerance approach must be implemented to deter such crimes from taking place. The recommended sentence for burglaries of 'High Range Seriousness,' is 9-14 years.

Recommendation: The current recommended sentences fail to provide a sufficient deterrent against the most extreme cases, and must be increased to twenty years imprisonment.

32. Geiran, Vivian. *Hearing on Penal Reform: Opening Statements from Director of The Probation Service. Oireachtas Joint Committee on Justice and Equality*. (8 March 2017) Available here: <[http://www.probation.ie/EN/PB/0/E562A2412C2F2E62802580E400399A36/\\$File/Director's%20address%20to%20the%20Oireachtas%20Joint%20Committee%20on%20Justice%20&%20Equality%20hearing%20on%20penal%20reform.%20on%208th%20March%202017..pdf](http://www.probation.ie/EN/PB/0/E562A2412C2F2E62802580E400399A36/$File/Director's%20address%20to%20the%20Oireachtas%20Joint%20Committee%20on%20Justice%20&%20Equality%20hearing%20on%20penal%20reform.%20on%208th%20March%202017..pdf)>. Director's address to the Oireachtas Joint Committee on Justice & Equality hearing on penal reform, on 8th March 2017. Available at: "[http://www.probation.ie/EN/PB/0/E562A2412C2F2E62802580E400399A36/\\$File/Director's%20address%20to%20the%20Oireachtas%20Joint%20Committee%20on%20Justice%20&%20Equality%20hearing%20on%20penal%20reform.%20on%208th%20March%202017..pdf](http://www.probation.ie/EN/PB/0/E562A2412C2F2E62802580E400399A36/$File/Director's%20address%20to%20the%20Oireachtas%20Joint%20Committee%20on%20Justice%20&%20Equality%20hearing%20on%20penal%20reform.%20on%208th%20March%202017..pdf)"

33. *Presumption Against Short Periods of Imprisonment (Scotland) Order 2019, 14th Report, 2019 (Session 5) Justice Committee, Scottish Parliament. 'Presumption Against Short Periods of Imprisonment (Scotland) Order 2019'* Available at <https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2019/6/21/Presumption-Against-Short-Periods-of-Imprisonment--Scotland--Order-2019/JS052019R14.pdf>

34. Irish Penal Reform Trust <https://www.iprt.ie/latest-news/scotland-impact-of-presumption-against-short-sentences-pass/> 'Scotland: Impact of Presumption Against Short Sentences (PASS)' (05 March 2020)

35. Criminal Justice (Community Service) (Amendment) Act 2011 s.3. Available at: <https://www.irishstatutebook.ie/eli/2011/act/24/section/3/enacted/en/html>

36. Criminal Justice (Community Service) (Amendment) Act 2011, section 3. Irish Statute Book. Available here: <<https://www.irishstatutebook.ie/eli/2011/act/24/section/3/enacted/en/html>>.

3.4 YFG calls on the Government to enact legislation that will establish harsher punishments for offenders with multiple previous convictions.

There are defendants appearing before the courts with numerous previous convictions, occasionally into the hundreds.³⁷ The tolerance for this level of re-offending is unacceptable.

Recommendation: The Government should consider enacting legislation setting a cap on the number of convictions a perpetrator can carry before they receive a presumptive sentence of at least 10 years.

3.5 YFG calls for the introduction of legislation to give judges the power to hand down a minimum term sentence, or a whole-life sentence, to persons convicted of the most heinous crimes and sentenced to life imprisonment.

Under our current law, judges must impose a mandatory life sentence for murder, and can impose up to life imprisonment for other heinous crimes such as rape.³⁸ However, currently a life sentence also means that the perpetrator can become eligible for parole after 12 years in prison, at which point, after a hearing by the Parole Board, they could potentially be released back into the community.³⁹

Recommendation: Legislation should be introduced so that a judge has the power at sentencing to impose a minimum term before a person can be considered for parole, and legislation should also allow the judge to hand down a whole-life sentence, so that the perpetrator will spend the rest of their life in jail. In other words: life means life.

3.6 YFG calls for criminal records to be spent after five years subject to the conditions set out in the Criminal Justice (Spent Convictions and Certain Disclosures Act) 2016, as opposed to seven.

Criminal convictions can have huge effects on people's job prospects. People who have been convicted of a minor offence, should not have their convictions affect their job prospects years after their convictions.

Recommendation: A reduction of the length of time for expunging criminal records to be reduced from 7 to 5.

