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Editorial

Welcome to the eleventh edition of *Irish Probation Journal*. Last year's *Irish Probation Journal* was launched in Hillsborough Castle by Ministers of Justice from North and South of the border. The Ministers and the heads of the Probation Services in attendance for the launch officially acknowledged the important and valued contribution made by *Irish Probation Journal* over a decade in informing, influencing and developing probation practice and research across the island of Ireland and elsewhere.

Having reached that significant milestone, there are plans to continue to develop an *Irish Probation Journal* that will be relevant and valuable to practitioners, policymakers, researchers, academics and students working within criminal justice and social policy. We believe that the articles in *Irish Probation Journal* 2014 will inform practitioners in developing practice and partnerships that will prevent reoffending and make communities safer.

Irish Probation Journal provides a valuable opportunity for academics, researchers and practitioners to present their knowledge, research findings and examples of better practice. It offers a forum for continuous learning and development not only for people within the two services but also for the wider criminal justice readership and international colleagues.

In the annual Martin Tansey Memorial Lecture, hosted by the Association for Criminal Justice Research and Development, Paul Senior, Director of the Hallam Centre for Community Justice, highlights the importance of partnership working and collaboration within criminal justice. Paul considers the development of Integrated Offender Management (IOM) and pooling resources and expertise to create effective working partnerships to prevent reoffending. He stresses, in particular, the importance of role clarity and identity among the partners as well as a focus on their appropriate tasks. He also emphasises the importance of community involvement, information sharing, governance arrangements and identifying the target population.

Culture, ethnicity and race have become important issues in probation practice. Professor Denis Bracken examines how Probation Officers themselves view practice skills and methods of probation supervision in working with Travellers in Ireland. Continuing on the theme of minorities and their experiences, Paul Gavin considers the position of Irish prisoners in England and Wales, taking a critical look at the circumstances of Irish Travellers. Looking at a source of controversy in prisons in many jurisdictions, Cormac Behan investigates the divergent approaches by Ireland and the United Kingdom in addressing prisoner enfranchisement.

The area of risk assessment and management is explored by Professor Hazel Kemshall in her article charting the development of the Public Protection Arrangements in Northern Ireland. The arrangements are now a core part of probation's role. The development of effective training and information sharing in the Multi-Agency Public Protection Arrangements is considered by Professor Kemshall. Issues in public disclosure as well as community engagement and education are also explored.

The subject of public disclosure and community engagement is continued in 'Not in my Back Yard' by Paul Thompson. Paul describes how, in Northern Ireland, high-risk sexual and violent offenders are assessed and managed in the community and the impact that access to appropriate housing and accommodation has on reoffending risk. Community engagement seeks to educate and reassure the public about approved accommodation, but understandable community concerns remain about where offenders live.

Every year probation services provide many reports to courts to assist sentencers in criminal courts. These reports contain key information for decision-making in the Children Courts. Etain Quigley considers Pre-Sentence Reports in Courts, exploring whether there has been a shift to risk-oriented practice.

Child-on-parent violence has, in recent times, been identified as a significant issue for attention. Eileen Lauster, with her colleagues, describes an innovative project in Limerick working with parents of young offenders who have experienced violence and threat from their children.

Differences between male and female genders are areas of constant curiosity in many fields. Working on LSI-R risk/need assessments, Janice Kelly and John Bogue examine the differing criminogenic needs identified and the implications for effective treatment for female offenders.

The 12-step programme is a widely endorsed model of addiction recovery. Socially constructed conceptions of dominant masculinity

represented in hegemonic masculinity are said to be a contributory factor in men's poor health status, including substance abuse. David Dwyer's study investigates the impact of this in a 12-step recovery programme, and some of the issues arising.

Justin McCarthy explores the complexities and challenges in community service and unpaid community work (Community Return programme) as 'front-door' and 'back-door' sanctions and alternatives to custody.

There are times when we think that problems and challenges in criminal justice are new. In an insightful and measured memorandum written in July 1941 and unknown for many years, the late Evelyn Carroll, a pioneering figure in the nascent Probation Service in the middle years of the twentieth century, provides her own analysis of female offending at the time and how it was addressed in the criminal justice system in Ireland. She examines issues in social attitudes as well as the treatment, aftercare and resettlement of female offenders. How much has changed and how much remains the same?

Restorative Justice and restorative practice are developing areas in community supervision. Dermot Lavin and Claire Carroll provide a practical case study highlighting the benefits of a Restorative Justice approach to victims, offenders and wider society. It is clear that restorative practice can give a voice to victims of crime and help offenders take responsibility for their actions.

Policing and Community Safety Partnerships in Northern Ireland were established in 2013 and have helped probation build links at local level to enhance community safety. Eithne McIlroy describes how the Probation Board for Northern Ireland, through its participation as a designated body in partnerships with other statutory agencies and local people, can contribute to better resolution of local problems and keeping towns, streets and communities safer.

Continuous learning and development is explored in 'Practice Teaching in the Probation Service' by Susan Campbell Ryan. It is clear that quality practice teachers' support and guidance are key elements in students' progress and development.

We believe that *Irish Probation Journal* has an important role to play in stimulating new and innovative thinking as well as promoting debate, dialogue and engagement. There are many insightful and valuable articles and reports in this year's edition which will be important in informing and encouraging research, practice and policy development.

We look forward to our next edition and invite and encourage established and new writers on criminal justice issues, community sanctions in particular, to submit papers and research findings for publication in *Irish Probation Journal*.

Gerry McNally
The Probation Service

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The Probation Board for Northern Ireland

Integrated Offender Management: Pooling Resources and Expertise and Creating Effective Working Partnerships*

Paul Senior[†]

Summary: Integrated offender management (IOM) evolved from a series of related practice experiments in England and Wales which brought together key partners – police, prison, probation, community safety partnerships and the voluntary sector – to find a more focused way to tackle persistent and prolific adult offenders. IOM survived a change of government and has continued to prosper, though the jury is still out about how effective the model is at reducing reoffending. This paper, adapted from the Seventh Martin Tansey Memorial Lecture delivered in April 2014, looks briefly at the history of this initiative, drawing out and interrogating key elements in the operational and strategic structures and the extent of community involvement, considering issues in the setting of a researchable agenda, and setting this in the context of the co-production of services for both adult criminal justice service users and young people in transition to adulthood.

Keywords: Integrated offender management, social inclusion, joined-up justice, co-production, justice policy, probation, policing, community engagement.

I was very interested to learn about the Association for Criminal Justice Research and Development (ACJRD – www.acjrd.ie) because it very much fits the approach I have pursued throughout my career, seeking to maximise the relationship between research, policy and practice in criminal justice. As a researcher running a contract research centre, but following a career in probation including 11 years as a joint appointment with the probation service and the university, and as a probation

* This paper comprises the revised text of the 7th Annual Martin Tansey Memorial Lecture sponsored by the Association for Criminal Justice Research and Development (ACJRD) and delivered at the Criminal Courts Complex, Dublin on 29 April 2014.

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academic, trainer and commentator, my interest has always been in being out in the 'field', working alongside probation, prisons, police and other agencies to share knowledge and find a better way of doing practice. This paper draws on some of the research undertaken, but essentially deals with the policy and practice implications behind the concept of 'integrated offender management' (IOM).

First I want to take you back to the International Corrections and Prisons Association Conference in Budapest in 1999 (The Free Library, 1999) where one of the speakers said: 'crime is best reduced through adherence to the principles of social inclusion, this is the best way to provide protection for communities from the harm and distress caused by crime'. He went on to highlight three particular facets:

- the social exclusion of offenders through incarceration reduces the chances of their effective reintegration and increases the risk of reoffending
- social inclusion requires that offenders accept responsibility to take steps to stop offending and to make reparations; it also requires a response from the community, which recognises a mutual responsibility
- community sanctions provide rigorous and constructive alternatives to imprisonment (The Free Library, 1999).

These comments struck me as giving a useful ethical boundary to the agenda of IOM, which must centrally be concerned with social inclusion.

So who said that? It was, in fact, Martin Tansey himself, speaking at the conference in 1999. Martin went on to summarise the main elements that were required to achieve the social inclusion of offenders:

- accurate assessment of the risk of reoffending and what can be done to reduce that risk
- programmes for offenders that focus on the causes of their offending and on their taking responsibility for their actions
- affirmation of the values of mutual responsibility and respect
- responsiveness to the differences of offenders' circumstances, especially those from minority groups
- programmes aimed at reducing substance abuse
- provisions for social support
- assistance in finding and keeping employment

- opportunities for offenders to make reparations
- consistency in enforcement of the conditions of probation.

Even though they were listed 15 years ago and referenced a much wider probation context, these are very much commitments at the heart of the concept of IOM. Martin's focus on social inclusion is an important legacy and is still relevant today.

I intend to explore, very briefly, the history of the IOM initiative. While I am very positive about the ideas underpinning IOM, there must be a better term, and in thinking about using it in Ireland I hope you will consider some of the alternatives. This paper will draw out and interrogate some of the key elements in the operational and strategic structures, to give an understanding of what needs to be done to make it a successful innovation, to look at the extent of community involvement, and to comment on the researchable agenda that might arise within IOM and some of the problems of IOM.

There is a real opportunity in IOM to enhance the co-production of services focused on offenders and professional staff working together in both adult criminal justice services and young people in transition to adulthood. Finally, I will look at the interplay between practice, policy and research with the backdrop of huge changes to the organisation of probation in England and Wales and therefore the fate of IOM during the summer and autumn of 2014. This is not the place for an in-depth analysis of the future of IOM in England and Wales, but it might be useful for you to know about that so you can avoid reinventing a negative wheel in relation to IOM development in Ireland.

My working at the Hallam Centre for Community Justice (HCCJ) means that this paper will draw on a number of pieces of research and evaluation undertaken, particularly the first national evaluation of IOM, a process evaluation that looked at five pioneer areas in England and Wales (Senior *et al.*, 2011). HCCJ also evaluated Intensive Alternatives to Custody (IAC), which is a different kind of programme but actually builds on some of the same principles (Wong *et al.*, 2012).

We looked in detail at the role of the voluntary sector in IOM (Wong *et al.*, 2011) and at prolific and priority offender evaluations (Feasey *et al.*, 2007, 2009), and at something that came and went briefly called the Vigilance Initiative, which was based on the same principles (Meadows and Senior, 2009). We have looked at IOM in Sussex (Wong *et al.*, 2013), which seems to be quite a successful model, and we have also been

involved in consultancy, developing IOM in South Yorkshire and in Doncaster (Senior and Feasey, 2009).

We have also set up, at the behest of the Home Office, an IOM e-learning platform on the Community Justice Portal (<http://cjp.org.uk/iom-elearning>). This paper draws on other evaluations, particularly the findings from the national evaluations of prolific and priority offenders (PPOs) (Dawson, 2005, 2007), the Diamond Initiative evaluation in London (Dawson *et al.*, 2011), the Home Office surveys of IOM between 2011 and 2013 (Home Office, 2012, 2013), a very recent and useful report written jointly by the inspectorates of probation and the constabulary which was published in March 2014 (Criminal Justice Joint Inspection, 2014), and finally a brief look at Transforming Rehabilitation in England and Wales (Ministry of Justice, 2013) and its impact for IOM.

By 2000 there was a growing recognition that while crime was going down consistently year on year, this was not necessarily reducing individual recidivism, and concerns around the causes of this were being expressed. We had this seemingly paradoxical situation across most western countries from the mid-1990s (Garside, 2004). 10% of offenders commit 60% of all crime, 50% of offences are committed by offenders who have already been through the criminal justice system, 4% of those are high crime causers and 60% of offenders sentenced to short-term custody will reoffend within one year (Home Office, 2004, pp. 32–33).

Those statistics, and similar ones, began to emerge at the turn of the century, tending to suggest that there needed to be an approach that targeted resources slightly differently. This so-called ‘revolving door’ of offenders entering the system repeatedly and persistently appeared to be causing most of the stubbornly high reoffending rates. This is the underlying context of the changes that took place under the new Labour government from 1997 to 2011, and I want to briefly sketch these out because it is important to recognise that IOM is not something developed as a pristine and new product: it was something that evolved out of a history of developments over quite a long period of time.

The first relevant change that happened in England was the setting up of Crime and Disorder Partnerships following the Crime and Disorder Act 1998, bringing the local authority and the police together as lead agents with other organisations from the third sector, health, probation, etc. to assess local crime in a much more structured and localised way than had been the case before. People began to look at the nature of local crime and to think about what could be done in their own areas as

distinct from the problems in other areas. This is quite important in understanding the development of IOM.

There was a change in focus in the way the government began to think about how it managed offenders, looking at trends in offender patterns of behaviour and seeking to find systemic solutions. Reducing reoffending became the political watchword: that was what services were set up to achieve, and risk and public protection became foregrounded in a lot of the work of the Probation Service.

This required, during 2003 and 2004, the setting up of Reducing Re-offending Action Plans (NOMS, 2004): each area had to state how it was going to reduce the reoffending of offenders locally, around what became crystallised as the seven pathways. These were seven areas that were identified as key to influencing reductions in offending: employment; housing; children and families; health and mental health; financial inclusion; drugs and alcohol; thinking and attitude (SEU, 2002).

A major report in 2003 (Carter, 2003) had identified so-called ‘silo mentalities’ among the key correctional agencies – police, probation, prison – who, Carter argued, were not working in as coordinated a way as they could. This led to the development of a merged organisation called the National Offender Management Service which brought prison and probation together, although that did not in itself make their work any more integrated – that is for debate elsewhere.

At about the same time, the recognition that this group of offenders were offending with great rapidity produced a focus on what became termed ‘the PPO’. This initiative was driven from the centre, but the CSPs³ often took a lead locally. The programme was tightly prescribed: IOM has never been so scripted, partly due to a change in attitude when the Coalition Government came to power, as civil servants were directed towards localism and became much less interventionist. There were three strands to the PPO initiative:

- *prevent and deter*, which was aimed at younger offenders
- *catch and convict*, which was aimed at the police
- *rehabilitate and resettle*, which was aimed at probation (Dawson, 2005).

³ Community safety partnerships (CSPs) were set up under the Crime & Disorder Act 1998 with representatives from police, local authorities, fire and rescue authorities, Probation Service and health services.

It began to bring probation and police together to think about this population in a more strategic manner. At the same time Drug Intervention Programmes (DIP) also developed: an attempt at end-to-end offender management from arrest to post-custody, whether on any kind of statutory order or not (Skodbo *et al.*, 2007). The drug intervention team could intervene at any point, and that raised another practice concern, namely that you no longer necessarily had to wait until someone was on a statutory order to intervene. This, of course, raised some human rights issues which will be returned to below.

IOM began to be touted in this context of change following the demise of what was called Custody Plus, which was an attempt to introduce statutory supervision for everyone being released from custody. In England and Wales adults released having served sentences of less than 12 months come out with no supervision, and these were the people that were often the most prolific and persistent offenders. Their offending patterns were not necessarily serious, but they were offending persistently and were going back in through the revolving door into prison. Custody Plus was felt to be too expensive, and so alternative ways of supporting this group of persistent offenders were sought.

So the precursors to IOM were all these initiatives: loss of Custody Plus; PPO schemes, the DIP schemes, and the success of some of the processes developed – multiagency partnerships; pathways interventions and third sector engagement; co-location and role of police engagement and enforcement – all quite important in the gestation of IOM.

The development of multi-agency partnerships such as MAPPA⁴ (Kemshall *et al.*, 2005), bringing agencies together to focus on a single issue, intervening through the pathways in resettlement developments – a strand on employment, education and training, a strand on housing and a strand on drugs and alcohol – gave further impetus and coordination (Senior, 2003). It also brought the third sector very much into the work that was developing (Senior with Meadows *et al.*, 2004). The third sector had a lot of skills, a lot of abilities, but they had often been sidelined in much of this work. The pathways focus meant that the statutory services needed to link in to employment agencies, housing, mental health,

⁴ Multi-Agency Public Protection Arrangements (MAPPA) is the name given to arrangements in England and Wales introduced by the Criminal Justice and Courts Services Act 2000 for the management of registered sex offenders, violent and other types of sexual offenders, and offenders who pose a serious risk of harm to the public.

mentoring agencies, etc. Co-location – putting people in the same work space to work together – also became important, and that will be an important point to return to later.

Crucial to an understanding of IOM is the changing role of the police and their engagement in other roles beyond enforcement (their key role in PPOs had been catch and control only). This notion of the police and probation working together may seem obvious now, but actually was not the norm in the 1980s and even into the 1990s. What can be seen in these programmes is a real change of attitude and engagement, with arrangements for the police and probation and other agencies beginning to work together. The final thing that began to emerge around 2003/4 was a case management model developed by the National Offender Management Service that gave more coherence to case management than there had been for a long time in the Probation Service.

In the research that we did on the pioneer areas (Senior *et al.*, 2011), the best practice model developed actually reflects very much the principles of the offender management model, ASPIRE (see Grapes and NOMS Offender Management Team, 2006) and is similar to the ‘Models of Care’ idea developed by DIP (National Treatment Agency, 2002). It is important to build on similar models that are around when developing new initiatives rather than always reinventing the model.

So what is IOM? It is not a simple thing to define because it is a range of initiatives captured under an umbrella term, IOM, seen more as a way of working by staff than as a specific, delineated programme. In contrast, for instance, IAC (Wong *et al.*, 2012) could have been demonstrated with a single diagram, because the programme there was absolutely delineated – what the elements were in the probation order, how it was done and how it was administered.

Each IOM scheme – and there are somewhere between 67 and 100 different IOM schemes in the UK now – operates slightly differently. They articulate a way of working rather than a single programme, and regard this not as a weakness but as being focused on what a local community and the service user might want and need. They often encompass interventions pioneered from the related schemes of PPO and DIP, but in many different ways. IOM is really best conceptualised as a continuum of services targeted at offenders with particular offence patterns and/or by need. So who IOM is targeted at changes over time and over area. Important to the overarching concept is the pooling of knowledge, resources and skills in a multi-agency partnership, ensuring

that agencies work together effectively and this drives decisions about process. IOM also gave a renewed focus to the neglected short-term custody prisoner who was without statutory supervision on release.

One image that has been used is to describe IOM like a human body – extremely complex and integrated in ways we do not always clearly understand, but each part vital in order to function effectively: different agencies with different priorities, different agendas and different targets, but all developing a single organisational model of delivery, working together to achieve a reduction in reoffending. There is no doubt that IOM needs to be sold effectively to court, to communities and to each agency involved.

Branding has been developed in the UK but not without problems. So we have *Impact*, *Spotlight*, *Revolution*, we have all sorts of names describing the same type or set of interventions. Interestingly our discussions to call the potential IOM scheme in Ireland something different would not have this problem, because you only have one brand: once you have decided what you want to call it, it could then be done across Ireland, so you do not have the problem that exists in England and Wales of all these different brands competing with each other as a brand of IOM. So maybe naming is not so much of a problem here in Ireland.

But it is important that there be a clarity about what it is you are going to do, and that you talk to all the agencies that lie on the periphery of this; particularly important I think are the courts, the communities you are going to work in, and each agency that might have a peripheral but key involvement such as housing agencies, job centre, employment agency. It is not necessarily driven by court or custodial orders *per se*, and I think that is significant.

As researchers, when undertaking the first piece of research (Senior *et al.*, 2011) the team were very concerned about the potential human rights issues in this. My background is in probation, and probation only intervenes in cases where it has a statutory right to intervene, or a voluntary duty as used to be ascribed to probation in terms of voluntary after-care many years ago. If probation did not have a basis on which to intervene, it did not intervene. What IOM developed is that you could intervene with somebody who is under no obligation whatsoever to take part in these programmes, so what does that mean? And does that abuse their human rights? It is an interesting question, and we interrogated this issue when we first started the research, but did not find examples of the kinds of human rights abuses we had projected.

In fact what was found gives two key learning points: agencies like the police and prisons were used to dealing with people who were not under the very restrictive notion of a statutory order; and it was only probation that had this notion of a statutory order driving their practice. The police deal with people who come before them; if they have got a reason to intervene with somebody, they intervene with them. So they were not restricted in that philosophical sense. Secondly, the research showed that offenders welcomed intensive engagement if it gave them something positive around change.

At first when I first come onto it I had officers for the first three weeks, every night I had police officers coming round checking up on me, making sure I was all right, making sure I'm good, but it was good because it wakes you up a little bit. (Service user quoted in Senior et al., 2011, p. 27)

So offenders themselves, by and large, were not actually upset by that intensive involvement; they welcomed it even though the regime was intensive and included interventions on a daily basis, could involve the police calling round to check that they are OK, to get them to their meetings and so on – generally they welcomed that engagement.

