



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY

7th ANNUAL IRISH CRIMINAL JUSTICE AGENCIES [ICJA] CONFERENCE

Protecting the Human Rights of Vulnerable Suspects and Offenders: Defining, Identifying and Responding to Vulnerabilities

Friday 4 June 2021

Conference Welcome Address by Policing Authority Chairperson, Bob Collins

It is something of a truism to say that a conference theme is important and that it is timely that it is being addressed now. But in this case, it is a fact. For too long, the issues of vulnerability and of mental health have been absent from our public discussion of justice matters. It was instructive that this year's Martin Tansey lecturer identified the extent to which mental health had not been referred to in previous lectures in that excellent lecture series. Otherwise good works on the criminal justice system, published as recently as the early years of this century did not feature the themes in any great substance.

If our experience of Covid-19 has done anything for us, it has given us a real insight into just how vulnerable, how fragile, how easily disrupted the lives of families, communities, societies can be. The Policing Authority's outreach work to communities and to those who work with vulnerable people, as part of our oversight of the policing of the health emergency powers, has been a rich source of deep understanding of the reality of vulnerability in the lives of so very many.

It is not new. In 1964, almost sixty years ago, RTÉ broadcast a Radharc documentary on being Down and Out in Dublin. An extract from the narration of Peter Lemass is, for me, a strikingly effective encapsulation of the reality of marginalisation - in 180 words. They are worth hearing again because they still strike a loud chord.

"Poverty takes many forms and exists in many degrees. Modern society has banished poverty to this extent that no one need die of hunger anywhere in Dublin today. Even the most destitute knows that he will get enough food to keep alive. And that is something for those who have nothing else. And there are those who have nothing else - no home, no work, no income, no prospects of any kind. The clothes they wear have been cast off by others. They are unemployed and unemployable. They are studied by sociologists, watched by police, surveyed by statisticians, condemned by the righteous and given alms

by the soft-hearted. They exist rather than live, sheltered by state and religious institutions, fed by charitable organisations, avoided by their fellow citizens, moved along by the authorities, jeered at by children. They lead the most public and the most private of lives. Everyone knows them to see but scarcely anyone knows them to talk to or understands just how or why they have drifted into their present hopelessness.”

These words have a disturbingly contemporary resonance. The studied use of the passive voice emphasises the fact that, then as now, there is such an absence of agency in many lives. The term mental health was not used but the accompanying images conveyed the reality.

We live in a time when the public discourse focusses, very properly, on victims of crime and, almost exclusively, unfortunately, on the law enforcement role of policing. It rarely shows great concern, or sympathy, for offenders or suspects. For all the progress that has been made, there can be something of an impatience with or even intolerance of discussion on Human Rights which can be seen as a fair weather friend, a decorative ribbon on the box of life, to be disregarded when times are tough.

And yet, at the heart of the statute that is the foundation of the contemporary Garda Síochána, the 2005 Act, is the requirement for our police service to vindicate the human rights of every individual - not citizen, individual.

Suspects and offenders are individuals. And human rights far from being a luxury are a legal obligation under our constitution, our law and the European Convention.

The former Chief Constable of the Police Service of Northern Ireland, George Hamilton said that ‘good policing builds confidence, credibility and legitimacy’. Confidence in and the legitimacy of the entire Justice system are every bit as essential as they are for policing. A measure of the justice system is how it treats all who engage with it, including the victim and the suspect. And it needs legitimacy in the eyes of both victim and suspect as well as in the entire community that observes it in operation.

One of the key challenges of a justice system is to keep fairness and the possibility of hope as central themes and values in all their actions. It is especially the case with young offenders - that they see some potential in the future and that those who have them in their temporary care see some hope for them. Others may give up on them but the justice system never will. Without that sense of possibility they will act as if they have nothing left to lose. Because they have nothing left to lose.

The well-known principle of policing that ‘every contact leaves a trace’ has wider application. The way that the first contacts take place within the justice system will convey and support a sense of legitimacy or they will even more easily diminish it.

The experience of Covid-19 over the past fifteen months has taught us a great deal about vulnerability and has focused new attention on the reality of mental health issues for very many people. The challenge will be to convert what we have learned as a society into a guide on the path to the future.

Everyone is vulnerable in some degree at some time. Children are always vulnerable. And it is that vulnerability that allows others to prey on them, to lure them into the shadow world of criminality until they can be entirely engulfed in it. Couple being a vulnerable child with social disadvantage and with poverty and the potency of the cocktail of grim possibility is greatly enhanced. If and when the child reaches the justice system, the reality of what went before cannot be ignored.

It is not an accident that poor people become ill. Poverty makes you sick. It is not an accident that those who are disadvantaged are disproportionately overrepresented in the criminal justice system - while being underrepresented in access to virtually every other publicly funded service. Disadvantage makes you vulnerable to being misled.

This is not to excuse wrongdoing. It is to assert the importance of recognising its causes. And it is to acknowledge that those who make people victims may themselves have been made victims by others.

Vulnerability comes in many forms and at any time, at the most unexpected of times. And we have learned that it does not cease to visit us when we cease to be children. Understanding it in all its forms, understanding its causes and implications and understanding the kinds of responses that it requires are challenges for everyone in society, especially for those who are part of the public service and in a very special way for those of us in the justice system.

One of the striking aspects of this conference is the range of speakers whose research will illuminate our understanding. That growing body of research findings is and will be a crucial contribution to the shaping of a new approach to those who find themselves in the justice system. The Policing Authority has direct experience of the richness of understanding that Ursula Kilkelly's research for the Authority on the experience of children with the Garda Síochána has given us.

And finally, fairness and the respecting of human rights and equality are not gifts to be given only once and then forfeited. They are enduring entitlements. Repeat engagement with the justice system does not diminish by one jot or tittle the entitlement to be treated properly and fairly, with understanding, empathy and respect.

There is much to be reflected on. The Belfast poet Louis McNeice said that

'World is crazier, and more of it than we think, Incurably plural.'

It is that pluralism that enriches our lives.