Fines

3.7 YFG calls on the Government to empower the Revenue Commissioners to collect fines that are being imposed by the courts.

The Fines (Recovery) Act 2014 is still not leading to a high percentage of fines being collected. In the District Court, if a fine of €200 is imposed, the judge will also give the option of "7 days in default." According to the Law Reform Commission, in practice, many people take the option of 7 days in prison, knowing that at worst they will be in and out of prison on the same day because of prison overcrowding.⁴⁰

Recommendation: Giving Revenue the power to collect fines would result in more money owed to the State being recovered and less money being wasted on arresting people and bringing them to prison where they will be released on the same day.

37. 'Drunk driver with 485 convictions who killed teen while speeding jailed for 18 months' Irish Independent (27 January 2017) Available at: <https://www.independent.ie/irish-news/courts/drunken-driver-with-485-convictions-who-killed-teen-while-speeding-jailed-for-18-months-35402570.html>

Eamon Lynch, had more than 485 convictions as reported in the Irish Independent, Drunk driver with 485 convictions who killed teen while speeding jailed for 18 months, (27 January 2017) available at: <https://www.independent.ie/irish-news/courts/drunken-driver-with-485-convictions-who-killed-teen-while-speeding-jailed-for-18-months-35402570.html> and Bernard Kelly had 141 previous convictions as reported in The Journal.ie, Man who led gardai on high speed car chase and crashed outside a school is jailed, (26 June 2019) available at: <https://www.thejournal.ie/bernard-kelly-jailed-4698950-Jun2019/>.

38. 'Sentencing Guidelines and Information Committee-Sentencing Judgement Guidelines for the General Public' Judicial Council (January 2022) Available at: <https://judicialcouncil.ie/assets/uploads/Sentence%20Information%20the%20General%20Public.pdf>

Sentencing Guidelines And Information Committee – Sentencing Judgments Guidance For The General Public, Judicial Council (January 2022) page 4, "A term of imprisonment of life can apply if a rape is carried out with serious violence, or if the victim is subjected to greater humiliation than is normally associated with a rape offence, or if the victim is subjected to sexual perversion." Available at: <https://judicialcouncil.ie/assets/uploads/Sentence%20Information%20the%20General%20Public.pdf>

39. Parole Act 2019, Section 24. Irish Statute Book. Available at: <https://www.irishstatutebook.ie/eli/2019/act/28/section/24/enacted/en/html>

40. An overview of the figures of unexecuted bench warrants by the Law Reform Commission can be found here: <https://www.lawreform.ie/news/report-on-search-warrants-and-bench-warrants.599.html>



3.8 YFG calls for the maximum fine for all offences under the Non-Fatal Offences Against the Person Act 1997 to be increased.

The Non-Fatal Offences Against the Person Act, 1997 covers crimes like assaults, false imprisonment, abduction of a child, harassment and so on⁴¹. Crimes such as assault and harassment currently carry a maximum penalty of a €2,500 fine if prosecuted summarily.⁴²

Recommendation: Young Fine Gael believes the maximum fine for all offences in the Act should be doubled to €5,000 or should be reclassified as Class A fines.

3.9 YFG calls for the Fines Act 2010 to be revised so Class A fines may be increased.

The Fines Act 2010 sets out the various categories of fines for offences dealt with by the District Court.⁴³ The upper limit of Class A fines is €5,000. The upper limit for a Class B fine does not exceed €4,000; a "Class C fine" means a fine not exceeding €2,500; a "Class D fine" means a fine not exceeding €1,000; "Class E fine" means a fine not exceeding €500.

Recommendation: Young Fine Gael Calls on Class A fines, to be increased in value.

3.10 YFG calls on the Government to introduce legislation to prevent benefit from homicide in civil law, including in joint tenancy and succession cases.

Recommendation: The Government should enact the dormant initiative on prevention of benefit from homicide. The lacuna was addressed in the Civil Liability (Amendment) (Prevention of Benefits from Homicide) Bill 2017, which lapsed in January 2020 upon the dissolution of the 31st Dáil⁴⁴.

The Bill, referred to as Celine's Law, would have sealed the gaps in the legislation governing succession and inheritance where a person stood to gain financially from their crime, which was a major issue in the tragic case of *Cawley v Lillis*⁴⁵.

Civil Law

3.11 YFG calls for the proper regulation of third-party litigation funding in Ireland in order to promote access to justice for all.

In November 2022, the Government inserted s 89 of the Court and Civil Law (Miscellaneous Provisions) Bill 2022 that will legalise third-party funding in international commercial arbitrations. This recognises that third-party funding internationally is well-established and regulated.