Should IOM be limited to certain groups of offenders? Is it a programme that only operates well with particular types of offenders? Or is it THE approach to offender management for the future? Does it have flexibility and range? The legacy of PPO programmes was a focus on acquisitive offenders – burglary and theft and dishonesty offences – and because IOM grew a little bit out of PPO, so IOM initially often focused on acquisitive offenders. But this has expanded and diversified and includes criminal damage and public order, dangerousness and a full range of offences. So IOM is applicable across the board and does not have to be focused in a singular catchment group.

The key question is: what works and what are the real problems in the area that you are working with in terms of offending patterns? Having identified what the key problems are, that becomes the focus of attention. Earlier there was a fascinating exercise looking at area statistics to identify who were the most frequent reoffenders in that area, and that gave a clear steer as to the potential problems. This would then be checked out with the local community, as they see those people that are causing them the most problems and that begins to be the target group.

What does all this mean for offenders themselves? Does it matter if offenders on the scheme do not understand the difference between IOM and PPO and *Spotlight* and *Impact* and all the rest? Research would suggest that it does not matter (Senior *et al.*, 2011).

Service users understand when they are receiving an intervention. I have interviewed hundreds of offenders over the past few years on IOM, and they will talk about being on probation, but if you say to them ‘could you tell me about your experiences on integrated offender management?’ they will stare back at you and say ‘I’ve not been involved in that – oh, you mean probation’, or they will talk about being a ‘prolific’, which I think is an interesting term: they get that from the PPO scheme, internalise it and see themselves as ‘prolific’. They do understand what they are getting, though: they understand the benefits and commitment.

You’re going to get a police officer come round your house and you’re going to go to probation every week and it’s going to be more tougher, it’s like probation but a more tougher probation. (Service user quoted in Senior *et al.*, 2011, p. 25)

The voluntary nature of IOM was perceived as positive by those same offenders, and actually is likely to increase engagement and compliance over time. It was interesting that when they saw that something was happening to them that was positive and assisted them in trying to achieve what is a very difficult change towards desistance, they would co-operate and take part. The perception was that they were not alone any more, and this is crucial for offenders.

Instead of having police coming and saying you’re arrested or throwing you in jail and roughing you up, it’s coming and they’re trying to help you and I think that makes a big difference in people’s lives ’cause they’re actually coming to help you, not coming to stick you back behind the door. (Service user, quoted in Senior *et al.*, 2011, p. 23)

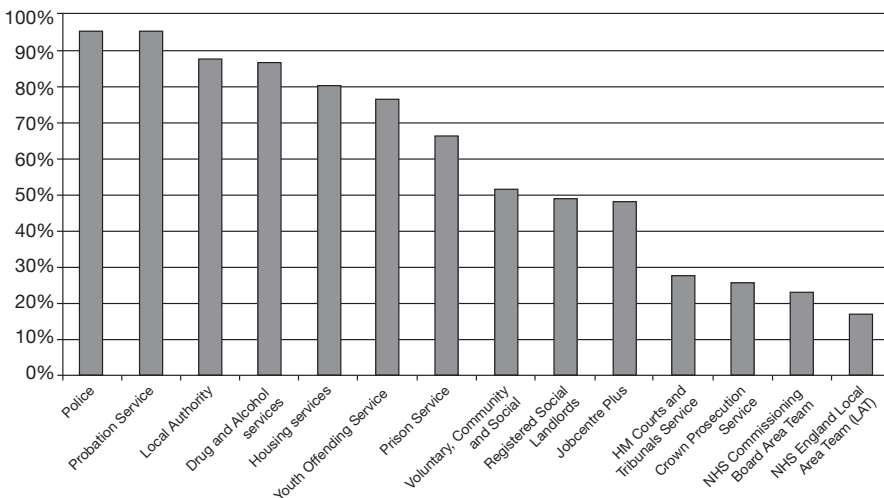
What IOM is trying to achieve is a shift from criminal subcultures back into a ‘normal’ culture within the community, and that means offenders have to change their allegiances but so does the community, and that’s the important element: it is a two-way process. If the community does not let offenders back in – and that is often the experience that offenders have – then it is difficult for them to leave one set of social networks for

another less certain or maybe not welcoming social network, and they're likely to drift back to the people they know and the situations they know.

Offenders often reported to us that they wished they had had IOM much sooner in their criminal journey, but also many of them said – and this was very interesting in terms of desistance theory – that you can only stop offending when you are ready. The notion governments have got hold of is that somehow probation services and prisons are not doing their job because they are not reducing someone's reoffending. It could be that they are not doing their job well, but it could be that the circumstances are simply not right for somebody to change their behaviour. Desistance theory (Maruna, 2001) suggests that people have to be motivated, they have to be ready for change, and it is only when they are willing to take up those experiences that we can really expect to see meaningful change in their behaviour.

Figure 1 highlights the major agencies that the 2013 survey identified as involved in IOM across England and Wales. More important is the pattern here: you see police and probation involved in most of the schemes, more or less 100%, but only about 50–55% for the prison service, and one thing the research strongly suggests is to think about prison engagement from the outset. In developing IOM for people who

Figure 1. Agencies reported to be involved in local IOM arrangements (Home Office, 2013)



have been in custody and back out into the community, there needs to be an effective and continuous link from what goes on in custody through and back into the community. It is the breakdown of that link that often causes a lot of difficulties in its own right.

The points raised so far are summarised in the Home Office and Ministry of Justice's 2010 set of key principles:

- all partners tackling offenders together
- delivering a local response to local problems
- offenders facing their responsibilities or facing the consequences
- making better use of existing programmes and governance
- all offenders at high risk of harm and/or reoffending are in scope (Home Office/MoJ, 2010).

What do you need to do if you are to get IOM right in developing it in Ireland? These are a few key areas that our research has focused on; there are many practice protocols too that will be needed such as the right matrices, the right forms, the right processes, the information protocols, but there is not space to discuss the detail here, rather this is a focus on the core issues without which you cannot bring this jigsaw of IOM together. I would summarise them as:

- clear governance and delivery structures
- clear identification and demarcation of offenders in scope
- recognise the heightened role of police
- understand the crucial interfaces
- draw on models of offender management/case management
- develop effective partnerships by pooling resources.

Some of the problems identified from the research are really down to poor governance and confusion over governance, particularly over leadership, both at a strategic level and at a delivery level. In fact, unless the two levels work together and do not conflict it is likely to fail. It is no good having strategic commitment at the top of the police, at the top of probation, at the top of the Prison Service, but having delivery people who do not know what it is they are supposed to be delivering. It is really important that the strategists actually convey what they want from their practitioners.

There is an inherent complexity in joined-up working, with multiple layers of authority and responsibility, and everyone needs to own and work to the same blueprint. Key agencies must sit within the IOM delivery body. Core agencies include the police, probation, prisons, DIP/CJIT⁵ and YOTs,⁶ and supporting agencies include health, third sector, housing, employment, training and education, financial inclusion agencies, drug and alcohol agencies and mentoring agencies.

Secondly, having a clear identification and demarcation of offenders who are in scope for IOM is vital. You cannot have a loose, ill-defined entry criterion in your scheme that can let anyone in who you feel might benefit from this programme. Somehow in the willingness to be all-embracing we often let people on programmes who should not really be there. It can be very hard to gate-keep entry but it is absolutely important to do that for something like IOM. If you do not focus on the right people then you really are building in problems for later on. And you need to engage your local stakeholders in the decisions about who you are prioritising. You may think that one group is the priority, but you need to check that out in the local community – is that the same problem that they perceive themselves as having?

Partnerships must first decide the nature of offending and/or risk that they wish to have an impact on and then develop effective selection/deselection processes within IOM: dynamic mechanisms, use of police intelligence, RAG schemas,⁷ daily task meetings, and links with beat police, multi-agency reviews and so on.

An important, and arguably the most distinctive, feature of IOM is recognising the heightened role of the police. In many respects this is a new way of thinking for the police and it is only very recently that the police would not have conceived themselves doing the things that are done within IOM. There are three roles that the police play in IOM: intelligence gathering, enforcement and managing offenders. Bringing police intelligence into the IOM team is crucial. Instead of collecting

⁵ A Criminal Justice Integrated Team (CJIT), made up of health workers, Probation Officers, police officers and staff from the voluntary sector, provides access to drug and alcohol treatment for offenders including DIP.

⁶ A Youth Offending Team (YOT) is a multi-agency team dealing with young offenders coordinated by a local authority and overseen by the Youth Justice Board in England and Wales. YOTs were established following the 1998 Crime and Disorder Act.

⁷ RAG (red, amber, green) is a system for identifying categories of offenders used in IOM pioneer areas (Senior *et al.*, 2011).

intelligence for their benefit only, they use the information that is collected to help guide the interventions of the team as a whole. At first police officers were concerned that they brought intelligence in but did not get back intelligence from the other agencies. Over time this has begun to break down because probation staff, initially mistrustful of giving information back to the police, realised that a sharing of information actually enhanced the views that the police had and took all the IOM team down different paths of action. So police intelligence is one crucial role within IOM.

The second is enforcement, not surprisingly, but this is rather different to the catch-and-convict role that PPO schemes exemplified. Catch and convict was focused on arrest – locking them up – and that was the end goal and fitted with the traditional object that police have had in law enforcement.

What was happening in IOM was that enforcement was being reshaped, driving enforcement practices with a positive goal, not just with that negative goal of locking somebody up. Enforcement, as conceived within IOM, is an action that brings service users back to the table, by bringing them into other interventions, thus creating a more constructive way of dealing with enforcement and helping the users stay on track. The ‘disruption’ activities, sometimes named ‘assertive outreach’, are a legitimate role that the police play, and what the IOM interaction was enhancing was the continued engagement in activities. It also meant that police would advise their beat colleagues not to intervene, to stay away from that person when they had them on track.

The third role that the police began to play changed the nature and breadth of police engagement. This was almost rehabilitation activity. It came about for two reasons. First, the police had numbers: they are a much bigger organisation than anyone else in this system, so if they want to be engaged they can put people in, and if they decide to commit to it then they put lots of people in. Second, the Probation Trusts in the UK were extremely slow off the mark in general at picking up their role in the rehabilitative end, and that was partly a resourcing issue.

This resulted in police officers beginning to call themselves ‘offender managers’, and they began to do the kind of case management that you would normally expect to be done by probation staff. Interestingly, in the recent inspectorate report (Criminal Justice Joint Inspection, 2014) they have tried to call a halt to that activity, because they think, and this is probably right in principle, that the police should mainly keep to the role

that the police are good at and probation should mainly keep to the role that they are good at, and other agencies similarly have their own expertise. The double bind of the police in this is that their 'can do' attitude gets them involved very quickly and is very important to them, but also it needs to be reined in in terms of what might be the right modulated approach for particular service users.

Police officers, in particular, had often received insufficient or no training to work in a rehabilitative role with offenders. In the absence of probation or other partnership resources, police officers were sometimes undertaking tasks that might be more efficiently carried out by others. Where this had happened, although the police were acting in the spirit of partnership, they were often meeting a need that should have been fulfilled by probation that would otherwise have gone unmet. (Criminal Justice Joint Inspection, 2014, p. 32)

There are a number of key interfaces at which effective communication and liaison will help IOM work, including between prison and community intervention, between YOTs and IOM, between IOM and the court system and engagement of the third sector. The relationship between prison and community intervention will create a vital continuity for the individual as they go into prison, through the prison system, come out on resettlement and come into an IOM provision. This is not easy to do effectively. For example, a successful in-prison scheme called CARAT (Counselling, Assessment, Referral, Advice and Through care) was a scheme for drug users in prison and on release set up in 1999 (Home Office Findings, 2005). The CARAT system was set up to work with people in prison and would follow them into the community and work with them in the community. It never really got meaningfully beyond the prison gates until the DIP programme started, and this is key to the continuity of care.

A second interface is between young offenders and IOM, that transitional period, at 18 when service users come under the aegis of probation. It is important that this interface be managed properly. Often these are the people that fall out of the system, do not get transferred properly and then they are the ones who offend very heavily. YOTs need to be part of IOM strategic management to ensure such transition works to the benefit of the users.

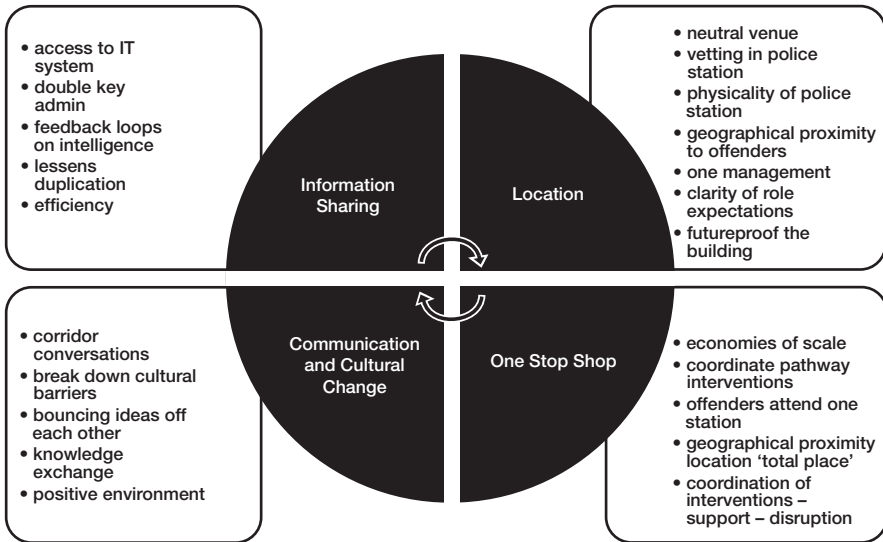
Thirdly, effective relationships between IOM schemes and the court system are also vital so that the court system understands what is happening on these schemes to ensure that any subsequent sentencing reflects an awareness of this work. Finally, engagement of the third sector, who often have skills that are simply not present in the statutory sector, needs to be welcomed. This is also about ensuring that they have a place at the strategic table and a place at the delivery table. Sometimes if they are kept at arm's length they will not engage.

Co-location has been seen as a critical success factor for the success of IOM. Most IOM schemes, where they can, have located their delivery team in the same place, sometimes in a police or probation building, or sometimes in a voluntary sector or local authority building. These all create issues but they have proved crucial to positive working relations (Senior *et al.*, 2011, pp. 19–20). What is interesting about this is that co-location is different to merging; it is not just a matter of words. Though the police, probation, prison (where possible) and all the voluntary sector workers come into a shared space, they all maintain their links and their management structures to their parent agency.

The research tells us here quite strongly that it is actually the distinctiveness of their contribution that makes co-location work. We observed this in the fieldwork we undertook because we saw arguments, we saw disagreements, we saw differences of perspective all the time, but these differences gave the outcome much more resonance for both the offender and the interventions.

In England and Wales we have YOTs that were created in 1998 which brought together in a single unit police officer, Probation Officer, social worker, health worker and an education worker. Fifteen years down the road we now have youth offending teams with five youth offending workers who used to belong to police, probation and so on. Bringing them together and merging them into a single operational unit meant that they began to lose their distinctive identity with their parent organisation; line management was also delivered within the YOT unit.

IOM integration works because people remain who they came in as, so they keep that agency perspective. The clash of perspective between police, probation, prison and the voluntary sector is the dynamic that actually makes the policy and practice direction so resolute. Figure 2 highlights the key elements that need to be considered in developing effective co-location. This is drawn from the research undertaken by Senior *et al.* (2011, p. 20).

Figure 2. Issues in co-location (taken from Senior *et al.*, 2011, p. 20)

The final key practice question is how IOM engages offenders in this process. I think we asked a lot in the research about how you find ways of engaging the offenders more constructively in the process, a concept that we would now call co-production. One service user stated:

I sort of watch and listen to offender management services and understand it's all one body, the prisons work with probation and the police and social services, just everything basically has all become one. (Senior et al., 2011)

Service users understand the messages that multi-agency cooperation is intending to give. Intensive engagement, even when non-statutory, was welcomed as supportive, not coercive. Co-location for the offender produces a single, cooperative message which is understood. The police role is accepted – disruption activities or the more euphemistic ‘assertive outreach’ – but also they emphasise that self-motivation is still the key in successful engagement, supporting desistance work.

It's better now really because I know everyone on my record and it means I don't have to say the same story to four different people each time: that's good.

they genuinely care or it's their job

it's about me doing better for myself and they ask how you're doing, are you using, are you committing crime, they do try to lure you into a trap genuinely because they do care about you a little bit.

it made me feel quite good, it made me feel quite normal instead. (Senior et al., 2011)

In drawing to a conclusion, two further questions need to be asked. Does IOM work? Does the evidence support the development of IOM as an approach? Wong notes that:

One of the strengths of IOM is it is largely developed as a bottom up innovation. In evaluation terms this is one of its weaknesses ... Attempting to identify the additionality of IOM, i.e. what local agencies were doing differently as a result of IOM, was difficult across the IOM pioneer sites as they have developed in very different ways. It still remains difficult, given local variations between schemes. (Wong, 2013, p. 63)

A number of qualitative and quantitative evaluations are listed in the introduction to this paper. In many respects the qualitative evaluations are better because they ask meaningful questions, giving insights that are usable in terms of further developing IOM as a practice initiative. It is a lot harder to produce the high-level quantitative evaluations that focus on what works and reductions in reoffending.

Wong (2013) explores a range of technical questions, but there remains a genuine difficulty in attributing change to IOM. There are ways of getting there, but this should not be underestimated. The shifting nature of the IOM cohort itself as its members move through on a traffic-light RAG means that they do not always get the same level of intervention at points in their progress, which raises difficult practical research questions about measuring impact. Also, usually policy makers want the results in far too short a timeline, as Pawson suggests:

evaluation research is tortured by time constraints, the policy cycle revolves quicker than the research cycle with the result that real

time evaluation often has little influence on policy-making. (Pawson, 2002, p. 1)

The relationship between contract research and evaluation is complex and fraught with difficulties, and is beyond the scope of this paper. This topic is discussed elsewhere in detail (see Senior, 2013). Clearly independent, authoritative and structured evaluations of the cost and benefits of IOM in terms of crime reduction, reduced frequency and/or serious reoffending and eventual desistance from crime should be attempted. But this will take resources, time and research designs that can be both high-quality and reliable. This may be beyond local projects.

Having said that, what can be done? The first thing you must do is involve your evaluators at the outset: as a programme sets off, build in an evaluation, and talk to the evaluators at the start because how you design the programme, what data you collect as the project develops, and how, will be the information that those evaluators can use later to assess its effectiveness. If you do not do that and only involve evaluators 18 months down the line, it will store up problems. Document, record and identify additionality, know what is different about IOM from what they received before and be able to cost it. Reoffending as an outcome measure can be achieved if you have good access to Police National Computer (PNC) data, and you might be able to achieve that. Of course even if impact evaluation on a reconviction study is obtained it will not explain why it worked, so more qualitative analyses will be needed as well.

My second concluding comment relates to how IOM may develop in England and Wales following Transforming Rehabilitation (TR) (Ministry of Justice, 2013). IOM had been developed prior to TR as a co-operative model, both for multi-service delivery and from the physical co-location of staff, but also in terms of engaging non-statutory service users in resettlement following release from prison. Such an approach emphasises a number of key relational aspects of practice: co-working among agencies, co-production with service users, co-location and multi-agency perspective, user-defined outcomes, intensive engagement and pooling of budgets.

Does this model of IOM only work where services are co-operatively shaped and managed, and would a competitive environment send out paradoxical messages to service users? That is a question that will be asked in England and Wales following TR, because though IOM has been

very successfully launched, moving from this co-operative model to the more competitive environment of TR potentially puts IOM at risk. These histories are only just being written, so there will be a need to watch this space and consider what impact the change of commissioning environment may have for the continued development of IOM.

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Out of Sight, Out of Mind: Irish Prisoners in England and Wales

Paul Gavin*

Summary: In 2007 the Department of Foreign Affairs published a report on Irish Prisoners abroad (Flood, 2007) which identified between 800 and 1,000 Irish citizens incarcerated in prisons overseas. This report was one of the first pieces of research undertaken on the topic of Irish prisoners overseas. Since its publication there has been a dearth of further research. This paper is based on a presentation given at the 13th Annual Conference of the European Society of Criminology in 2013. It considers the position of Irish prisoners in prisons in England and Wales. It provides a statistical analysis of these prisoners as well as examining them in the context of the overall prison population and as a sub-group of the foreign national prison population. Statistical data on gender, offences and sentences is considered.¹ The position of Irish Travellers in the prison system in England and Wales is examined, and services available to Irish prisoners are considered. The need for further study and research on the experience of Irish prisoners in custody in England and Wales is highlighted.

Keywords: Irish prisoners abroad, foreign national prisoners, Irish in Britain, Irish Travellers, ethnicity, migration, offending, sentencing, imprisonment, services for Irish prisoners, ICPO.

Introduction

The 2011 Census for England and Wales revealed a resident population of 56.1 million, of whom 407,000 were born in the Republic of Ireland. On the question of ethnicity, 0.9% of all respondents identified themselves as 'White Irish' (Office of National Statistics, 2012). This represents a figure of 504,900. On 30 June 2013 the prison population

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¹ All statistics in this paper were obtained through Freedom of Information requests to the Ministry of Justice.

in England and Wales stood at 83,842. Of this figure there were 769 prisoners whose nationality was recorded as Irish, making Irish prisoners the second most represented foreign nationality in the prison system after the Polish, of whom there were 829.

The first and last official report on the position of Irish prisoners abroad was undertaken as part of a commitment in the Programme for Prosperity and Fairness to 'identify the number of Irish prisoners abroad and their needs for services in prison' (Department of the Taoiseach, 2000, p. 127). The Report on Irish Prisoners Abroad (Flood, 2007) gathered information from all Irish embassies and consulates, and estimated that there were at least 800 Irish citizens in prison throughout the world. The figure of 800 was declared a minimum, as 'not all Irish citizens request consular assistance when detained and therefore, may not come to the attention of the nearest Irish Embassy or Consulate' (Flood, 2007, p. 22). It was also noted that the majority of Irish prisoners abroad were in British prisons.

Foreign national prisoners represent approximately 13% of the prison population in England and Wales, and during the period 2000–2010 the foreign prisoner population rose by 99% (Prison Reform Trust, 2012). Given the great increase in their numbers over the past decade, it is not surprising that a great deal of research has been carried out on the foreign prison population (Banks, 2011; Bhui, 1995, 2007, 2009; Bosworth, 2011; Cheney, 1993; Richards *et al.*, 1995). Foreign prisoners were once referred to as the forgotten prisoners (Prison Reform Trust, 2004), and Irish prisoners in England and Wales have rightly been described as an invisible minority (Murphy, 1994). The dramatic increase in this population means that foreign prisoners are 'no longer the forgotten prisoners [as] the rise in foreign nationals in prison has encouraged research into their experiences of imprisonment' (Banks, 2011, p. 186).

However, there has been very little research into specific minority groups, and research into Irish prisoners' experiences is so underdeveloped that they remain the invisible minority in the prison system of England and Wales. Traditionally, the Irish have been 'usually ignored in the context of studies of ethnic minorities and the criminal justice system' (Hickman and Walter, 1997, p. 124), and when the needs of foreign prisoners have been considered, 'Irish prisoners are never included. When foreign prisoners were discussed during the course of this project, it was a common reaction to suggest that the research should not be concerned with prisoners from Ireland' (Cheney, 1993, p. 5).

This paper will examine Irish prisoners in the context of foreign national prisoners (FNPs) in England and Wales. It will begin by discussing FNPs in England and Wales and examining some of the issues that they face. This will provide a context to discuss Irish prisoners as a sub-category of the FNP population. Comparisons will be made between FNPs, Irish and the general prison population in terms of gender, offence category and sentence length. Furthermore, Irish Travellers will be considered and compared with the overall Irish prison population in the same categories.

Foreign national prisoners in England and Wales

According to the Prison Reform Trust, foreign nationals can be defined as ‘anyone without a UK passport’ (Prison Reform Trust, 2004, p. 1). This may include foreign citizens with British partners and children, people brought into the country as children with their families, asylum seekers with indefinite leave to remain, European and Irish nationals, people trafficked as drug couriers, sex workers or menial labourers, people whose legal permission to remain in the UK had expired and people who may have entered the country with false documentation (Cooney, 2013).

Given that FNPs can be categorised as anyone without a British passport, it is not surprising that the FNP population is made up of prisoners from over 160 countries. However, over 50% of all FNPs are from one of the following 10 countries: Jamaica, Poland, Republic of Ireland, Romania, Nigeria, Pakistan, Lithuania, India, Somalia and Vietnam (Prison Reform Trust, 2012).

On 30 June 2013 the prison population in England and Wales was 83,842. This figure included 10,786 foreign nationals as well as 877 whose nationality was not recorded. According to the Prison Reform Trust (2012) there was an increase of 99% in the FNP population between 2000 and 2010. Although FNPs make up quite a significant percentage of the overall prison population, they have been described as ‘a relatively anonymous group in terms of prison policy and practice’ (Bhui, 2009, p. 167) who have been ‘largely disregarded within the criminal justice system’ (Barnoux and Wood, 2012, p. 240). Foreign national prisoners are considered to be a vulnerable group within the prison population and have been cast as ‘a scapegoat to take much of the blame for crime and other social ills of England’ (Canton and Hammond, 2012, p. 5). Cooney (2013, pp. 47–48) states that:

Foreign national prisoners are among the most vulnerable and in need of protection. They may be people with the least opportunity to understand the system ... They may be experiencing language barriers, cultural difference and need access to proper legal advice so that they can make informed decisions about their situation.

Table 1 shows the percentage of FNPs compared to the overall prison population for the period 2002–2012. For the years 2006–2007 the FNP population represented 14.1% of the overall prison population, the highest rate recorded. This table also shows that the overall prison population increased by 22.9% between 2002 and 2012. However, the foreign national prison population increased by 44.15%.

However, Table 1 provides a somewhat misleading picture, as the percentage rates do not consider the numbers of prisoners whose nationality is unrecorded. If we assume that all of the prisoners with an unrecorded nationality are FNPs, and if we then add the unrecorded figures to the foreign national statistics, the overall percentage of FNPs looks much different. This is illustrated in Table 2.

Now the highest rate recorded is in the year 2010, where FNPs represent 16.4% of the total prison population. There is a 51% increase in the FNP population over the period (Tables 1 and 2 are adapted from Berman and Dar, 2013, p. 21).

This trend of increasing numbers of FNPs is not unique to England and Wales. Western European countries in general are now imprisoning more and more foreign nationals, and the number has been consistently increasing, “both in real and in relative terms” (O’Nolan, 2011: 371).

Irish prisoners in England and Wales

The Irish are one of the oldest minority groups, if not the oldest, likely to be found in the prison system in England and Wales (Borland *et al.*, 1995) and anti-Irish discrimination within the criminal justice system is not a new phenomenon (Flood, 2007). Historically there was always an association between criminality and being Irish, and the first great wave of Irish migration to Britain after the 1845–1849 famine helped to reinforce a traditionally held belief in Britain that the Irish were ‘an irredeemably criminal people’ (Murphy, 1994, p. 3). A study of British political debates during the twentieth century reveals that Irish migrants were regarded as being ‘prone to drunkenness, criminality and as carriers of TB’ (Ryan, 2013, p. 8).

Table 1. FNPs and the overall prison population for the period 2002–2012 (England and Wales)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Prison population	71,218	72,286	74,488	76,190	77,982	79,734	83,194	83,454	85,002	85,374	87,531
FNPs	7,719	8,728	8,941	9,561	10,879	11,093	11,498	11,350	11,135	10,779	11,127
Unrecorded	946	1,141	1,168	869	944	874	946	874	2,851	1,565	1,929
FNPs (%)	11.0	12.3	12.2	12.8	14.1	14.1	14	13.7	13.6	12.9	12.9

Table 2. FNPs (including prisoners with an unrecorded nationality) as a proportion of the prison population (England and Wales)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Prison population	71,218	72,286	74,488	76,190	77,982	79,734	83,194	83,454	85,002	85,374	87,531
FNPs (%)	12.1	13.6	13.6	13.7	15.1	15	15	14.6	16.4	14.4	15

The bombing campaigns of the IRA throughout the 1970s and 1980s did nothing to dispel these assumptions of Irish criminality, and according to Hillyard (1993) the Irish community as a whole was considered a suspect community. This suspicion and discrimination resulted in the wrongful conviction of the Birmingham Six, the Guildford Four and the Maguire Seven.

The Irish prison population in England and Wales has remained at an almost static level for the past decade. Statistics obtained from the Ministry of Justice (Ref. FOI/78877) reveal that at no point during the period 2002–2012 did the Irish prison population go above the 2012 figure of 737. This represents an increase of approximately 11.3% on the 2002 figure. However, any quantification of Irish prisoners is likely to be an underestimate, ‘since Northern Ireland prisoners are not counted as Irish by prison authorities and second generation Irish may not identify as Irish to avoid anti-Irish racism’ (Tilki *et al.*, 2009, p. 42). The statistics show a steady rise in the Irish prison population over the period 2002–2006 and this equates to an increase of 15%. During the period 2009–2012 there was a more dramatic rise in the Irish prison population, of 17.5% (Table 3).

Gender

Statistics obtained through the Freedom of Information process reveal that the gender breakdown of Irish prisoners is very similar to that of both the general prison population and the FNP population. Table 3 shows that between 2003 and 2012 the Irish prisoner population has remained between 93% and 98% male.

Table 4 compares the gender breakdown of Irish prisoners, FNPs and the overall prison population. The Irish segment contains no surprises, being exactly in line with that of the FNP population (94% male and 6% female) while only slightly adjusted from that of the general prison population (96% male and 4% female).

Table 3. Irish prison population by gender (England and Wales)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Male	643	666	657	674	603	632	609	657	707	692
Female	39	38	48	44	33	26	18	24	29	45
Total	682	694	705	718	636	658	627	681	736	737

Table 4. Gender of Irish prisoners, FNPs and the overall prison population (England and Wales)

	<i>Prison population</i>	<i>FNPs</i>	<i>Irish</i>
Male	81,925 (95%)	9,975 (94%)	692 (94%)
Female	4,123 (5%)	617 (6%)	45 (6%)
Total	86,048	10,592	737

Offences

Table 5 provides a statistical breakdown of the category of offence for which Irish prisoners are imprisoned. The largest offence category that has resulted in imprisonment has always been violence against the person, and in 2011 it reached a 10 year high of 239, which represented 32% of all Irish prisoners. However, property offences of robbery, burglary, and theft and handling, when combined, have always been the most represented offences.

Despite reductions in the number imprisoned for all three of these offence categories during the period 2003–2012 (robbery: –20%; burglary: –18%; theft and handling: –6%), the combined number imprisoned for these offences is still higher than for violence against the person. The number imprisoned for sexual offences increased by 100% in the period 2003–2012, from 54 to 108, while the number imprisoned for drug offences fell by 14% for the same period.

Table 5. Categories of offence for which Irish prisoners are imprisoned (England and Wales)

	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Violence against the person	169	179	173	181	177	192	171	207	239	238
Sexual offences	54	54	62	59	70	73	84	108	104	108
Robbery	108	99	100	97	89	93	93	89	96	86
Burglary	112	118	132	113	113	96	106	80	97	92
Theft & handling	68	67	56	62	43	48	35	37	50	64
Fraud & forgery	14	18	16	20	15	16	20	17	13	12
Drug offences	56	64	69	58	54	45	52	51	36	48
Motoring offences	40	36	29	28	13	14	6	12	14	8
Other	50	59	62	92	61	79	52	72	82	76
Not recorded	9	10	7	1	9	4	9	8	5	5
Total	680	704	706	711	644	756	628	681	736	737

Table 6. Categories of offence: Irish prisoners, FNPs and the overall prison population (England and Wales)

<i>Offence</i>	<i>Prison population</i>	<i>FNPs</i>	<i>Irish</i>
Violence against the person	22,487 (27%)	1,777 (16%)	238 (32%)
Sexual offences	11,562 (13%)	973 (9%)	108 (14%)
Drugs	11,993 (14%)	1,501 (14%)	48 (6%)
Burglary	8,686 (10%)	393 (4%)	92 (12%)
Robbery	10,310 (6%)	671 (6%)	86 (11%)
Theft & handling	5,237 (6%)	613 (5%)	64 (9%)
Fraud & forgery	1,513 (2%)	344 (3%)	12 (2%)

In terms of representation of Irish prisoners as a subset of the general prison population and the FNPs, Table 6 compares the three groups for offences in 2012. The offence of violence against the person accounts for the greatest proportion of Irish prisoners (32%); the figure for the overall prison population is 27%. The Irish rate is twice the FNP rate (16%).

Irish prisoners (14%) represent a similar level to the general prison population for sexual offences (13%). When compared to the FNP population (9%) there is a slight over-representation. An examination of the three offences of burglary, robbery, and theft and handling indicates a notable over-representation of Irish prisoners compared to both the general prison population and the FNP population. When combined, these offences represent 32% of Irish prisoners but only 22% of the general population and 15% of the total FNP population

Table 7. Sentences handed down to Irish prisoners (England and Wales)

<i>Sentence length</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Less than or equal to 6 months	65	55	53	75	32	40	35	42	44	39
>6 to <12 months	17	14	13	17	9	14	9	21	18	16
12 months to <4 years	176	179	174	163	173	159	149	131	141	174
4 years to less than life	231	252	263	244	219	207	199	192	196	205
IPP	67	61	59	79	95	115	131	145	150	151
Recalls								49	58	49
Total	556	561	552	578	528	535	523	580	607	634

Sentencing

Table 7 provides a statistical breakdown of sentences handed down to Irish prisoners for the period 2002–2012. The majority were for 12 months to less than four years (27% of all sentences in 2012) and four years to less than life (33% of sentences in 2012). During this period Irish prisoners sentenced to indeterminate sentences of Imprisonment for Public Protection (IPP) increased by 115%.

Table 8 compares the sentences received by Irish prisoners, FNPs and the overall prison population. There do not appear to have been many discrepancies in 2012. However, Irish prisoners are over-represented in terms of the use of IPP. In 2012, 20% of Irish prisoners were serving IPP as opposed to 16% of the general prison population and 11% of the FNP population.

Table 8. Sentences received by Irish prisoners, FNPs and the overall prison population (England and Wales)

<i>Sentence length</i>	<i>Prison population</i>	<i>FNPs</i>	<i>Irish</i>
Less than or equal to 6 months	4,236 (5%)	673 (6%)	39 (5%)
>6 to <12 months	2,352 (3%)	336 (3%)	16 (2%)
12 months to <4 years	20,350 (24%)	2,132 (20%)	174 (23%)
4 years to less than life	25,890 (30%)	2,814 (26%)	205 (28%)
IPP	13,577 (16%)	1,180 (11%)	151 (20%)
Recalls	5,338 (6%)	129 (1%)	49 (6%)

Irish Travellers in prison in England and Wales

The Irish Traveller community are a people with ‘a shared history, culture and traditions, including, historically, a nomadic way of life on the island of Ireland’ (Fountain, 2006, p. 29). They have been part of Irish and British society for a long period (Clarke, 1998; Power, 2003).

Under the Race Relations Act (1976) and the Race Relations Amendments Act (2001), Irish Travellers are recognised as a distinct ethnic group in the UK; in March 2011, Irish Travellers were categorised as a distinct ethnic group in the national Census. The statistics from the Census showed that 0.1% of respondents identified themselves as an Irish Traveller or a Gypsy. This represents an approximate figure of 56,100.

In 2011 Irish Chaplaincy in Britain published a report on the experiences of Irish Travellers in the prison system in England and Wales (MacGabhann, 2011). It identified at least 453 Irish Travellers in the

prison system. This suggests that Irish Travellers make up a significant percentage of the Irish prison population, possibly as high as 50%. However, there are no official figures for the population of Irish Travellers or the combined population of Gypsies, Roma and Irish Travellers in the prison system, although it has been estimated that Gypsies and Travellers make up approximately 5% of prisoners in male Category B prisons and 7% of prisoners in local female prisons (MacGabhann, 2013).

Given that the 2011 Census reported approximately 56,000 Irish Travellers or Gypsies in England and Wales, and over 500,000 who identify themselves as 'White Irish', this suggests that Irish Travellers are grossly over-represented in the prison system in England and Wales. This over-representation makes the lack of an official figure all the more striking, especially as it is estimated that National Offender Management Services (NOMS) spends between £23 and £38 million on Irish Travellers in prison (MacGabhann, 2011). Furthermore:

Irish Travellers suffer unequal hardship in prison. Poor levels of literacy, mental illness, limited access to services, discrimination and prejudicial licence conditions for release disproportionately affect Traveller prisoners. (MacGabhann, 2013, p. 19)

This is not a new claim, and was highlighted by the Commission for Racial Equality in 2003:

Failure area: Access to good facilities or services. Prisoners with low literacy skills had difficulty adapting to prison life and accessing prison services. In the case of Irish Travellers this is compounded by prejudice and discrimination, leading to high levels of self-harm. (MacGabhann, 2011, p. 83)

Offences and sentencing of Irish Travellers

Tables 9 and 10 identify the offences committed and sentences received by Irish Travellers who participated in the report. The report identified that 26.4% of Irish Travellers were serving immediate sentences or were on remand for burglary offences. Violence against the person offences constituted 22.6% and could be broken down to 4.7% for murder, 1.7% for manslaughter and 16.2% for non-fatal harm (MacGabhann, 2011).

Robbery represented 14.5% and theft and handling represented 7.8%. Motoring offences represented 5.1%, 4.4% were sexual offences and

Table 9. Offences committed by Irish Travellers (England and Wales)

Violence against the person	67
Sexual offences	13
Robbery	43
Burglary	78
Theft & handling	23
Fraud & forgery	9
Drug offences	5
Motoring offences	15
Other	30
Not recorded	13
Total	296

Table 10. Sentences received by Irish Travellers (England and Wales)

Less than or equal to 6 months	20
>6 months to <12 months	6
12 months to <4 years	85
4 years to less than life	124
Remand	45
Total	280

1.7% were drug offences. 44.2% of Irish Travellers were sentenced to four years or more, 29.3% to between 12 months and four years, and 15.5% were being held on remand. 9% were serving sentences of less than 12 months (MacGabhann, 2011).

Table 11 shows that, when matched against the overall Irish prisoner population in England and Wales, there are clear areas of both over- and under-representation for Irish Travellers. Irish Travellers are largely over-represented when measured against the general prison population and the overall Irish prison population in terms of crimes of burglary and robbery. When the rates for the offences of burglary, robbery, and theft and handling are combined there is also an over-representation of Irish Travellers (48%) when compared with the general population (22%) and Irish prisoners (32%).

Sexual offences and drug offences show under-representation of Irish Travellers (4.4% and 1.7%) compared to the general prison population (13% and 14%) and the Irish prisoner population (14% and 6%).

In terms of sentencing it is clear that Irish Travellers are receiving harsher sentences from the courts. Table 12 shows that Irish Travellers are over-represented in sentences of 12 months to less than four years and in sentences of four years to less than life.

Table 11. Offences committed by Irish Travellers and other groups (England and Wales)

<i>Offence</i>	<i>Prison population</i>	<i>Irish</i>	<i>Irish Travellers</i>
Violence against the person	22,487 (27%)	238 (32%)	67 (22.6%)
Sexual offences	11,562 (13%)	108 (14%)	13 (4.4%)
Drugs	11,993 (14%)	48 (6%)	5 (1.7%)
Burglary	8,686 (10%)	92 (12%)	78 (26.4%)
Robbery	10,310 (6%)	86 (11%)	43 (14.5%)
Theft & handling	5,237 (6%)	64 (9%)	23 (7.8%)
Fraud & forgery	1,513 (2%)	12 (2%)	9 (3%)

Table 12. Sentences received by Irish Travellers and other groups (England and Wales)

<i>Sentence length</i>	<i>Prison population</i>	<i>Irish</i>	<i>Irish Travellers</i>
Less than or equal to 6 months	4,236 (5%)	39 (5%)	20 (7%)
>6 to <12 months	2,352 (3%)	16 (2%)	6 (2%)
12 months to <4 years	20,350 (24%)	174 (23%)	85 (29%)
4 years to less than life	25,890 (30%)	205 (28%)	124 (44%)
IPP	13,577 (16%)	151 (20%)	
Remand			45 (16%)
Recalls	5,338 (6%)	49 (6%)	

Services for Irish prisoners in England and Wales

The Irish Chaplaincy in Britain (ICB) was established in 1957 as a direct response by the Catholic Bishops in Ireland to the emerging needs of emigrants. Currently its work involves delivery in three main projects: the Irish Council for Prisoners Overseas (ICPO), the Irish Chaplaincy Traveller Project and Irish Chaplaincy Seniors. These projects receive funding from the Department of Foreign Affairs: in 2012, a total of €282,940.