However, for ordinary litigants before the Irish courts, outdated Common Law rules of maintenance and champerty remain in place. These prohibit commercial third-party funding companies, who are legal in the England and Wales, and the United States from assisting individuals from bringing legitimate claims, due to the high cost of doing so. In England and Wales, the Association of Litigation Funders (ALF) has a code of conduct that all its members must abide by. The code of conduct was written by a body set up by the UK Ministry for Justice. There is also occasional judicial oversight of the ALF to ensure compliance with the code.⁴⁶

Recommendation: The Department of Justice would mirror the approach taken by its UK counterpart, and that judicial oversight would be included as an extra layer of protection so that the regulation of third-party litigation funding would remain transparent.

3.12 YFG calls for the Government to examine whether further regulation is needed in respect of insurance companies seeking consent orders apportioning liability between the parties to personal injuries actions. There are estimates that this practice is costing the taxpayer €20 million per year.⁴⁷

Sections 2 and 3 of the Insurance (Miscellaneous Provisions) Act 2022 amended the Central Bank (National Claims Information Database) Act 2018 to enable the Central Bank of Ireland to collect comprehensive information regarding deductions

41. *Non-Fatal Offences Against the Person Act 1997*, Irish Statute Book. Available at: <<https://www.irishstatutebook.ie/eli/1997/act/26/enacted/en/html>>.

42. Section 3 (2) (a) *Non-Fatal Offences Against the Person Act 1997*, Irish Statute Book. Available at: <<https://www.irishstatutebook.ie/eli/1997/act/26/enacted/en/html>>.

43. *Fines Act 2010*, Irish Statute Book. Available at: <<https://www.irishstatutebook.ie/eli/2010/act/8/enacted/en/>>

44. *Civil Liability (Amendment) (Prevention of Benefits from Homicide) Bill 2017*, Houses of the Oireachtas. Available at: <<https://www.oireachtas.ie/en/bills/bill/2017/34/>>

45. *Cawley v Lillis* [2011] IEHC 515.

46. Latham, Simon and Rees, Glynn "The Third Party Litigation Funding Law Review: United Kingdom – England & Wales" (8 December 2022). Sections iii and iv. Available at: <<https://thelawreviews.co.uk/title/the-third-party-litigation-funding-law-review/united-kingdom-england--wales>>

47. 'Judge awaits Minister's view on taxpayer footing part of insurers' compensation bill' Irish Times (01 April 2022) Available at: <https://www.irishtimes.com/news/crime-and-law/courts/high-court/judge-awaits-minister-s-view-on-taxpayer-footing-part-of-insurers-compensation-bill-1.4842286>.

by insurance undertakings of State benefits from amounts paid in respect of insurance claim settlements, including Recoverable Benefits and Assistance (RBA) Scheme-related deductions.

Recommendation: The Central Bank must publish a report on these deductions. This will then inform any follow-up need for further regulation.

3.13 YFG calls on the hastened introduction of 'anti Slapp' legislation.

Strategic Lawsuits Against Public Participation (Slapp) represent a threat to freedom of speech against powerful individuals.

Recommendation: The creation of a mechanism to rapidly dismiss vexatious lawsuits, and reward costs sustained by the defendant, is needed to protect Irish courts from abuse by financially powerful parties.

Miscellaneous

3.14 YFG calls for the decriminalisation of all drugs in accordance with the Portuguese model.

Under the Portuguese Model drug addiction is treated as a public health issue as opposed to a criminal one. Since decriminalisation, drug related deaths in Portugal have dropped to 6 deaths per million among people aged 15-64, compared to the EU average of 23.7 per million, as of 2019.⁴⁸ HIV infection also plummeted from an all-time high in 2000 of 104.2 new cases per million to 4.2 cases per million in 2015.⁴⁹

3.15 YFG calls for children's out of court statements to be given a presumption of admissibility in order to save court time and prevent children from being exposed to lengthy and distressing hearings.

The Law Reform Commission's 2016 Report on Evidence made the recommendation of introducing a general

presumption of admissibility when it comes to information given by children out of court (for example, statements to social workers, Gardai, child psychologists).⁵⁰

Recommendation: Amend section 23 of the Children Act 1997 so that there is a presumption of admissibility with a discretion to exclude where the interests of justice so require.