ICPO was established in 1985 as a specialised response to the needs of the Irish prisoner abroad. The organisation aims to fulfil its mission by:

- identifying and responding to the needs of Irish prisoners abroad and their families
- visiting prisoners and assisting families with travel and accommodation
- researching and providing relevant information to prisoners and their families including on issues such as deportation, repatriation and prison transfers

- representing prisoners' interests to the appropriate authorities (including embassies, welfare agencies, social welfare departments, probation, legal officers, etc.)
- networking with prison-based agencies, as well as other groups and organisations concerned with prisoners' welfare
- focusing public attention on issues affecting Irish prisoners
- engaging in practical work in aid of justice and human rights for Irish prisoners overseas.

While ICPO provides vital services to Irish prisoners, it operates with a small staff of five who must cover the entire prison estate in England and Wales. There are over 900 prisoners on the books of ICPO, spread across 133 institutions. This places considerable strain on such a small organisation. However, ICPO undertakes over 400 prison visits per year.³

Conclusion

This paper has attempted to highlight important issues in a very under-researched area in the penal landscape in England and Wales: the Irish prisoner. Irish prisoners represent a significant percentage of the FNP population in England and Wales. Given that there is significant non-identification and under-counting, it is impossible to estimate the true number accurately. However, since ICPO has at least 900 prisoners on its books, there may be as many as 1,000 Irish nationals in prison in England and Wales. This indicates that the minimum figure of 800 Irish citizens in prison throughout the world (Flood, 2007) needs to be revised upwards.

Consideration of the offences of Irish prisoners reveals over-representation in the categories of burglary, robbery, and theft and handling when compared to both the general prison population and the wider FNP population. Furthermore, Irish prisoners, as a subset of foreign prisoners, are grossly over-represented in terms of offences of violence against the person (Irish: 32%; FNP: 16%). In terms of sentencing Irish prisoners are over-represented in the imposition of IPPs. In 2012, 20% of Irish prisoners in the study population were serving IPPs as opposed to 16% of the general prison population and 11% of the FNP population.

³ www.irishchaplaincy.org.uk/Groups/160591/Irish_Chaplaincy_in/Our_Work/Irish_Prisoners/Irish_Prisoners.aspx

Irish Travellers are largely over-represented within the prison system and especially in terms of the crimes of burglary and robbery. Furthermore Irish Travellers receive higher than average sentences. When compared to both the general prison population and the Irish prisoner population, a larger percentage of Irish Travellers serve sentences of 12 months to less than four years and of four years to less than life.

Given these statistics, it is surprising that research in this area has been quite limited. It is an area that merits further attention. The author is not aware of any Irish research on the topic of Irish prisoners abroad since Flood (2007).

MacGabhann's (2011) report for Irish Chaplaincy Abroad provided a fascinating insight into the experience of Irish Travellers in the prison system in England and Wales, and importance of that report to the literature in this field should not be underestimated.

The United Kingdom is a 'significant destination country' and 'one of the most popular destinations for emigrants leaving Ireland' (Glynn *et al.*, 2013, pp. 35–36). Given the high levels of Irish migration in recent times it is not unreasonable to assume that the Irish population in England and Wales will rise in the next three to five years. It will be interesting to see if this will result in an increase in the Irish prisoner population. If it does, the issues in this paper will need to be addressed again. It is the author's hope that this paper will add to the debate on this topic and encourage others to undertake more study and research in this area.

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Probation Practice with Travellers in the Republic of Ireland

Denis C. Bracken*

Summary: Culture, ethnicity and race are all factors that have become important issues in the consideration of probation practice. This paper examines how Probation Officers themselves view practice skills and methods of probation supervision within the context of a specific ethno-cultural minority in Ireland: the Travellers. Travellers are a minority in Ireland and are said to have a culture and way of life that has marked them as ‘different’ from mainstream Irish society. Issues are explored and findings from a research study with focus groups are summarised and discussed.

Keywords: Travellers, culture, ethnicity, race, minorities, identity, inclusion, exclusion, marginalisation, offending, sentencing, probation, Ireland.

Introduction

Culture, ethnicity and race are all factors that have become important issues in the consideration of probation practice, in particular in North America (Bracken *et al.*, 2009; Tighe, 2014), Australia (Cunneen and Stubbs, 2004) and New Zealand (Policy, Strategy and Research Group, 2007). In these countries, with their histories of colonisation of indigenous minorities and patterns of migration, minority ethnic populations that face the challenges of poverty and social marginalisation brought on by the legacy of colonialism appear in criminal justice statistics at a rate that is far higher than their proportion of the general population. This is not necessarily to make direct causal connections between race or ethnicity and crime, but rather to indicate that in many

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instances minority ethnic groups are more likely to be processed as offenders than their relative numbers might suggest.

The issue is, perhaps, more complex than it might first appear, in that the status as ethnic minority might not fully explain the connection with the majority population. Not all ethnic minorities are over-represented equally in criminal justice statistics, and certain questions arise. For example, is the minority group made of people who have come to a particular country as migrants or whose ancestors were forcibly brought there? Are they an indigenous minority where the majority are descendants of immigrants – what have been termed ‘settler societies’ (Veracini, 2010)?

The United Kingdom has also addressed the issue of culture, ethnicity and race with respect to criminal justice, although in that country the minority ethnic populations, with some exceptions, are not necessarily indigenous (or the descendants of indigenous populations). Afro-Caribbean, Asian and Irish persons may find themselves in contact with the criminal justice system out of proportion to their representation in the general population (Lewis, 2009).

Research in all the countries mentioned above has focused on policing, sentencing, community supervision and reintegration after release, among other areas, and in particular on the sources of conflict, cultural strengths and cultural sensitivity (or the lack thereof) in interactions between representatives of the dominant legal/criminal justice system and those of the racial and ethnic minorities. Ireland, and to a lesser extent Finland, Norway and Sweden (with their Sami minorities), have indigenous minorities who are (mis)treated as outsiders, can be over-represented in statistics related to social marginalisation, but are also to varying degrees recognised as a distinct indigenous minority with certain rights.

The current research examines how Probation Officers themselves view practice skills and methods of probation supervision within the context of a specific ethno-cultural minority in Ireland – the Travellers. In this case, the ethno-cultural minority is an indigenous minority. Therefore some of the ideas related both to ‘settler societies’ such as North American and Australasia, or the United Kingdom with its immigrant communities, may not apply. However, similarities also exist with respect to probation practice with members of indigenous minority groups.

Who are Travellers?

There have been numerous studies and reviews describing the origins of the Travellers in Ireland. One of the more well known of these was by Sharon and George Gmelch, American anthropologists who wrote extensively about Irish Travellers in the 1970s. (Gmelch and Gmelch, 1976). Other recent scholarship has moved beyond questions of origin and highlighted the impact of a history of racism and social and economic marginalisation (particularly with respect to housing and accommodation) on members of the Travelling community (Fanning, 2012). It is perhaps worth quoting at length from one study with respect to how Travellers have come to be seen by Irish society.

Unlike many ‘Gypsy,’ Roma, and other Travellers in Europe who are attributed with collective origins outside of their respective ‘host nations,’ Travellers in Ireland have been constructed, and have constructed themselves, as an indigenous minority. Attributions of origin have emphasized the essential ‘Irishness’ of Travellers and, in contrast to colonized indigenous populations elsewhere, Travellers have not been constructed as racially ‘Other.’ While the imputed origins of Travellers are largely free of a discourse of ‘race,’ attributed origins have none the less often been deeply stigmatizing, and have been used to legitimate anti-Traveller action. (Helleiner, 2000)

Discussion continues on what constitutes an ethnic minority, and whether Travellers fit the definition. A recent report of the Oireachtas Joint Committee on Justice, Defence and Equality (Joint Committee on Justice, Defence and Equality, 2014) recommended that they do, and therefore that the Irish state should recognise Travellers as an ethnic minority in Ireland.

The research reported here began with the assumption that irrespective of any official designation, the Travellers represent a minority in Ireland and that Travellers have a culture and way of life that have marked them as ‘different’ from mainstream Irish society.

There are questions regarding the size of the Traveller minority in Ireland. The Central Statistics Office estimated the Traveller population in the Republic of Ireland in April 2011 as ‘29,573 accounting for just over half of one per cent (0.6%) of the total population. The figure represents a 32 per cent increase on 2006 (22,435)’ (Central Statistics Office, 2012, p. 27).

The All Ireland Traveller Health Study in 2010 presented a slightly different figure, estimating that the Traveller population was 36,224 in the Republic and 3,905 in Northern Ireland, for a total of 40,129 (AITHS, 2010). These population estimates suggest that Travellers represent less than 1% of the population of Ireland.

Travellers and criminal justice

Data on the extent of Traveller involvement in criminal justice are very difficult to find, possibly because they simply are not collected. This conclusion is supported by the recent report of the Irish Penal Reform Trust, although that study also pointed out that ‘The absence of an ethnic identifier makes the actual number of Travellers in prison unknown’ (IPRT, 2014, p. 8). It would seem though that the chances of a Traveller ending up in prison were much greater than for the general population. The All Ireland Traveller Health Study in 2010 surveyed Travellers in Irish prisons and concluded:

The risk of a Traveller being imprisoned was 11 times that of a non-Traveller (RR 11.0, 95% CI 9.8–12.3), and for Traveller women the risk was 22 times that of non-Traveller women (RR 22.0, 95% CI 13.8–35.1) ... When calculated using the Traveller reported prisoner population, the risk of a Traveller being imprisoned was more than 5 times that of a non-Traveller (RR 5.5, 95% CI 4.7–6.4), and for Traveller women the risk was 18 times that of non-Traveller women (RR 18.3, 95% CI 11.1–30.1). (AITHS, 2010, p. 110)

Drummond’s research into the Traveller experience with various aspects of the criminal justice system in both the North and the South relates much of the contemporary response to Travellers to their nomadism (Drummond, 2007). He details how the various responses, beginning with the Commission on Itinerancy in 1963, to Traveller culture have generally been either to eliminate the nomadic aspect of Traveller life altogether (for example, through assimilation and ‘settlement’) or to restrict severely those areas where Travellers could stay (halting sites). Although the responses in Northern Ireland reflect the different jurisdictional context, the ‘problem’ of the Travellers has generally continued to be identified in terms of transiency and accommodation.

Mulcahy studied relations between the police and Travellers, both historically and as part of present strategies to recognise diversity in Irish society, while pointing out that the impetus for this recognition of diversity was more related to the influx of immigrants and refugees during the Celtic Tiger era. He concluded that relations between police and Travellers, despite recognisable progress in some areas, continued to be characterised by mutual distrust (Mulcahy, 2012).

Probation and Travellers

Existing research on Traveller experiences of probation is from the UK, and in general is very limited. Power's article from *Probation Journal* is the main piece of relatively recent research (Power, 2003). Other UK research on probation includes Travellers with the experiences of the criminal justice system generally of Irish people living in the UK (Lewis *et al.*, 2005; Cunneen and Stubbs, 2004). The present research is an attempt to make a contribution to the research on probation practice as it relates to work with Travellers.¹

Research methodology

Research was conducted throughout the spring and summer of 2013 with Probation Officers of the Probation Service in Ireland. Focus groups with Probation Officers were conducted in the cities of Galway, Limerick, Cork, Waterford and Dublin. A total of 37 Probation Officers participated in the groups. Participants were contacted directly and asked if they would be willing to be part of one of the focus groups. Participation was therefore strictly voluntary.

A number of themes emerged from the focus group discussions. These related to issues of probation practice such as engagement, compliance and risk assessment. Culture and the use of culture in probation work also came through from the focus groups as an important factor. These are discussed in greater depth below, with examples from the data.

Two focus groups were also conducted with Travellers. The first group was made up of five Traveller men ranging in age from 20 to mid-50s. All had at one time been on probation, although in at least one case the person had prison experience as well. The group was arranged with the

¹ Data on probation work with ethnic minorities was also a part of the present research, and will be reported separately.

assistance of a Traveller support organisation in the west of Ireland. The second group was made up of Travellers who were also service providers and who worked for a large national Traveller support and advocacy organisation. The Research Ethics Board of the University of Manitoba approved the research methodology.

Findings from the Probation Officer focus groups

Nearly all Probation Officers who participated in the research focus groups were able to speak about contact with Travellers. Many of these Probation Officers had prior experiences in social services before joining the Probation Service, and had Travellers as clients while working in these services. Most of them, as well as those who joined the Probation Service as a first professional position, had experience with Travellers as Probation Service clients. Below are representative comments that reflected this range of experience prior to coming into the Service.

I worked in Dublin as a Child Protection Social Worker. In my case load there I would have had probably maybe there were three traveller families, maybe four with anything between eight to 12, actually one had 15 children. Yeah, I would have had a lot of experience with [Travellers].

Before Probation Services I worked on a Traveller project for 12 months, initially to get some experience ... Within the Probation Service I suppose I would have worked with Travellers when I worked in the ... prison mainly ... and I also worked with Travellers as part of my day-to-day probation duties, a small number not huge numbers.

It was clear from the discussion in the groups that a small number of officers had extensive experience not only in a probationer-supervisor role, but also from participating in various community-oriented projects wherein they worked closely with Traveller organisations as well as with individual Travellers. Their observations about changes in Traveller culture over time suggested that there were significant challenges not just in understanding the Traveller probationers they encountered, but also in appreciating the changes in Traveller culture, particularly around the decline in actual ‘travelling’, the increase in drug use, especially among younger Traveller men, and the loss of traditional male roles within the Travelling community.

All focus groups were asked the extent to which they would use a Traveller's ethnic identity as a Traveller in the preparation of reports for court. The intent of the questions was to facilitate a discussion on whether an 'ethnic identifier' at the pre-sentence stage might be helpful to a court's understanding of the Traveller as offender's background, or a potential for discriminatory action on the part of the court at sentencing. What emerged were a number of themes related not only to the potential for discriminatory sentencing and/or the need to present a 'full picture' of the offender to the court, but also to an unease about using any form of ethnic identification as well as the need to develop the right discretionary judgement as to when it might be helpful, and also when not.

I would check my client first if they'd be OK with it. I would read all my reports to my clients before the courts so they're aware.

You'd be giving them a ... picture of their background, it would be in that context to be shared with the judge. But the local judges are very familiar with all the surnames [of Traveller families].

I wouldn't mention it unless the individual [believes] it's important to them that it's mentioned; for instance I worked with a guy who was involved in a community group, a Traveller community group. It was very important for him that it was mentioned. But again I feel that if it isn't going to affect the body of the report and unless the individual brings it up themselves I'd leave it out, because again it could unnecessarily complicate matters.

I would, but I always feel uncomfortable about it, that's just my feeling as such, 'cause I kind of just feel that it ... like you're identifying, I don't know, I can see the purpose but I am also a bit uncomfortable with identifying people for everything that they are, you know that kind of way, or where they are coming from. I'm not saying that it can prejudice [others] but on some level it might.

I suppose when I have done it in the past ... it would be to try and educate the judge as to why they might have acted in a certain way to try and put a context on it, which probably mightn't make sense outside of the Traveller community, but it's to inform the judge so they can get more understanding around their involvement in a particular offence, or that kind of issue.

You know especially when you're doing a court report and you're saying to the judge well I'm just accepting that because he's a Traveller he not going to work which is not offering him all the services that are available to the Probation Service, or do you say no we're going to try and get you into work even though we know you're facing discrimination and its going to be difficult, or are you setting people up to fail. So that's sort of the difficulty that we're kind of working in a lot of the time. And it's a real live issue, that discrimination.

The issue of ethnic and cultural identification, combined with the need to educate oneself and others (such as a judge) on the aspects of a minority person's culture that may be important in sentencing and intervention, clearly was something that the Probation Officers had considered. This is generally consistent with recent research with Travellers as well as social work practice.

The IPRT report of April 2014 referenced above recommends that it is important for the Irish Prison Service, following the example of some prisons in the UK, to create opportunities for ethnic identification to encourage suitable services. Canadian prisons have long recognised the need to provide an opportunity for self-identification by aboriginal offenders to permit the development of culturally appropriate services.

Within social work there are debates about how social workers, in practice with multicultural communities, come to be 'culturally competent' (Harrison and Turner, 2011). The Probation Officers in the present study recognised ethnic identification as sometimes necessary when presenting the judges with a complete picture of the offender. Yet they also expressed the concern that discrimination exists and that identifying an ethnicity might not always be in the best interest of the offender.

In Canada it is a requirement that at sentencing a judge take account of 'all available sanctions other than imprisonment that are reasonable in the circumstances ... with particular attention to the circumstances of aboriginal offenders' (R.S.C., 1985, c. C-46). To facilitate the attention paid to aboriginal offenders, the Supreme Court of Canada spelled out, in *R. v. Gladue*,² the requirement for specialised reports, usually appended to a pre-sentence report, to provide specific knowledge to a

² *R. v. Gladue*, [1999] 1 S.C.R. 688.

sentencing judge about social, cultural and historical factors that may have a bearing on what sentence to impose.

Assessing risk and developing strategies both to reduce where possible and to manage it has become the foundation for probation practice in many parts of the world, including Ireland. Methods for assessing risk generally use actuarially based assessment instruments, frequently validated using large-scale samples of male offenders in custody.

This has raised questions about the applicability of such risk assessment instruments to ethnic minority offenders. For example, are there aspects of a minority culture that might result in a higher level of assessed risk based on the application of a specific instrument, but are ‘normal’ aspects of that culture? Within that culture, are these aspects in fact ‘criminogenic’?

Focus group participants in the present research were able to identify one specific aspect of the LSI-R instrument used in Ireland that could easily result in a higher risk scored for Travellers – accommodation and changes of address. At the same time, however, the comments reflected a general willingness to take that into account and not see it as weighting a risk score too heavily.

I’m just thinking ‘Have you had two or more address changes in the last seven years’, like the Travelling communities a lot of them would have moved a lot and that would be the norm for their culture, whereas we’re scoring that negatively for the ordinary population, you know we’ve had five address stages in the last year, so I wonder have you had a job, have you had you know all the things that are scoring people on, you know that the Traveller people find harder to achieve a lot of the time.

just by virtue of the fact of the lifestyle, education and not working and into substance abuse, they’ll [Travellers] all score fairly high.

The issue of using one’s own judgement and, possibly, overriding the risk score was mentioned by several participants, with opposing ideas about how to compensate for what appears to be a bias in the instrument with respect to Travellers.

I suppose if you take the LSI-R if you have a young Traveller man who isn’t in paid employment and again who has left school early, that alone is going

to push him very close to moderate range and again I can't say if that makes it inaccurate or not, you know again it wouldn't change the work we would do.

I suppose you'd have to use your professional judgement a lot more I think. If you had somebody from the settled community for instance that had three different addresses in the last six months I think your antenna would be hopping, whereas if it's somebody from the Traveller community I think you're beginning to use your professional judgement a little bit and you'll suss it out a little bit more maybe to see why. I suppose you'd have an understanding that that might be part of or attributed to a cultural thing.

So that would be the criticism I suppose of the LSI-R is that it doesn't take into account cultural risk, cultural issues, and in general people don't override much, cause there's just research to say that that's not ideal to be overriding the system you're using all the time, there's different viewpoints on that.

Research participants were not necessarily suggesting that this deficiency would be reason enough to reject the use of risk assessment; rather that risk assessment might be helpful in preventing stereotyping, as described in the quote below.

I find them very useful for framing because a lot of the time we have, after speaking to someone, you do have an idea of what's going on but this actually frames it for you and then it allows you to involve ... it's a fantastic tool, if you find you're not building a relationship you can use it then as a tool, because it can be very muddy, sometimes it can be very difficult, because you are subconscious just about not wanting to ask the wrong question, not wanting to put someone in a pigeonhole ...

For the Probation Officers who participated in the research, moving offenders who were members of the Travelling community from basic compliance to engagement was not dissimilar to working with others on probation, but did require extra attention with respect to establishing trust.

There was widespread acknowledgement that relations between Travellers and 'authority' (police, courts, etc.) as well as the media meant that Travellers were suspicious of the Probation Service as simply being

another part of a highly biased and discriminatory system. It also meant giving greater consideration to what aspects of Traveller culture might inhibit or slow down the process of engagement.

To use Bottoms' characterisation of forms of compliance in community supervision contexts (Bottoms, 2001), the discussion centred on moving beyond instrumental/prudential compliance (based on determining what might be the easiest way to complete the bond) or less frequently constraint-based compliance, to what Bottoms called normative compliance. This is compliance based on 'a felt moral obligation, commitment or attachment' (Bottoms, 2001, p. 90). For Travellers to get to this kind of compliance usually took a longer time because of the necessity of getting beyond the distrust of authority as well as accepting that what the Probation Officer was suggesting would be, in some way, beneficial. None of this would be likely to be unusual with respect to working with non-Traveller offenders, but the way to achieve this level, if possible, might be different.

A minor theme evident from the research concerned the general willingness of male Travellers to be involved in community service. There appeared to be sensitivity to the issue of potential feuds among Travellers at community service sites (a reflection of feuds among local Traveller families), and keeping this to a minimum through the management of who was at what community service site. From this discussion came the question of whether or not concern about feuding was based on an unwillingness to ask questions about whether someone was a Traveller.

[PO1] Going back to about the need to be PC and why is that and why is there a need to be PC, because there is a history of stigma and stereotyping and all of that and Travellers are not even recognised as a unique group in Irish society even though there have been recommendations and in Britain they are but they're not in Ireland.

[PO2] Some of them don't want to be though.

[PO1] So it's a minefield for us and maybe more so than working with non-nationals like, do you know what I mean, our own cultural marginalised group and our relationship with them.

A variation on the theme of compliance and engagement that arose from the focus group discussions concerned gender, specifically the issue of

the gender of the Probation Officer and of the Traveller probationer. The issue did not arise in all groups, but in those where it did there was much discussion on male Traveller and female Probation Officer situations, and also on female Travellers and what they were prepared to share with female Probation Officers about domestic violence.

It would appear that Traveller culture has had very traditional views on the roles of men and women. While not considerably outside mainstream views in the 20th century, in many instances they might now be seen as quite behind the times.

Male and female Probation Officer participants alike commonly expressed experiencing distrust and/or a dismissive attitude by Traveller men towards women in professional roles. The following are typical comments from the focus group discussions on the topic:

[Female PO] If you are a female worker like, I had a male Traveller offender and no female figure in the house, the mother had left, and it was a male adult parent that I would deal with, and it was quite difficult, he didn't take me too seriously, it was quite difficult.

[Female PO] I think that Traveller men have some sort of gender issue with professional women and that if you can work through it with them in a relational type of way that's excellent. But I think that there is some kind of 'Ah love, ah missus.' But it is that kind of, it's demeaning to women because of their gender.

[Female PO] There's a difficulty when they realise you have a brain, it's difficult for them to adjust to that concept, you can say things that may be challenging and yet not offensive, so when you pre-empt it by saying I'm not offending you I'm not having a go at you now but we need to establish why you're abusive towards your wife. You know it takes a bit of getting used to for that. In relation to the women ... I've heard it said from numerous different women all of whom have had sexual abuse issues by family members that they wouldn't be able to talk to male Probation Officers. You know so that might be the sexual abuse issue rather than being a Traveller.

[Male PO] And then in saying that too the other context is like we might have settled women coming in too and they sometimes they feel that it might be easier to talk to a woman.

Clearly defined gender roles are a part of traditional Traveller culture, although it would appear from the research participants' observations that the traditional Traveller culture may be quickly disappearing. This in turn leads to the need for sensitivity to shifting cultural norms when dealing with Travellers as probationers.

I suppose for me through the years the biggest thing I would have seen is the youngsters growing up and not knowing whether they would align themselves to the Traveller culture or to the settled culture ... and sometimes it was a kind of a pull between one and the other. I found it interesting to think about but not interesting for them because they just couldn't pick it out with you, which they were. Now I think we're gone another generation on now so it's probably a little bit more settled.

Well I think we're coming back to that point we made at the beginning [of the focus group], you know, the two cultures, the settled culture and the Traveller cultures and the conflict that it creates as they become more settled. That there is still the pull of the Traveller culture that says well where do you think you're going, what do you think you're doing, that's not the way we do things, we fall out of school at 16, we certainly don't progress into college. That is very difficult for some of them to reconcile that.

Within the Traveller culture the Travelling people like to define their culture ... Travellers I think they like to tell us that their culture can be very different from my experience so that I can understand where their situation is coming from and why they have ended up in court. So I think that certainly with Travellers they like to tell you about the culture.

As with many cultures that support strict gender roles where the female role is subordinate to the male, some aspects of domestic violence may be present. Travellers are no different in that regard. As with the topic of gender roles, domestic violence did not come up in all groups, but in several there was much discussion on abuse of women. Several female Probation Officers had Traveller women probationers who, once some level of trust was established, spoke about their experiences.

It's the level of violence from my experience on sites like I'd often work with the women and they might be seen black eye and cuts and bruising and I'd

say to them, what happened to you, and they'd say 'Oh Johnny hit me', but it wouldn't be serious or they mightn't classify it as domestic violence unless they were hospitalised with some very serious injuries so then they might classify it as domestic violence.

then in [a youth outreach programme] I worked with young Traveller girls and I can remember when a girl was hit by her boyfriend they actually said she deserved it, or she did something to deserve it. I just couldn't believe it. To try and change that attitude was impossible. So is it something that they've always accepted.

A final question put to each group asked what strengths they felt existed in Traveller culture that could assist in leading Traveller offenders away from crime. In many instances the discussion focused on the shifting culture described above and how difficult it might be for a Traveller in conflict with the law to move away from crime. There was no sense from the discussions that Traveller culture was seen as criminogenic; rather it was that the culture generally was changing rapidly as it became more settled and therefore *traditional* Traveller culture might not now be able to afford any particular paths away from crime.

It was clear that, in some instances, there were parts of the culture that were still quite strong, and the example given below of a young Traveller man's commitment to a spiritual aspect shows how that may assist in supporting a person's movement away from negative behaviour. It also demonstrates the Probation Officer as initially reluctant to engage with the probationer on a part of his culture, but eventually overcoming that reluctance.

I think one of the things that I have started in my focus is asking them about their spirituality, because the Travellers would have a very strong Catholic ethos ... [commenting on a Traveller young male probationer] all around him there is a lot of criminality so you know what can he do for himself and what's meaningful for him? ... I was kind of going oh I wouldn't ask, but then when I had given it a bit of thought, so now I do. Because it is something that he relies on, because he has said that he's never going to take tablets again because it's a thing that leads him into offending and he's made a solemn promise to Saint someone or other. But for him that works, that's his, you know he had made that commitment to whoever the saint is.

Other examples included confronting issues of gender roles, especially among young male Travellers working at a training centre who were refusing to wear aprons in a cooking class, as that was something that ‘only women did’. While one might imagine young males, Traveller or not, rebelling at such a thought, they did eventually come around.

It was difficult for young female Travellers to see themselves as moving forward in education, although small examples of this were mentioned in various groups where Probation Officers worked with young women. While the emphasis of the research was not on culture *per se*, it was clear from the comments of both Probation Officers and Travellers (see below) that culture was an important component of Traveller identity and by implication, perhaps, in work with Travellers. However, it was also clear from comments made that certain aspects of traditional Traveller culture were disappearing. This may be a matter for further research.

Focus groups with Travellers

The research also included one focus group with male Travellers who had been on probation, and a second group with Travellers who were service providers. The subjects in this second group all worked for a national Travellers’ organisation. The group of Travellers who had been on probation had generally good experiences both with being on probation and with the Probation Officers who supervised them. For them, having the probation bond ‘keeps manners on you.’

It’s kind of like an invisible, you’re becoming an invisible target, you know if you get into any hassle inside that two-year period and you go in front of your man with the hammer definitely the first argument that he’s going to be throwing at you is that you have already broke your bond for two years so you know where you’re going, like.

Direct comments on Probation Officers were limited. These two comments reflect different views.

The Probation Officer didn’t see it [the probationer’s need to get literacy skills]; he seen the form to fill in ticking the box and sign that there, ‘we’re good today I’ll see you next week at the same time’ ... he didn’t extend the hand of help he could have.

Facilitator: Do you think he [Probation Officer] understood Travellers?

Participant: Yeah, he was good. A lot of people go in there [court] then like I was saying they've a bad attitude going in, the whole lot, but he understood Travellers and understood the ways about things and how things work, the way they carry on like in kind of different ways ... he was very good to me I can't say anything bad about him.

A significantly higher number of comments were made about the perceived negative biases of both judges and the police, although even in those comments there was recognition of the occasional judge or member of An Garda Síochána³ who appeared to understand Travellers and treat them with respect.

The issue of respect, or perhaps more accurately the lack of it, was echoed by the focus group of Traveller service providers. They spoke at length of the long history of distrust between Travellers and the criminal justice system. Although probation was mentioned as being part of the system, examples of this lack of trust were largely from their observations of how Travellers were treated by the courts, the police and the Prison Service. Many of the comments about the Prison Service were similar to those reported in the recent IPRT study (IPRT, 2014).

Three comments, part of a longer discussion on culture, are perhaps worth quoting at length. In this focus group, the participants spoke about the need for others to respect their culture, their 'difference', to see how strong that culture has been but also to recognise what is happening to it now.

T1: First and foremost I believe the one's history and culture be identified irrespective and that's core to any recovery or reintegration process that needs to be key in terms of ... getting knowledge of Traveller culture, its values, its customs, its traditions, and because there can be at some stage a very different approach to work with Travellers than working with mainstream in terms of ... the family unit, the family infrastructure, in terms of anti-racism discrimination, in terms of trust so that has to be acknowledged ... But core to me would be respect of culture; [this] needs to be core to any piece of work with Travellers.

³ Irish Police Force.

T2: Just proud of being a Traveller, we know we're Travellers ... for years back we're Travellers. So we think as much about the Travellers, we're proud of ourselves, proud of our history, our culture, that's our way of life and that's our way of going on.

T3: I think you've got to be very proud of how resilient [Travellers] are, like you take the mindset of the state in terms of state responses over the last 50, 60 years like have been one of trying to eliminate Travellers, the fact, that's what it is, the policies, commissions ... in terms of the Task Force report in 1995, you take currently in terms of Traveller Accommodation Act you currently have over 72% of Travellers living in standard private accommodation, they're not living on the street, you can see the mindset, not as blatant as it was in the sixties but it's still very much the same as that. So yeah I think you have to be proud of one's identity, culture or family unit or extended family, where we came from and more importantly how resilient we are to still be a very vibrant community after sixty years of travelling and the assimilation mindset, I think it's core.

I think you can look at it in terms again of the many reasons Travellers are being convicted or into criminality in terms of Travellers being posted into private town houses so that family's infrastructure has gone, vanished, and that's why there's an increase of substance issues in terms of mental health issues, in terms of prison, coming out of prison, and re-entering the prison system so you got to look at that in terms of again, the feelings of the state in terms of an Irish context in terms of how we handle repeat offenders in relation to one's culture and identity, the whole situation, that has to be taken into account, and I believe that's one of the key reasons why the Travellers are over-represented in prison, there's no question for me, in terms of Travellers being posted into standard housing and being taken away from that support structure.

Conclusion

While the research presented here was based on a relatively small sample of Probation Officers and an even smaller sample of Travellers, a number of findings can be briefly summarised. Caution should be exercised with respect to the generalisability of these findings due to the small sample sizes.

- Most probation staff that participated had experience working with members of the Travelling community, in many cases both before becoming Probation Officers and afterwards.
- There was general understanding among probation staff that Travellers had experienced discrimination from the criminal justice system as a group as well as individually. This however did not appear to be a factor either excusing or minimising offending behaviour.
- Understanding of the culture of Travellers varied, but in general Probation Officers both appreciated it and were prepared to consider using aspects of the culture that might assist movement away from offending behaviour.
- Deep concern was expressed by some in the research groups that the decline in the culture and the adoption of a more settled existence was leaving some Travellers, especially young males on probation, with significant challenges in terms of developing a future for themselves.
- Travellers were critical of the criminal justice system in general and views of probation experience were mixed, with both positive and negative experiences being reported. Travellers asked that their culture and way of life be respected by those in the system with whom they had contact, such as judges, police, and prison and probation staff.

The research identified the discomfort that some Probation Officers had with respect to identifying Travellers and their culture in court reports as possibly increasing the possibility for discrimination, yet it also indicated that many Probation Officers are in fact familiar with and sensitive to this culture. When appropriate, they were not reluctant to use it in a positive way. Similarly to the recommendations of the IPRT report (IPRT, 2014) about a more positive approach to ethnic identification, it would seem that the Probation Officers who participated in the research were aware of the potential advantages this might have.

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Pre-sentence Reports in the Irish Youth Justice System: A Shift to Risk-Oriented Practice?

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Summary: A pre-sentence report is ordered by the court to assist in relation to the sentencing process. In cases involving child offenders these reports are prepared by Young Persons' Probation (YPP) Officers. YPP is a specialised division of the Probation Service established to work with young people aged 12–18 years. The information presented in the report assists the judge in court in determining the most appropriate means of proceeding with the case. Commentators argue that reports increasingly refer to the risk of reoffending and offender management, and are less concerned with the background, personal circumstances and attitude of the young person to the offence. This paper draws on research exploring contemporary policy and practice in the Irish youth justice system to identify any ideological shifts. It focuses primarily on accounts by YPP Officers of report preparation and how they define their role and daily practice. The findings are discussed with reference to penal policy and practice in other jurisdictions.

Keywords: Youth justice, Ireland, Children Courts, young offenders, probation, penal policy, sentencing, pre-sanction reports, risk, compliance, penal policy, risk assessment.

Introduction

This paper aims to examine the preparation of pre-sentence reports in the Irish youth justice system in relation to perceived changes in penal policy and practice in Anglophone countries.

The origins of pre-sentence reports can be traced to the work of John Augustus in the US during the mid-1800s (Panzarella, 2002), and to the

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practice of social enquiry in the English Police Courts (Magistrates Courts) during the 1870s (Downing and Lynch, 1997).

Commentators suggest that pre-sentence investigation has undergone significant changes since its introduction (McWilliams, 1986) and that the pre-sentence report process has progressed through three eras of reform: Era 1, epitomised by the understanding of the offender as a sinner in need of moral reform; Era 2, marked by the understanding of the offender as suffering from a social deficit and in need of professional treatment; and Era 3, where the Probation Officer no longer pleads for or treats offenders but rather assesses with the aim of bifurcation. Bifurcation is the practice of dividing offenders into two classes – (1) offenders who are deemed to require detention or incarceration as a sanction and (2) offenders who can be worked with within the community (Downing and Lynch, 1997; McWilliams, 1986).

Policy and practice change

It has been said that contemporary penal institutions are undergoing adjustments in relation to practice, structure and underlying ideology (Garland, 2001; Feeley and Simon, 1992). An in-depth discussion on the changing penal policy and practice fields as suggested by Garland (2001) and Feeley and Simon (1992) is outside the scope of this paper. David Garland suggests that Anglophone penal policy and practice have undergone a shift in ideology and operation. He proposes that penal policy and practice have moved from an era that centralised individualised rehabilitation to an era that has reinvented rehabilitation as a means of controlling and managing criminal behaviour as an everyday phenomenon (Garland, 2001). Garland argues that penal institutions have moved away from seeking to treat offending and antisocial behaviour towards a model that manages such behaviour.

Feeley and Simon (1992) suggest that contemporary penal systems aim to manage offenders as opposed to rehabilitate them, and describe contemporary penal institutions as adopting actuarially driven categorisation and thereafter sanctioning as best practice. Within this model the deficit with which the offender is associated no longer requires ‘fixing’. Rather, the deficit represents risk that is in need of expert management (Feeley and Simon, 1992). The role of the expert and practitioner has been transformed from that of ‘treating’ to ‘managing’.

Young people in the criminal justice system

The particular position of young people within the criminal justice system, where they are referred to as vulnerable beings before the law and in need of extra protections in the face of punitive sanctions, makes the youth justice system a key site in which to explore ideological changes in relation to treatment and welfare approaches. The traditionally strong emphasis on treatment and welfare within youth justice systems may be more resistant to change and provides an important context in which to explore ideological shifts.

Garland (2001) argues that the establishment of the juvenile court emerged from the treatment and welfare ideological framework of the penal-welfare era, a period when young people were recognised as being in need of special treatment with a view to rehabilitation. He goes on to argue that the youth justice system has since become less concerned with rehabilitating young people and has adopted a model more in line with the adult criminal justice system and due process (Garland, 2001).

Further, many practices adopted in the US in relation to young offenders support the New Penology. The number (approximately 2,500 in March 2014; Lazerwitz and Terceño, 2014) of young offenders serving life without parole (albeit that the law is gradually changing in the US, see *Miller v Alabama*¹), the retention of the death penalty for young offenders until recently (see *Roper v Simmons*²), the prosecution of young people in the adult system and the use of 'boot camp' style interventions for young people exhibiting problematic behaviour (Feeley and Simon, 1992, p. 463) are characteristic of the New Penology in practice.

The Irish criminal justice system and the changing penal field

Kilcommins *et al.* (2010) present a convincing argument on the delayed adoption of penal-welfare ideals in the Irish penal system. They argue that rehabilitation was beginning to take hold in the Irish system during the late 1960s, at the time that it was starting to wane elsewhere. In their view, there was minimal evidence of a 'Culture of Control' or a New Penology taking hold within the Irish penal system at that time.

Changes during the past decade suggest a shift in organisational structures, now more aligned with Culture of Control and New Penology

¹ *Miller v Alabama* 567 U.S. SC (2012).

² *Roper v Simmons* 543 U.S. 551 SC (2005).

characteristics. There has been an increase in IT system efficiency.³ System efficiency is a key part of the government's Strategic Management Initiative (SMI). Launched in 1994, SMI (Humphreys *et al.*, 1999) required the public sector to adopt a business model of organisation, modernisation and enhanced management. A value-for-money examination of the Probation & Welfare Service was published in 2004 (Comptroller and Auditor General, 2004; Probation & Welfare Service, 2006), and in 2010 same-day report assessments for the courts were piloted by the Probation Service (Probation Service, 2011).

Further, the Probation Service Annual Reports 2004–2012 highlight an increased emphasis on evidence-based practice. The National Youth Justice Strategy 2008–2010 (Irish Youth Justice Service, 2008) and An Garda Síochána Youth and Children Strategy 2009–2011 (Garda Síochána, 2009) stress the adoption of evidence-based initiatives as a key goal.

While judges have retained their independence and discretion in sentencing, there has been a move towards sentencing guidelines in the development of the Irish Sentencing Information System (ISIS). ISIS was piloted to provide information that *may* assist judges when sentencing. Data collection began in 2007 and it is envisaged that the ISIS system will develop further (ISIS, n.d.)

There has been an expansion of community service,⁴ an incorporation of risk assessment tools across a number of criminal justice agencies⁵ and the inclusion of bifurcation policies.⁶ Healy (2009) suggests that the Irish Probation Service appears to be moving towards a model more aligned

³ For example, the PULSE (Police Using Leading System Efficiency) IT system used by An Garda Síochána was established in 1999. In 2010 PULSE incorporated the tracking and reporting of young people before the courts with the Case Management System. The Probation Service Case Tracking System (CTS) in 2008 provided Probation Officers with access to criminal histories for report writing. In 2012 the Probation Service CTS expanded to include monthly reporting on Probation Service clients by community-based organisations.

⁴ See The Criminal Justice (Community Service) Act, 1983 (Amended 2011), the Children Act 2001 and The Management of Offenders: A Five Year Plan (1994). See also McNally (2009).

⁵ The Probation Service incorporated the LRI-R for adults in 2004 and the YLS/CMI for young people in 2005. The Garda Youth Diversion Projects adopted the YLS/CMI in 2010. The National Youth Justice Strategy 2008–2010 discussed the incorporation of structured risk assessment across the youth justice service sector as a priority.

⁶ Early attempts at establishing such practice are evident in the establishment of intensive supervision in 1979 and the Bridge Project in 1991 (McNally, 2009). In 2004 a framework for 'Effective Offender Supervision' was established and in 2006 there was a specific reference to targeting of resources (Probation & Welfare Service, 2006; Probation Service, 2007).

with practices related to the Culture of Control and the New Penology than penal welfarism.

Finally, the incorporation of risk assessment tools across a number of criminal justice agencies suggests an adoption of risk-oriented approaches across various criminal justice agencies. A recent study exploring the use of structured risk assessment within the adult division of probation in Ireland found that Irish Probation Officers combine their clinical judgement with the assessment results, primarily utilising the structured risk assessment as a starting point from which to build according to their professional clinical judgement (Bracken, 2010).