Section 60 of the Commission's Draft Bill sets out what this might look like:

60. (1) Without prejudice to any rule of law or enactment, hearsay evidence by any child, that is any person under the age of 18 years, shall be presumed to be admissible in proceedings –
- (a) brought by the State, as guardian of the common good, for the purpose of preventing the safety and welfare of any child from being prejudicially affected, or
 - (b) concerning the adoption, guardianship or custody of, or access to, any child, or
 - (c) without prejudice to paragraphs (a) or (b), in any proceedings under any family law enactment.
- (2) Evidence to which subsection (1) applies shall not be admitted if the court is of opinion that in the interests of justice the evidence ought not to be admitted.
- (3) In estimating the weight, if any, to be attached to evidence to which subsection (1) applies, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to its accuracy or otherwise.⁵¹

3.16 YFG calls on the Government to introduce primary legislation to allow for the state to be liable for the legal costs of the accused, in cases of acquittal.

Going through the court system is always difficult for anyone. This is particularly the case in a criminal context. YFG believes that no one should be forced to pay tens of thousands in legal fees if they are found not guilty of an offence.

48. 'European Drug Report 2020: Trends and Developments' European Monitoring Centre for Drug Addiction. (22 September 2020) Available at: https://www.emcdda.europa.eu/publications/edr/trends-developments/2020_en

49. 'Portugal's radical drugs policy is working. Why hasn't the world copied it?' The Guardian (05 December 2017) Available at: <https://www.theguardian.com/news/2017/dec/05/portugals-radical-drugs-policy-is-working-why-hasnt-the-world-copied-it>

50. Consolidation and Reform of Aspects of the Law of Evidence, Law Reform Commission Report (LRC 117-2016). Available at: https://www.lawreform.ie/_fileupload/Evidence%20Report%20Completed%20Revised%2018%20Jan.pdf.

51. *Ibid.*, p 417-418. Section 60 can be found under the heading 'Hearsay evidence by children in civil proceedings presumed to be admissible'. Available at: https://www.lawreform.ie/_fileupload/Evidence%20Report%20Completed%20Revised%2018%20Jan.pdf.



3.17 YFG calls for the Judicial Conduct Committee to be given the power to suspend judges for cases of misconduct.

The only disciplinary option for judges is an impeachment. There is no “lesser punishment”. Therefore, the Judicial Conduct Committee should have the power to suspend judges for minor cases of misconduct.

3.18 YFG calls for the Government to ensure that the most up-to-date legislation is obvious to everyone on the eISB (electronic Irish Statute Book), in order to ensure that citizens have access to the most accurate version of the law.

The Electronic Irish Statute Book should be changed so that the Revised Act version of all Acts appears first and foremost on the website, giving citizens the up-to-date version of the law as opposed to legislation as enacted.

3.19 YFG calls on the Government to create a dedicated Special Family Court.

The Family Law Court Bill 2022 is currently at Second Stage before the Seanad.⁵²

Recommendation: YFG calls on the Government to prioritise the passing of this legislation through the Houses of the Oireachtas. We also would seek amendments to the Bill by going further with the creation of a new dedicated Special Family Court outside of the current courts’ system for the sole purpose of deciding family law cases, dealing with the custody of children, separation and other family matters. The current system of the family courts is totally inadequate with the only dedicated courts being present in Smithfield in Dublin.

⁵². *Family Law Court Bill 2022, Houses of the Oireachtas. Available here: <<https://data.oireachtas.ie/ie/oireachtas/bill/2022/113/eng/initiated/b11322s.pdf>>.*

Acknowledgments

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YOUNG FINE GAEL

Young Fine Gael (YFG) is the youth wing of the Fine Gael party and always welcomes new members aged between 15 and 35. YFG is the only vehicle for young people to seek political change in this country. As an autonomous youth organisation, it has the advantage of embodying the values of the Fine Gael Party, while maintaining the independence to express views of young people.

Members of YFG can also be members of Fine Gael and take part fully in the party at all levels. YFG has its own President and National Executive.

YFG believes strongly in the ideal of the European Union and is a member of the Youth of the European People's Party (YEPP) an organisation of one and a half million members. YFG has been influenced by the ideas of Christian Democracy and Compassionate Centrism. This means that YFG, like Fine Gael, evaluates everything and tries to move on what it sees as the right thing to do in each given situation. Over the years, we have developed wide ranging policies at this level, and in recent years we have been at the forefront of YEPP, devising successful and important policy resolutions on topics like improving EU banking regulations or introducing an EU-wide vetting scheme for youth and children workers.

For more information about Young Fine Gael

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