However, many studies report a gap between a risk-oriented policy at institutional level and resistance and negotiation at practice level (Beyens and Scheirs, 2010; Field and Tata, 2010; McNeill *et al.*, 2009; Phoenix, 2010; Robinson, 2001). McNeill *et al.* (2009) argue that hypotheses that focus solely on the macro structures and policy neglect to explore how practice occurs at the micro level. This, they argue, results in what they describe as a 'governmentality gap' – a disparity between institutional and frontline ideology or a lacuna between 'governmental rationalities and technologies on the one hand and the construction of penalty-in-practice on the other' (McNeill *et al.*, 2009, p. 420).

The impact, if any, these changes have had on practice within the Irish system merits exploration. This paper focuses on one component of the system, the pre-sentence report, and seeks to confirm whether characteristics of the reported changes in other jurisdictions are evident in the Irish youth justice system.

Young Persons' Probation

The establishment of the Young Persons' Probation (YPP) division is an example of a modernisation and a broadening of expertise and professionalism, which has been an ongoing process within the Irish Probation Service (McNally 2007, 2009). The establishment of YPP as a special division within the Probation Service in 2006 was a response to the enactment of the Children Act 2001 and aimed to deliver a range of youth-specific supports, sanctions and activities for young people (Probation Service, 2006).

This section will explore contemporary developments (over the past decade) in the Probation Service, with particular emphasis on the YPP division, and will discuss YPP's role in the preparation of pre-sentence reports.

The enactment of the Children Act 2001 has been described as a significant event in the area of Irish youth justice, particularly because the preceding Act (Children Act 1908) had been in place for over a century (Kilkelly, 2006). Youth justice matters developed late in Ireland, but the enactment of the 2001 Act led to significant changes and placed youth justice at the centre of many policy- and practice-based initiatives (Seymour, 2013). The Probation Service plays a central role in implementing the 2001 Act and is a key agent in applying the core principle of the Act – detention as a last resort.

The incorporation of structured risk assessment tools into practice further supported and strengthened the bifurcation process by facilitating the categorisation of young people according to their suitability for community sanctions, and provided courts with information in relation to how best to proceed – incarceration or management of the young person in the community. The expansion of restorative justice approaches created a new position for the victim in the process and cemented the ‘responsibilisation’ of the offender as best practice – rehabilitation being linked to reparation.

The Probation Service Annual Reports 2004–2012 indicate a growing discourse relating to public protection, risk and restorative approaches when referring to young people. The 2009 Annual Report discussed the establishment of ‘Effective Offender Supervision’, where interventions are based on an assessment of risk of harm and reoffending in young people. The above trends are, perhaps, indicative of ideological as well as modernisation changes.

Pre-sentence reports in the youth justice system

Probation Officers prepare pre-sentence reports in many jurisdictions, a practice that has existed for over a century. In Ireland pre-sentence reports in the Children Courts are prepared by YPP officers; this practice was placed on a statutory footing by the enactment of the Children Act 2001.

According to Field and Tata (2010), sentencing is more than a narrow legal process and has traditionally incorporated individual social narratives. Pre-sentence reports are a tool used to facilitate the court in combining the legal and social elements of justice and therefore allow the court to understand issues outside of the offence (Field and Tata, 2010).

There have been conflicting arguments in relation to the influence of actuarial risk assessment in the sentencing process. In line with the penal shifts outlined, international commentators have argued that pre-sentence reports are increasingly concerned with risk assessment and discussions of management over and above social enquiry and welfare interventions (Field and Tata, 2010; Hannah-Moffat and Mauruto, 2010; Netter, 2007; Simon, 2005).

Further evidence of the impact and influence of risk assessment in report writing is visible in the perceived focus on criminogenic needs over and above 'self-defined needs' or 'clinically defined holistic needs', whereby risk assessment may exclude social-cultural understandings of needs and can overlook issues such as deprivation and poverty (unless criminogenic) (Hannah-Moffat and Mauruto, 2010). This emphasis potentially omits needs identified by the client themselves and/or restricts practitioners in including broader non-criminogenic needs identified through their professional judgement.

Commentators (Persson and Svensson, 2012) have also argued that reports now have a double aim. Alongside their traditional role of assisting the court in sentencing, they facilitate post-sentence planning and determining how a sentence should be served.

Others have questioned the ethics of including the results of risk assessment in reports, because decision-making and punishment of a person are being potentially determined by *possible* future behaviour that may never occur (Gledhill, 2011; Hannah-Moffat, 2010; Maurutto and Hannah-Moffat, 2006; Monahan 2006; Netter 2007).

Yet the inclusion of risk assessment enables the practitioner to determine the level of intervention required for the individual – low-level intervention for those rated as low risk and high-level intervention for those rated as high risk – thereby facilitating the efficient targeting of resources to those who need them most (Andrews *et al.*, 2008).

Pre-sentence reports in the Children Courts

Pre-sentence reports can be ordered by the court once guilt is established. A judge may order a report in any case but is obliged to do so in cases where a community sanction, detention or a detention and supervision order is being considered. The yearly average of reports ordered from 2008 to 2013 was 890 (Irish Probation Service Annual Reports 2008–2013).

Pre-sentence reports are constructed in a narrative format based on interviews with the offender and, where appropriate, other relevant persons. The report informs the court on the personal and social history of the young person, their family, accommodation circumstances, education and/or training. It provides information and assessment relating to the current offence and any offending history. It assesses the young person's attitude to the offending behaviour and, where applicable, to the victim, and the level of risk of reoffending in the future. Based on this information, the report will propose a programme for the management of the young person in the community.

The court can also seek information regarding the care and control of the young person and whether any lack of parental/guardianship responsibilities contributed to the offending behaviour. The court can decide not to order a report where the penalty for the offence is fixed by law or the young person was subject to a prior report prepared not more than two years previously, and the attitude of the child and the circumstances of the offence are similar.

Methodology

This paper draws on data collected from in-depth qualitative interviews with five YPP officers. It explores the pre-sentence report from the perspective of the YPP officer, and their understanding of their role in the preparation process and the information-gathering exercise.

The YPP officers were recruited through the Probation Service, which invited all YPP Probation Officers to participate. Six officers responded and five indicated an interest in participating. The five officers worked on different teams in different areas of the country. The sample consisted of three female officers and two male officers. The average length of service with the Probation Service was 13.5 years. Three officers had worked prior to the introduction of structured risk assessment tools and two officers joined the service subsequent to the change in practice.

The interviews were guided by a topic guide consisting of open-ended questions. The topic guide was piloted prior to the study. The interviews lasted, on average, 50 minutes. All five interviews were audio recorded, transcribed and the transcriptions were entered into NVivo for analysis. Content analysis of the sources classified the data into nodes and sub-nodes. The nodes were thematically organised according to patterns

generated from the transcriptions, and were then independently reviewed to explore the reproductive value of the coding system.

The findings were reviewed by reference to characteristics of the Culture of Control and risk-oriented theses to establish the influence of these on the construction of pre-sentence reports in the Irish youth justice system.

The aim of the study was to explore three questions in relation to the pre-sentence report process:

1. YPP officers' understanding of their role in the report preparation process
2. their understanding of the information-gathering exercise
3. what information they considered important to include when preparing the report.

Limitations

The sample size was small and therefore findings should be considered as preliminary results from which further research in this area can be conducted. However, it should be recognised that the in-depth nature of qualitative enquiry penetrates understandings, which supports robust descriptions of a system. While the sample is small, the benefit of the in-depth enquiry should not be underestimated.

Findings and discussion

This section discusses findings resulting from five interviews conducted with YPP officers in relation to their understandings of the pre-sentence report preparation process. It addresses the three aforementioned questions with the aim of establishing the underlying ideological framework applied in practice. Each question is considered below.

Question 1: How do YPP officers understand their role during the report preparation process?

All YPP officers reported understanding their role in the pre-sentence report process in dual terms. The first phase was reported in terms of assessing the young person and thereafter producing a report based on the assessment. The second phase was reported in terms of utilising the

information contained in the report to determine how best to proceed in relation to appropriate interventions. The report was discussed as a tool to guide and assist the court in determining the most appropriate sanction and thereafter was reported as assisting the YPP officer in determining how best to intervene in the young person's life following a court ordered sanction supervised by YPP.

All officers included in the study discussed their role in relation to the report preparation process with reference to three overarching themes:

- (a) the identification of risks and needs relating to the young person's offending behaviour
- (b) a shift to a more structured and formal procedure with reference to the report preparation process
- (c) changes to their role as a result of macro changes within the service.

Each is discussed in detail below.

- (a) *The identification of risks and needs relating to the young person's offending behaviour*

When discussing the assessment process all YPP officers adopted a language of risk and referred to their role as identifying risks/needs, selecting a recommendation (risk/need determined) and relaying this information to the court:

We do the assessment for ... to see if they're suitable for probation supervision and also when that happens we're involved in the supervision of the child in the community ... That's really is our main aim, we identify the risk factors and then we look at how we, it's best to assist I suppose, to assist them in reducing them [risk factors]. (YPP Officer 1)

This officer described conducting an assessment to compile information relating to the young person's risk factors and then utilising this information to make a recommendation in relation to the most suitable community sanction. This information was discussed in terms of assisting with the formulation of an intervention with the aim of facilitating the young person in reducing any identified risk factors.

On the face of it the role of the officer in the pre-sentence report process has not altered, in so far as they collate information for

presentation to the court to assist in the decision-making process. However, what may have changed is the nature of the information and the manner in which it is collated, and the underlying ideology regarding the type of information that it is important to include. What appears to have changed is the inclusion of a risk status resulting from an assessment conducted with a structured risk assessment tool. Furthermore, the language of the officers, when referring to their role, invariably incorporates the concept of risk.

While the officer has retained the practice of reporting the social and personal background of the young person to assist the court in understanding the young person, the risk discourse, when referring to their role, appears to have incorporated another layer of information reporting. Further, the use of a structured risk/need assessment tool to generate risk information signifies a change in practice.

(b) *A shift to a more structured and formal procedure with reference to the report preparation process*

Three officers included in the study had experience of conducting assessments prior to the introduction of structured risk assessment tools. These officers reported their role in the report preparation process as having become more formal and clinical over the years. They reported this as having occurred as a result of the introduction of a structured risk assessment tool into the process. They regarded practice prior to the introduction of the structured tool as more flexible and less focused on risk of reoffending. They discussed the report preparation process prior to the introduction of risk assessment tools as more concerned with reporting on broader social and personal circumstances, and more an explanatory exercise than a gathering of risk information exercise.

It's made it more formal, because you'd have things like the area that they live and there isn't really room for that and ... probably it would be different type of language as well. More formal and more limited ... it's a more clinical report nowadays. Which isn't a bad thing but it doesn't really encourage the welfare side of things. (YPP Officer 1)

The officers who commenced working in the service subsequent to the introduction of risk assessment discussed relying heavily on it at the outset of their career but less so as time went on. While there was discussion in relation to a formalising process, all officers discussed their

retention of a large degree of discretion and, in this respect, their retention of professional clinical judgement as a key tool in relation to practice.

These findings suggest that the YPP officers included in this study understand their role in identifying, reporting and thereafter working to reduce risk. This would indicate that risk-oriented practice is evident in the pre-sentence report preparation process. However, in line with traditional probation practice, the officers discussed retaining and utilising their professional clinical judgement and elements of discretion alongside adopting more structured and formal practices in assessment.

(c) *Changes to their role as a result of macro changes within the service*

Concerns were raised in relation to changes in the officers' role resulting from the shedding of some elements of their traditional social work identity as a result of changes in corporate strategy. The potential for this change to impact on their professional role was raised. Resistance at practice level was discussed, and officers reported maintaining their traditional social work practices during daily practice:

Traditionally the Probation Service would have worked from a welfare model but we've moved away from that and there is a different corporate strategy and philosophy at the moment. But still a large component of our work would still be welfare really because we have to work with the client in his or her environment, and we do, I would take a holistic approach really. You can't really see the young offender outside of the context of the family and upbringing. I would see a large input around welfare. (YPP Officer 5)

Concerns were raised regarding the Probation Officers' role as increasingly becoming referral agents and managers of reporting. The Probation Service works in partnership with community organisations,⁷ and the practice of working with probation-funded projects has resulted in some officers reporting their role in terms of assessing, categorising and referring on to an appropriate project. This was reported as impacting on their role as they understood it to be:

⁷ These organisations accept referrals from the service and thereafter assist offenders in relation to reintegration and resettlement following a period of detention as well as providing programmes that assist with promoting desistance.

maybe the difficulty of having all those services is that we become a referring agent and that we actually don't do some of the work that we should be doing with them 'cause we are outsourcing it really and ... really like I suppose from my point of view and others who work on the team it's ... it's easy to get into that and you're not using your own skills and that. You just manage it as opposed to working with it. (YPP Officer 4)

The growing presence of the victim was reported as changing the process by introducing another concern into the matrix. The inclusion of the victim requires officers to widen their interest beyond the offender and consider issues relating to victims and public protection. It realigns the Probation Officer in relation to their client and potentially creates a dual duty of care:

Well, I've been a Probation Officer for over 17 years and when I initially joined I was a probation and welfare officer ... but I was told very clearly by my manager that I was a Probation Officer not a social worker. And I suppose what has happened over the years is that it has developed into a public protection role and that it's now about public protection. We still meet the needs of the young person, but having been around for so long it's now about public protection. Victim awareness is developing and restorative justice is developing and that would certainly be around the victim. (YPP Officer 1)

The changing role discussed by the officers alongside the centralisation of the victim and the realignment of public protection concerns is similar to arguments contained in Garland (2001) and Feeley and Simon (1992), and may indicate that some elements of the former models are gradually encroaching into these areas of practice.

Question 2: What information is important when preparing a pre-sentence report?

Traditionally the sentencing process was concerned with past events, the offence committed and any criminal history. The aim of the pre-sanction report, in this study, includes concerns relating to future behaviour – what is likely to happen and how such events can be addressed.

Three themes emerged in relation to what information was important when preparing a pre-sentence report:

- (a) distinguishing between low-, moderate- and high-risk offenders through risk assessment (prediction of future behaviour)
- (b) making a determination in relation to the young person's compliance identity (description of young person's present inner behaviour/attitude)
- (c) assisting the court in selecting a sanction/intervention that will result in no further offending and lead to a change in behaviour (change future behaviour).

Each theme is discussed in detail below.

- (a) *Distinguishing between low-, moderate- and high-risk offenders through risk assessment (prediction of future behaviour)*

A theme that emerged from the data on the pre-sentence report preparation process was distinguishing between young people who could be diverted from the system totally, those who required some form of intervention but could remain in the community, and those who required high-level or intensive intervention and/or management in a detention facility – a form of trifurcation.

Officers reported the practice of categorisation as a core aspect of the assessment process and discussed proposing interventions appropriate to the categorisation identity. The inclusion of this information in the report was discussed as central in relation to deciding what level of intervention the young person required and what sanction pathway was most appropriate for the young person:

If they're showing signs of heading down a prosocial road of course you wouldn't want probation. But some people would take longer and that's why we'd recommend probation. We'd see that there is potential, that the protective factors are pretty good ... The guy we consider to be low risk, we don't want them at all ... Moderate to high are a huge concern for public protection.
(YPP Officer 1)

In this respect information relating to the classification of the young person in terms of their risk/needs was key to include in the report as it facilitated reporting on the likelihood of reoffending, identifying criminogenic needs that, if met, were likely to reduce the prospects of future offending, and identifying interventions and sanctions that matched the risk/need status of the young person. This information was

presented to the court to assist in the decision-making process by providing an additional layer of information for the court to consider.

The inclusion of such information and its utilisation in assisting with the decision-making process may indicate a shift in the type of information deemed important to that process. It may, therefore, be argued that there has been a shift towards relying on information that reports on the likelihood of future behaviour. However, the practice of categorisation and classification in terms of potential future risk, followed by sentences appropriate to such classification, is not a new phenomenon within the Irish youth justice system. One need only look to the Children Act 1908 to see the segregation and categorisation of young people according to perceived risk and assessed potential for negative influence on others.⁸

What is new is the structured nature of the assessment adopted by practitioners, the external validation of such practices and the perceived objectivity and empirical soundness of the tools that now assist in determining the risk/need identity of the young person.

Professional judgement alone is no longer a satisfactory means of classifying a young person. The combining of professional clinical judgement with an objective assessment instrument and using such information to guide the decision-making process may be described as a novel development.

While the incorporation of what is described as an efficient and objective tool into the assessment process does indicate a change in practice, the desired goal of the practice has remained the same – namely, categorisation. The retention of professional clinical judgement during the assessment and categorisation process within the Irish system points to a combining of methods as opposed to an adoption of wholly new methods, and may suggest less of a shift to late modern practices when compared to changes reported in other jurisdictions.

⁸ Under the 1908 Act a 15 or 16 year old was certified by the court as unruly or as exhibiting a depraved character (s102 (3)), or found to be incorrigible and exercising bad influence on other boys in St Patrick's Institution (Prevention of Crime Act 1908 (s 7)) (Walsh, 2005). In other words, there was a dual model in operation in relation to this age cohort: firstly, depending on how they were perceived by experts, they were sent to either a prison or a Borstal; secondly, those who were initially sent to St Patrick's Institution could be imprisoned as a result of exhibiting certain characteristics while detained (Walsh, 2005).

(b) *Make a determination in relation to the young person's compliance identity (description of young persons' present inner behaviour/attitude)*

A second theme, in relation to what information was important to include in the pre-sanction report, was the identification of those who will/can engage with the process. Levels of compliance can be difficult to gauge and can result in subjective judgements and implicit communications regarding risk between practitioners. The officers placed a large degree of emphasis on 'risk' and 'protective' factors when writing a report. Both external risk and protective factors could be overridden by the young person's attitude and level of compliance with the process. Thus, a key influencing factor when writing the report, regardless of external risks such as education, living conditions and family support, was the young person's attitude.

The officers described young people as exhibiting three types of compliance identities during the report writing process – the first was obvious non-compliance, the second was partial compliance (compliant in all aspects necessary to succeed in the process), and the third was fully compliant (compliant in all aspects, and deemed to be complying due to an internal desire for change).

You have the total anti, anti, anti everything, state authority and they tell you they don't want to engage and that's it ... they're just not going to engage ... it's our job to try to engage them, sometimes you're successful and sometimes you just can't do it because they just don't want it ... you can have young people and they can do all the right things and say all the right things with the purpose of getting the whole probation thing over and done with. They could be a low overall score but as soon as they come out of probation they are likely to re-offend again. [Others are] prosocial and they have found themselves being mouthy to a guard and there would be a lot of 'I know that I have done wrong' and they would come from a background where they would be very prosocial and they engage very easily. (YPP Officer 1)

Compliance was a key influencing factor during the decision-making process. Young persons who fully complied with the requests of the court and the YPP officer were reported as being more likely to have a recommendation for no further involvement with the Probation Service or dismissal under section 1(1)(i) of the Probation of Offenders Act 1907:

If a first-time offender and it was once off and you felt that the young person would not offend again and there was good support at home, good structures and he was in school and activities, and was doing well – a fairly normal life and things were OK and this was a blip on the landscape and you were reasonably confident that there would be no involvement with further offending behaviour, yeah you would [recommend a dismissal under the Probation of Offenders Act 1907]. If you felt a client didn't require any services I'd be anxious not to bring children into the system when we can avoid it. If they have a lot of support and are doing quite well and it would be of no benefit to them – being involved with us – it wouldn't be in their best interest. (YPP Officer 5)

Young people who partially complied were reported as often scoring lower than what the YPP officers expected. This sometimes led to a reversion to clinical judgement and alternative means of reporting on the young person. When officers suspected or found a young person to be dishonest or withholding information they communicated these findings to the court. The court was required to make a decision on limited information:

I was working with a young person and ... I'd say for two months of preparing the pre-sentence report he led me a merry dance and when I was due to complete the YLS, he would have been moderate, but when I made further enquiries he sky-rocketed to high, very high. I couldn't use it 'cause this person had led me on a merry dance and I said in the report that I didn't use the tool 'cause this young person had not been honest and I felt that if I used it, it would not be honest. (YPP Officer 4)

The level of compliance was an important ingredient in the report preparation process. Cases of non-compliance often resulted in little or no information being gathered due to the young person not complying with requests to meet and divulge such information or due to misleading information. The reporting of non-compliance required officers to form a judgement in relation to a young person as a result of the compliance identity as opposed to other background information that was either not available or considered inaccurate. On these occasions officers reported reverting to their professional clinical judgement to establish a better understanding of the young person.

While non-compliance and partial compliance were associated with risk because they implied that the young person was unwilling to engage

with interventions aimed at reducing offending, they were also associated with young people who could not comply due to external influences such as lack of family support, peer influence or substance abuse issues. In this respect some non-compliance/partial compliance could have treatment implications, more associated with penal-welfarism, where the young person is understood as not being in a position to comply due to external influences, as opposed to refusing to comply. When this occurred, officers reported having to look beyond the young person's attitude and explore reasons why the young person was not complying – something that a risk assessment tool does not always achieve. These situations are evidence of the officers approaching compliance issues in a more traditional manner and using their professional judgement to make a decision on, firstly, the young person's compliance identity and, secondly, why this identity is as it is.

Say if you're living in an unsupportive environment, it has a domino effect. And for people to engage you need support from your parents and in some cases where the support isn't forthcoming you may not turn up for appointments and you might have to call them. If the parents are disconnected from the young person they're not going to help ... it's very hard to deal with that and number one, at the end of the day, the responsibility does fall with the parents ... but if you're meeting a lot of resistance you'll have to deal with it some way ... you have to highlight it to the court and the court will raise it with them. (YPP Officer 5)

Officers reported compliance as an important part of the process, particularly in relation to understanding a young person. The often ambiguous nature of non-compliance resulted in the officers relying on professional judgement to negotiate their understanding of the young person and determine how best to proceed. This practice indicates that officers have retained elements of practice related to seeking aetiological understandings of behaviour and signifies the retention of social work ideals – characteristics not aligned with late-modern practice models.

(c) *Assist the court in selecting a sanction/intervention that will result in no further offending and lead to a change in behaviour (change future behaviour)*

All officers discussed the inclusion of a recommendation regarding the most appropriate intervention to meet the needs of the young person as a

core piece of information during the report preparation. Regarding the main influencing factors relating to offending behaviour, all the officers in this study referred to social and environmental issues. In other words, all officers associated offending behaviour with issues external to the young person. However, in terms of sanctions or interventions, all officers spoke of attempting to work with the young person to help them change their decisions and behaviours to reduce the likelihood of reoffending. They discussed attempting to assist the young person in changing their internal decision-making processes:

I try to teach them to let it go over the head, over the head instead of taking it head on and always fighting with people head on. You know, being nice gets things done; being aggressive doesn't ... that's the cognitive behavioural therapy and you're trying to change the mindset and the way they think. (YPP Officer 3)

They spoke of facilitating a young person's internalising behaviour more in line with dominant social norms:

I use lots of different things, like motivational interviewing; that's what I use most. Motivational interviewing is moving them from not noticing and not being interested in doing something to being interested and making changes. And then making changes last so they become normal or normalised behaviour. (YPP Officer 4)

Officers referred to assisting young offenders in relation to overcoming, through internal change, the external forces that influence the behaviour. They discussed their role in terms of re-socialising the young person in relation to their attitude to offending behaviour as opposed to treating the 'causes' of the behaviour (which had been described as being external to the young person). While the officers reported this as their goal, they referred to difficulties in achieving this goal as a result of often having to address welfare issues not being addressed by other agencies (non-criminal justice). This often meant responding to crises in the young person's life rather than conducting 'offending work'.

Your role profile, as set out by the Department of Justice, is assessing for risk and offending behaviour and implementing interventions that focus on offending behaviour. I don't think it actually takes into account the actual

day-to-day stuff in respect of welfare, education and all that kind of stuff because the reality is the threshold is very high for the HSE and also for the Education and Welfare Board to become involved. So, so you do end up doing that kind of work, and sometimes it isn't necessarily acknowledged, but I think the general consensus is that everybody knows that that's what you're going to be doing when you take on this job. (YPP Officer 2)

Only one officer reported working in an area where multidisciplinary teams operated in partnership with the Service, thereby allowing the officer to refer the young person on to services according to their needs. This was reported as allowing the officer to be solely concerned with offending behaviour and changing the young person's internal decision-making. The multidisciplinary model was reported as facilitating probation work by reducing the likelihood of the officer getting overly involved with issues considered outside the Probation Officer's remit:

We have very good interagency work here, between the HSE and other various agencies, addiction services and that. So when other issues do come up we'd have social workers already involved ... I'd be looking at offending behaviour ... I know speaking to my colleagues in other areas, say about homeless services we have, they think we're very lucky. (YPP Officer 4)

On the face of it this type of practice is in line with Garland's thesis that the aim of the system is no longer to treat the causes of crime but rather to teach people to desist from offending behaviour. The fact that officers in this study reported ensuring that welfare needs were met either by themselves, when no other agency was available, or through appropriate referral indicates that the late-modern practice in relation to solely focusing on 'offending work' within YPP may not be fully in line with what has been described in other jurisdictions. The referral of young people to projects funded by the Probation Service, more aligned with penal-welfare ideals in treating social deficits, indicates an attempt to retain elements of a welfarist agenda within the probation model.

Conclusion

This paper has explored the pre-sentence report as used in the Children Courts in Ireland with reference to reported changing penal policy and practice in Anglophone jurisdictions. Macro changes in the Probation

Service indicate a move towards a model that prioritises system efficiencies, structured approaches to risk assessment, trifurcation practices and the growing centrality of the victim.

Findings relating to frontline practice suggest that the process of pre-sentence report preparation in the Children Courts has undergone substantial formalisation since its origins as a practice of special pleading to the Court in relation to saving sinners through moral reform. The streamlined approach, particularly evident over the past five to eight years, which has incorporated risk-oriented approaches, illustrates a changing field in pre-sentence report preparation.

While findings indicate adoption of risk-oriented discourse during the report preparation process, this is not as evident when officers discuss their daily practice and interaction with the young people.

The changes, at practice level, discussed in this paper are subtle and are best understood as a gradual change in how the individual is assessed rather than a sudden discernible ideological shift. Many of the changes discussed operate in parallel with practices more aligned with traditional approaches that incorporate treatment ideals, utilise professional judgement and operate an informal approach to information gathering and communication. As has been argued elsewhere in relation to other areas of the system (Kilcommins *et al.*, 2010), the pre-sentence report preparation process in the Irish youth justice system, while adopting elements of the risk approach, may be described as a dual welfare/risk model. It would appear that YPP officers are achieving a balance between risk-oriented approaches on one hand and fulfilling the broader needs of young offenders on the other.

Whether the gradual introduction of risk-oriented approaches is a sign of an encroachment by a new policy incrementally filtering down to practice or whether a dual model will persist remains to be seen. What is evident is that the more obvious changes in organisational structure and operations, alongside the less obvious changes in practice in YPP work, may indicate a more gradual move towards a model more associated with the Culture of Control and the New Penology than was evident when Kilcommins *et al.* (2010) were reporting.

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Gender Differences in Criminogenic Needs among Irish Offenders

Janice Kelly and John Bogue*

Summary: This study examined gender differences between offenders on criminogenic needs as measured by the Level of Service Inventory – Revised (LSI-R). The LSI-R is the primary risk/needs assessment instrument used by the Irish Probation Service in assessment. 231 Probation Service clients (131 male and 100 female) were included in this study for comparison purposes. Results showed that male offenders had higher levels of criminogenic needs in the areas of criminal history and substance abuse than females; the latter demonstrated higher levels of need in the areas of accommodation, emotional/personal and family/marital. Implications for effective treatment for female offenders are discussed.

Keywords: Female offenders, risk assessment, LSI-R, offending, prison, imprisonment, interventions, probation, supervision, criminogenic needs, gender difference, rehabilitation, resettlement.

Introduction

While female offenders continue to be a small proportion of the overall offending population, there has been a significant increase internationally in the number of female offenders in the criminal justice system (Lovins *et al.*, 2007). In Ireland the number of female prisoners increased by 84.29% from 2001 to 2010 (Irish Prison Service, 2010). This has led to concern that risk assessment instruments and interventions for offenders, which have traditionally been developed from research on male offenders, may not be applicable to the female offending population.

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Risk assessment and interventions for offenders are based on the principles of risk, needs and responsivity. The risk principle advises that the risk of reoffending and/or of causing harm can be predicted and the level of treatment should be matched to the level of risk, with high-risk offenders receiving higher levels of intervention. The needs principle refers to the fact that to reduce recidivism, treatment should be targeted at the individual offender's criminogenic needs. Finally, the responsivity principle considers that an offender's personality, ability and motivation should be matched to the type of offender rehabilitation proposed (Andrews and Bonta, 2006).

Andrews and Bonta (2006) devised a list of the central eight risk factors that best predicted recidivism from relevant research and theoretical literature. The list is made up of the 'Big Four' risk factors (criminal history; antisocial personality pattern; antisocial attitudes/orientations and antisocial associates), which are deemed to have the strongest relationship with offending behaviour, as well as the 'minor' four risk factors (education/employment, leisure/recreation, family/marital and substance misuse), which have at least a moderate relationship with offending. Utilising these risk factors, the authors devised the Level of Service Inventory – Revised (LSI-R) to assess an offender's risk level and to identify their individual criminogenic needs. Numerous studies have shown it to be a reliable and valid method of predicting recidivism for offenders (Andrews and Bonta, 2006).

Some researchers argue that gender-neutral risk assessment tools are not accurate in predicting risk for female offenders and that these instruments tend to over-classify female offenders, leading to a higher level of supervision or security than their behaviour warrants (Shaw and Hannah-Moffat, 2000; Van Voorhis *et al.*, 2010; Hardyman and Van Voorhis 2004). Andrews *et al.* (2012) found that over-prediction of recidivism may be occurring with lower risk females and suggested that females may require different cut-off scores for risk levels. Nevertheless, the majority of research studies have found the LSI-R to be predictive of female recidivism (Smith *et al.*, 2009; Palmer and Hollin, 2007; Rettinger and Andrews, 2010; van der Knaap *et al.*, 2012; Vose *et al.*, 2009; Lowencamp *et al.*, 2001). Van Voorhis *et al.* (2010) argue that the LSI-R is predictive of reoffending among female offenders, but that the addition of gender-responsive risk factors increases prediction accuracy of recidivism.

Offenders are not a homogeneous group and there are differences between male and female offenders. Research suggests that female offenders have different pathways into offending behaviour, commit different types of offences and have a lower level of violence than male offenders (Bloom *et al.*, 2005; Reisig *et al.*, 2006). Females are more likely to have shorter criminal histories and to have committed a less diverse range of offences than males (Corston, 2007; Hollin and Palmer, 2006). There is conflicting evidence as to whether or not women are at lower risk of reoffending than men. Some studies (e.g. Palmer and Hollin, 2007; Lowencamp *et al.*, 2001) have shown no difference in risk levels whereas other studies (e.g. Mihailides *et al.*, 2005; Manchak *et al.*, 2009) indicate that men are at higher risk for recidivism than women. However, it is important to note that despite the possibility of women and men having similar recidivism levels, female offenders display lower levels of violence and arguably pose less threat to society on this basis alone. Research also indicates that females have higher incidences of personality disorders, psychosis, neurotic disorders, addiction problems, learning disabilities, self-harm and post-traumatic stress disorders, and are more likely to be victims of abuse as children and adults than male prisoners (Kelly, 2006).

The National Institute of Corrections in cooperation with the University of Cincinnati has designed both a female risk/needs assessment instrument, which assesses gender-neutral and gender-specific risk factors, and a female supplemental risk/needs assessment instrument which is designed to supplement gender-neutral risk assessments such as the LSI-R. It covers gender-specific needs of trauma and abuse, unhealthy relationships, parental stress, depression, self-efficacy and current mental health symptoms. Van Voorhis *et al.* (2010) carried out research in the USA in both prison and community settings, which utilised a combination of the LSI-R and the aforementioned risk assessment instruments, and found that in relation to female offenders in community settings, factors such as substance abuse and economic, educational, parental and mental health needs had the strongest relationship with recidivism. Rettinger and Andrews (2010) found gender-specific risk factors, such as parental stress, victimisation and self-harm, did not increase the predictive accuracy of the LSI-R among sentenced female offenders in Ontario. However, the variance of the results in these studies could reflect the differences in methodologies and samples used.

Other research has also been inconclusive: some studies have identified gender-responsive risk factors, such as victimisation, predictive of recidivism while other studies have shown no such relationship (Blanchette and Brown, 2006). It is possible that the psychological sequelae that follow victimisation can also lead to behaviour such as substance misuse offending, which is itself predictive of recidivism. Additionally, victimisation and abuse may lead to post-traumatic stress disorder, which can impede an offender's ability to address criminogenic needs (Blanchette and Brown, 2006). While there are apparent differences between male and female offenders, there is still a debate over whether or not there are different risk factors for female offenders or whether the differences are better described as responsivity targets, i.e. if needs such as parental stress, self-esteem and unhealthy relationships are not addressed it will not be possible to address dynamic risk factors. There is a concern that if gender-specific needs are identified as risk factors as opposed to responsivity factors, there may be an over-classification of risk levels for female offenders, which could have negative outcomes for women (Holtfreter and Cupp 2007). While more research is needed to identify female-specific needs, research indicates that certain criminogenic needs are shared by both genders (Hollin and Palmer, 2006).

However, these shared risk factors may be distributed differently, have different importance or be present for different reasons (Andrews *et al.*, 2012). Although several studies have highlighted differences in gender-neutral criminogenic needs between men and women, the results have not been consistent. Research studies utilising the LSI-R have shown that men tend to score higher on the criminal history subscale, and women higher on the emotional/personal (Palmer and Hollin, 2007; Holsinger *et al.*, 2003; Van der Knaap *et al.*, 2012) and financial subscales (Raynor, 2007). Van der Knaap *et al.* (2012) proposed that because the relationship between emotional problems and recidivism was weak in their study, treating emotional problems may have little impact on recidivism. Several studies have also reported that women have higher levels of need in the area of family/marital needs (Davidson, 2011; Palmer and Hollin, 2007; Hsu *et al.*, 2009). The areas of accommodation and substance misuse revealed conflicting findings, with some studies reporting that females had greater levels of need in contrast with other studies indicating that males had greater need (see Palmer and Hollin, 2007; Andrews *et al.*, 2012; Manchak *et al.*, 2009; Van der Knaap *et al.*,

2012). The findings relating to the substance misuse and accommodation factors may reflect differences in the levels and types of services provided in different jurisdictions.

In order to assist with more effective planning of resources for female offenders in Ireland, this study examined gender differences in criminogenic needs among the country's probation clients. Specifically, the study examined any differences between the gender-neutral criminogenic needs of male and female offenders using the LSI-R scores instrument.

Method

Participants

The sample consisted of 231 probation clients aged between 18 and 55 ($M = 27.77$, $SD = 14.25$), with 131 (56.7%) of the sample being male and 100 (43.3%) female. 74.4% of male offenders had been before the District Court, with 30 (22.9%) before the Circuit Court and four (3.1%) before the District Appeals Court, compared to 91 (91%) of females being before the District Court, eight (8%) before the Circuit Court and 1 (1%) before the District Appeals Court (Table 1).

Table 1. Offence history by gender

	<i>Male</i>		<i>Female</i>	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
Current aggressive offence	48.9% (64)	51.1% (67)	42% (42)	58% (58)
Previous convictions	96.9% (127)	3.1% (4)	63% (63)	37% (37)
Three or more current convictions	68.7% (90)	31.3% (41)	34% (34)	66% (66)

Materials

The LSI-R (Andrews and Bonta, 1995) is a 54-item instrument designed to measure risk factors associated with recidivism. It consists of 10 subscales: criminal history, education and employment, financial, family/marital, accommodation, leisure/recreation, companions, substance abuse, emotional/personal and attitudes/orientations. The scores of the subscales are added to produce a total score which predicts the offender's risk of future recidivism.

Procedure

Prior to commencing, ethical approval was sought and obtained from the ethics committee of the Irish Probation Service. Anonymised scores from LSI-R were obtained on 231 offenders, who were enrolled on the LSI-R database with a completed LSI-R as of 1 February 2011. The Probation Service LSI-R database is linked to an additional database of active offenders which facilitated the extraction of additional comparative information such as offence details, court venue, gender and age. Due to the significantly higher proportion of males on the database, the gender data sets were separated and a random sample of both male and female records was obtained. Each LSI-R assessment had been completed by the offender's Probation Officer.

Statistical analysis

LSI-R total scale and subscales for male and female offenders were compared using independent *t*-tests and Mann-Whitney *U*-tests. Logistic regression analyses examined whether the gender of the offender could be predicted by the criminogenic needs represented by the subscales listed above.

Results

Means, standard deviations and alpha reliabilities were calculated for all variables. The internal consistency of the scales was measured utilising Cronbach's alpha (Table 2).

Table 2. Means, SDs and reliability of all measured variables

	<i>Mean</i>	<i>Standard deviation</i>	<i>Alpha reliability</i>
LSI-R total score	22.1	3.9	0.80
Criminal history	3.9	2.3	0.74
Education/employment	6.0	2.5	0.77
Financial	1.3	0.7	0.29
Family/Marital	1.4	1.2	0.48
Accommodation	0.6	0.8	0.25
Leisure/Recreation	1.23	0.83	0.64
Companions	8	1.4	0.70
Alcohol/Drug problem	3.8	2.5	0.78
Emotional/Personal	1.3	1.4	0.71
Attitudes/Orientations	0.6	1.1	0.73

The normality of the distribution of the variables was tested utilising Kolmogorov-Smirnov tests, which revealed that only the total LSI-R score was normally distributed. All the other variables were found not to be normally distributed.

Correlational analyses

Correlational analyses were conducted between the scales of LSI-R Total Score and the LSI-R subscales, to determine the relationship between the various measures utilised in this research (Table 3). The table of correlations shows that the majority of measures were significantly correlated with each other.

Comparison between groups

An Independent *t*-test and Mann-Whitney *U*-tests were conducted to establish whether male offenders differed from their female counterparts in terms of overall risk level and criminogenic needs. There was a significant difference between risk levels for male and female offenders, with male offenders ($M = 23.27$, $SD = 8.2$) having a higher score on the LSI-R than females ($M = 20.59$, $SD = 7.82$); $t(229) = 2.51$, $p = .01$ (two-tailed). The magnitude in the differences in the means (mean difference = 2.67, 95% CI: .57 to 4.78) was small, $r = 0.17$. As the other measures were not normally distributed, Mann-Whitney *U*-tests were used to examine the differences in scores across the groups. As can be seen from Table 4, female offenders had higher levels of need in family/marital, emotional/personal and accommodation and lower levels of need in the area of criminal history and alcohol/drug problems.

Regression

The variables were entered in a linear regression model to assess for multicollinearity. None of the variables achieved a variance inflation factor of over 10, indicating that the multicollinearity assumption has been upheld (Field, 2005). This procedure is sensitive to outliers; no univariate outliers were found within the data. Outliers were further assessed by examining the standardised residual scores. Tabachnick and Fidell (2007) suggest that potential outliers should have scores in excess of 3.29 (equivalent to $p < 0.01$), consequently cases with a standardised residual score over 3.29 were removed from the analysis. Logistic regression was conducted to determine if the individual differences measures could be combined to predict female and male offenders. The

Table 3. Correlations between measures

	<i>Education/ Employment</i>	<i>Financial</i>	<i>Family/Marital</i>	<i>Accommodation</i>	<i>Leisure/ Recreation</i>	<i>Companions</i>	<i>Alcohol/ Drug problem</i>	<i>Emotional/ Personal</i>	<i>Attitudes/ Orientations</i>	<i>LSI-R total Score</i>
Criminal history	.313**	.049	.074	.109	.163*	-.335**	.368**	.009	.147*	.592**
Education/Employment		.443**	.232**	.193**	.430**	-.324**	.116	.075	.322**	.637**
Financial			.204**	.218**	.351**	-.182**	.145*	-.018	.314**	.435**
Family/Marital				.363**	.222**	-.276**	.152*	.187**	.318**	.467**
Accommodation					.253**	-.308**	.298**	.065	.206**	.460**
Leisure/Recreation						-.225**	.323**	.191**	.250**	.560**
Companions							-.330**	.025	-.331**	-.604**
Alcohol/Drug								.269**	.176**	.671**
Emotional/Personal									.044	.320**
Attitudes/Orientations										.491**

Non-parametric tests (Spearman's rank order correlation) were used. * Correlation is significant at the 0.05 level (two-tailed); ** correlation is significant at the 0.01 level (two-tailed).

Table 4. Comparison of male and female LSI-R scores

	<i>Mean rank score</i>		<i>U</i>	<i>Z</i>	<i>P</i>	<i>R</i>
	<i>Male</i>	<i>Female</i>				
Criminal history	147.4	74.77	2427	-8.27	0.00	0.6
Education/Employment	123.24	106.51	5601	-1.91	0.06	0.1
Financial	112.38	120.74	6076	-1.04	0.30	0.1
Family/Marital	100.5	136.2	4528.5	-4.17	0.00	0.3
Accommodation	108.5	125.8	5567.5	-2.17	0.03	0.1
Leisure/Recreation	116.27	115.65	6514.5	-0.08	0.94	0.0
Companions	110.06	123.78	5772.5	-1.61	0.10	0.1
Alcohol/Drug problem	126.73	101.95	5145	-2.81	0.05	0.2
Emotional/Personal	107.66	126.92	5458	-2.28	0.02	0.2
Attitudes/orientations	108.5	125.83	6419	-0.32	0.75	0.0

model was statistically significant $\times 2 (10, N = 215) = 163.55, p < .01$ and explained between 51.7 (Cox and Snell *R* square) and 69.3% (Nagelkerke *R* square) of the variance in gender and correctly classified 85.3% of cases. Criminal history, accommodation, family/marital, emotional/personal and alcohol/drug problem were found to make a unique statistically significant contribution. The strongest predictor was accommodation, recording an odds ratio of 4.69, indicating that females were over four times more likely to have difficulties in the accommodation domain. Females were also found to have been considered twice as likely to have difficulties in the family/marital domain. As can be seen from Table 5, female offenders were less likely to be assessed as having criminogenic needs in the areas of criminal history or alcohol/drug problems and more likely to have difficulties in the areas of emotional/personal, family/marital and accommodation.

Discussion

This study found that the total LSI-R score for females was lower than for male offenders, suggesting that Irish female probation supervisees are lower risk than their male counterparts. However, it must be noted that while the difference in scores was significant, the effect size was small, which may impact on the clinical significance of the findings. The study also revealed differences between the genders in terms of the prevalence of some criminogenic needs as measured by the LSI-R; this has implications for designing supervision and intervention programmes for female offenders.

Table 5. Logistical regression predicting likelihood of offender belonging to the female offender group as opposed to the male offender group

	<i>B</i>	<i>SE</i>	<i>Wald</i>	<i>Df</i>	<i>Sig.</i>	<i>Exp(B)</i> (<i>odds ratio</i>)	<i>95% CI for odds ratio</i>	
							<i>Lower</i>	<i>Upper</i>
Criminal history	-1.09	0.17	42.60	1	0.00	0.34 (3.3*)	0.24	0.47
Education/Employment	-0.22	1.14	3.6	1	0.06	0.80	0.64	1.01
Finance	0.68	0.39	3.00	1	0.08	1.97	0.91	4.27
Family/Marital	0.99	0.30	18.77	1	0.01	2.69	1.72	4.23
Accommodation	1.55	0.40	14.80	1	0.00	4.69	2.13	10.31
Leisure/Recreation	0.164	0.30	0.31	1	0.58	1.18	0.66	2.10
Companions	.110	.295	.139	1	.710	1.116	0.84	1.76
Alcohol/Drug problem	-0.27	0.11	6.57	1	0.01	0.76 (1.3*)	0.62	0.94
Emotional/Personal	0.53	0.18	8.40	1	0.04	1.70	1.18	2.44
Attitudes/Orientations	0.21	0.26	0.63	1	0.43	1.23	0.74	2.04
Constant	0.32	1.87	0.03	1	0.87	1.37		

* Inverted odds ratio.

Accommodation appears to be a problematic area for female offenders, with females in this study being 4.6 times more likely to experience difficulties than men. This is reflective of other research carried out by Seymour and Costello (2005) on Irish Probation Service clients. They found that female offenders were over-represented in the population of homeless offenders on probation in Ireland. It is extremely difficult for offenders to elicit positive change in their lives without having stable accommodation; consequently it is an important treatment target for Irish female offenders.

It was apparent from the study that interventions needed to be targeted at the emotional/personal needs of female offenders, as females score higher in this domain than males. This domain relates to the areas of psychosocial functioning, emotional distress, and symptoms of psychotic, anxiety and affective disorders (Andrews and Bonta, 2006). If needs in this area are not addressed, it will impact on the ability of the individual to address other criminogenic needs.

Female offenders in this study were twice as likely to experience difficulties in the family/marital domain as their male counterparts. Female offending is often related to intimate relationships, with many women becoming involved in crime in the context of a relationship. Additionally, aggressive offences predominantly occur within violent domestic situations (Holtfreter and Cupp, 2007). Supportive family relationships have been shown to reduce the probability of reoffending and poor institutional adjustment among female offenders (Benda, 2005). Research studies have found that treatment programmes targeting family relationships and family processes have demonstrated reductions in female levels of reoffending (Dowden and Andrews, 1999; Dowden, 2005). Consequently, it is important to examine needs in this area when designing supervision programmes for female offenders.

This study did not identify any significant difference between genders in the area of finance or education/employment. The LSI-R manual asserts that 'homemakers' are not deemed to be in the labour market, and should not be scored on the majority of questions in the employment/training section. Females are generally the primary caregivers to their children; the Corston Report (2007) found that two-thirds of female prisoners studied in the UK were living with their children prior to their incarceration. There was no access to information on whether the female offenders in this study had children. However, it is possible that at least some women received a low score in this area as they were not deemed to be in the labour market. This could potentially have reduced

the average score for female offenders in this domain, which could mean that female offenders without children have significant difficulties in the area of education/employment.

Female offenders with children may also benefit from assistance within the area of education/employment. Women with young children may find it difficult to access employment/training due to childcare requirements, consequently they will find it harder to escape from reliance on social welfare. They may also miss out on opportunities in the workplace to potentially form prosocial relationships and to experience the positive rewards for non-criminal behaviour (Andrews and Bonta, 2006). Resources need to be put into training/education programmes for female offenders together with adequate and accessible childcare for those with children.

This study found that male and female offenders did not differ significantly on criminal thinking, suggesting that putting resources into targeting this criminogenic need would be beneficial for both genders. However, this is not to say that a gender-neutral programme would result in the same reduction in recidivism for both groups. Female offenders differ from men in that they tend to have less extensive criminal histories, commit more acquisitive crime and are less likely to partake in serious violence, criminal damage and professional crime (Corston, 2007).

It is important that the content of programmes recognise the differences between male and female offending. Additionally, the context of offending and the reasons for the development and maintenance of antisocial attitudes are important in determining the best intervention for antisocial attitudes.

Many women become involved in crime in the context of a relationship (Holtfreter and Cupp, 2007), which is likely to influence a female offender's attitude to offending. An offender can rationalise or justify their behaviour after committing an offence, allowing them to experience less cognitive dissonance (Kelly and Egan, 2012). It is possible that female offenders commit offences in the context of a relationship and later develop antisocial attitudes to rationalise their behaviour. While more research is undoubtedly needed in this area, a programme that targets criminogenic attitudes in female offenders is unlikely to reduce recidivism without addressing the influence the women's partners and families have on their offending.

This study is limited in that it only examined criminogenic needs as measured by the LSI-R. Criminogenic needs may present differently in men and women, and consequently it is possible that the LSI-R may not

be capturing them appropriately for females. Another shortcoming is that the study did not look at the offenders' previous treatment, which could potentially have impacted on the differences in LSI-R scores.

In order to improve services for female offenders, future research should concentrate on the differences between genders in the causes and presentations of gender-neutral criminogenic needs. It is also important to establish how criminogenic needs interrelate with each other and with offending behaviour among female offenders. Further research is necessary in the area of gender-specific needs and their relationship with offending.

Conclusion

This study revealed that criminogenic needs as measured by the LSI-R are distributed differently in male and female offenders, which has implications for how resources in supervision and interventions for female offenders are best directed. Accommodation appears to be an extremely problematic area for female offenders, which reflects the fact that homelessness is a significant problem for them. Resources need to be targeted in this area. It is also important that emotional and mental needs be addressed; otherwise they could act as a potential barrier to addressing other criminogenic needs. Female offenders would benefit from training/education and employment opportunities with childcare services available for women with children.

While there was no significant difference in the area of antisocial attitudes, cognitive behavioural programmes designed for men may not have the same impact in reducing female offending. Interventions in this area need to be cognisant of gender differences in both cause and presentation of offending behaviour, and potential differences in the development and maintenance of antisocial attitudes.

Finally, while this study did not examine gender-specific needs, it is important to incorporate factors such as victimisation, relationships, parental stress, self-esteem and mental health when designing programmes for female offenders. While further research is needed to establish the relationship of these with recidivism, they are at least important responsivity targets. Addressing these issues not only will improve the emotional wellbeing of female offenders, but also will enable them to make positive changes in other gender-neutral criminogenic needs.

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Public Protection: What Works in the Safe Management of Sexual Offenders?

Hazel Kemshall*

Summary: Breakdown and failures in the community management of high-risk sexual offenders always raise questions about the conduct of the agencies tasked with their safe management, and cast doubt on the effectiveness of current responses to sexual offending. This brief paper reviews effective strategies for the safe community management of high-risk offenders and also considers the benefits and limits of adopting the scheme for sex offender public disclosure: ‘Sarah’s Law’, as it is colloquially known.

Keywords: Risk management, high-risk offenders, sex offenders, community supervision, probation, multi-agency working, disclosure, public protection, Northern Ireland.

Introduction

High-profile failures in the community management of high-risk sexual offenders always raise questions about the conduct of the agencies tasked with their safe management, and cast doubt on the effectiveness of current responses to sexual offending. ‘Can we manage sexual offenders safely in the community?’ is asked by public, politicians and media alike. The answer to that question is a resounding ‘yes’ if the right things are done. This short paper derives from a presentation made to Members of the Northern Ireland Assembly at Stormont in April 2012 as part of the ‘Justice Series’ of seminars organised by NIACRO (Northern Ireland Association for the Care and Resettlement of Offenders). It reviews some of the effective strategies for the safe community management of

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high-risk offenders, and considers the benefits and limits of adopting the scheme for sex offender public disclosure, or ‘Sarah’s Law’ as it is colloquially known.

Multi-agency management of high-risk sex offenders

In Northern Ireland, multi-agency information sharing and management of high-risk sex offenders is done by the Public Protection Arrangements Northern Ireland (PPANI). In brief, such multi-agency working provides shared risk assessment, creates a 360 degree view of the offender’s risk and behaviours, and provides a mechanism to jointly plan and jointly deliver a risk management strategy. A typical risk management plan might comprise:

- electronic tagging
- supervised accommodation in a probation hostel or other approved premises
- restriction from school locations and monitoring of compliance via the electronic tag
- intensive one-to-one work on criminal attitudes, motivations and behaviours
- use of police surveillance
- victim empathy work.

Currently in England and Wales, the pioneer of such multi-agency work, evaluations of effectiveness have been positive. Some facts and figures from the Multi-Agency Public Protection Arrangements Annual Report 2011/12 (Ministry of Justice, 2012) provide important contextual information.

- On 31 March 2012 there were 55,002 MAPPA eligible offenders. The majority of cases (96%) were managed at Level 1.
- The number of registered sex offenders per 100,000 of the population has increased from 76 to 81.
- There were 6,939 offenders managed at Level 2 and 664 offenders managed at Level 3 throughout 2011/12.
- The courts imposed 2,658 Sexual Offences Prevention Orders (SOPOs) in 2011/12.

- 145 MAPPA eligible offenders were charged with a 'serious further offence' (SFO) in 2011/12. Of these, 116 were managed at Level 1, 22 at Level 2 and 7 at Level 3.

In addition, a Ministry of Justice evaluation in England of a cohort before the multi-agency supervision arrangements and a cohort after these arrangements found that:

Offenders released from custody between 2001 and 2004 (i.e. after the implementation of MAPPA) had a lower one-year reconviction rate than those released between 1998 and 2000. This remained true at the two-year follow-up for those cohorts where this had been calculated.

The one-year reconviction rate had been declining before 2001, but fell more steeply after MAPPA was implemented.

Immediately either side of MAPPA implementation, the one-year reconviction rate fell 2.7 percentage points for MAPPA-eligible offenders. Pre- to post-MAPPA implementation there was a comparatively large fall in the proportion of violent offenders reconvicted after one year, and among those calculated to pose a high risk of reoffending. These findings should be considered in the context of an increase in the national one-year reconviction rate for adult offenders released from custody from 2000 to 2002 and then a fall thereafter.

The results of this study show a reduction in reconviction rates among sexual and violent offenders released between 2001 and 2004 compared to 1998–2000, which coincided with the introduction of MAPPA in 2001. Though the methodology used cannot evaluate the specific impact of MAPPA on reconvictions, this reduction may be associated in part with MAPPA. As many offenders managed under MAPPA represent the most serious offenders released into the community from custody, this is an encouraging finding for those involved in their management. (Peck, 2010, pp. ii–iii)

These effectiveness findings justify the use of such arrangements in Northern Ireland, and also help to contextualise the often traumatic, deeply tragic individual cases that can easily bring such systems into disrepute if not considered within the broader context of general effectiveness.

Programmes of intervention, resettlement and monitoring

The safe community management of sex offenders must also draw on the most effective intervention programmes, focus on resettlement into communities and provide adequate monitoring of the offender. In an international review of programmes that work, the English National Offender Management Service (NOMS) concluded that 'Large scale research indicates that sex offenders who receive treatment, in both prisons and community settings have a lower sexual reconviction rate than those who do not receive treatment' (NOMS, 2010). Such programmes can provide up to 27% reduction in reconviction, and well-targeted programmes such as the Sex Offender Treatment Programme can be effective, with treated offenders having statistically lower reconviction rates at two years than untreated ones – 4.6% compared to 8.1% (NOMS, 2010).

In addition, safe reintegration through approved premises can be critical, as many sexual offenders are social isolates. Such safe reintegration can provide not only support, but added vigilance. Similarly, safe employment can have rehabilitative impact and NGOs such as NIACRO are often in a position to provide safe and supported employment within appropriate safeguards and checks. Stable long-term accommodation is also critical to success, supported by regimes of frequent visiting by either police or probation. The key to supervision is an appropriate balance of support and vigilance about the offender's lifestyle and risk factors.

The use of disclosure

It is important to recognise that the law already allows for disclosure to third parties on a 'need to know' basis. The general rule is that this is justified by the level of risk and what is required to prevent further offending and carry out the effective and safe management of the offender.

This can and does include members of the public, and is done through the PPANI arrangements by either police or probation. In 2007, Jenny Cann carried out an evaluation of third-party disclosure via the multi-agency arrangements in England and Wales, and found that disclosure was well and appropriately used, did contribute to effective and safe management, and added to the safety of children.

The recommendation in Cann's report was that third-party disclosure should always be a key consideration of multi-agency meetings, and that it should be used to its fullest extent (Cann, 2007).

Do we need public disclosure?

In 2009–10 a limited 'Sarah's Law' was piloted in England and Wales and evaluated by researchers at De Montfort University, Leicester (Kemshall *et al.*, 2010). Both the pilot and the current English and Welsh scheme operate quite differently from many of the schemes in the USA. They rely on a parent, carer, guardian or concerned adult making an enquiry of local police about a specific person and in relation to a specific child. There are no public meetings, and the identities and whereabouts of sexual offenders are not generally disclosed or displayed. Members of the public – initially parents, guardians and carers but later, in March 2009, extended to include anyone who had a concern about an individual – could make an enquiry under the scheme by phone, by walking into a police station or by contacting the police to register a concern about an individual.

On completion of initial questions and risk assessment checks, enquiries meeting the criteria proceed to an application stage. Here, further checks are undertaken and a face-to-face interview with the applicant is used to confirm identity, seek consent for information sharing and clarify the boundaries of confidentiality. Following a final risk assessment, a decision is made whether or not to make a disclosure to the applicant or to take further action where necessary. A number of enquiries do not proceed to this stage as they are not about a known sex offender against children, the risk level is not met, or the enquiry is either mistaken or not genuine.

The outcomes of the pilot were mixed, with lower than anticipated take-up of the scheme being the main finding. Only 585 enquiries were made in total across the four pilot areas, against a Home Office expectation of around 600 per pilot area (i.e. 2,400). Formal applications actually dealt with in total across the four pilots were 315.

Of these, only 21 disclosures in total across the four pilot areas were made, 7% of all the applications actually processed. A Home Office claim that 60 children had been protected by these disclosures is rather difficult to prove, and is simply extrapolated from the potential number of children those 21 offenders may have potentially come into contact with.

It is also difficult to establish how many of these offenders would have been disclosed via the multi-agency arrangements and how many families and children would have been informed via the multi-agency third-party disclosure route anyway. The scheme did go national in 2010, but has continued to have low take-up, with recent figures indicating that a total of 160 disclosures have been made.

While there is some argument that the role and responsibilities for public disclosure carried out by police have been absorbed into local functioning and costs, it is important to recognise that the pilot cost £482,000 to run, and that every area has initial set-up costs and ongoing costs to sustain the scheme no matter how many or few enquiries are made, and no matter how many applications are processed or disclosures are actually made.

Interestingly there was no discernible impact on sex offender compliance with supervision, and this was attributable to the preparation and support of their offender managers again taking time and resources (Kemshall *et al.*, 2012a).

Equally there were no severe breaches of confidentiality, again due to the preparation and care taken in applicant interviews by police disclosure officers. From the pilot data it is possible to identify groups who are underrepresented in enquiries, particularly Black and minority ethnic groups and those classified as 'socially disadvantaged'. To some extent marketing and publicity do not appear to reach these groups, and there is no direct correlation between the amount of time, effort and money spent on marketing and subsequent take-up (Kemshall and Weaver, 2012).

Broader issues affecting take-up may be a policy misunderstanding of what the public wants, in particular mistaking media clamour for public appetite. It may be that the public wants reassurance that the statutory agencies work effectively, and that this mitigates any broader appetite for public disclosure. In addition, both the English and Scottish pilots found that the operation of the scheme itself could create barriers to access and use (Kemshall and Weaver, 2012). For example, making applicants undergo personal checks was seen as off-putting.

Finally, some applicants found the weight of knowing about a risk difficult to manage over the long term, particularly in the absence of clear advice and long-term support for how to manage living in relatively close proximity to someone they knew was a sex offending risk to children (Kemshall *et al.*, 2012b). Conversely, the message that there is nothing to

disclose wasn't always seen positively, with some applicants reporting a residual anxiety, and that nothing to disclose didn't necessarily mean no risk.

The current position on the child sex offender disclosure scheme in England and Wales

By March 2012 there were 39 UK police forces participating, with 2,712 applications recorded and 299 disclosures made, resulting in a disclosure to application ratio of 1:9 (Wall, 2012). Interestingly the largest police force (Metropolitan London) has a low number of applications, some 27 in the first 12 months but with 25% resulting in a disclosure. This is partly explained by a large population of 7.8 million, a transient population, and potentially lower public confidence in policing and the scheme (Wall, 2012).

Some of the positive outcomes noted by the Association of Chief Police Officers (ACPO) are: new child protection investigations, new intelligence about registered sex offenders, information about breach of SOPOs, information enabling recall to prison, and in a few cases additional information on other risks such as serious domestic violence (Wall, 2012). Information on the overall costs of running the scheme since national inception have not been provided, and to a large extent and due to small numbers, work has been absorbed into the work of police forces and closely aligned to MAPPA work: in effect, disclosure sits within normal 'business'.

In June 2011 a judicial review against the Child Sex Offender Disclosure Scheme was instigated by a registered sex offender on the grounds that the offender was not given an opportunity to make representations about the disclosure prior to it being made. The judicial review deemed the scheme lawful subject to amendments being made to the guidance requiring decision-makers to consider if the person about whom the disclosure is to be made should be asked to make representations.¹ The judgment also seeks to balance the offender's right to privacy with public protection and risk minimisation. As such, the scheme in England and Wales and in Scotland remains far removed from the USA 'Megan's Law'.

¹ See *X (South Yorkshire) v Secretary of State for the Home Department* [2012] EWHC 2954 (Admin), available at: www.bailii.org/ew/cases/EWHC/Admin/2012/2954.html (accessed 23 September 2013).

In considering the adoption of public disclosure for other jurisdictions a number of key points need to be addressed, as follows.

- Do we need this scheme and what is the evidence that it will work?
- Will it be implemented and used as expected?
- What is the expected cost?
- What is the likely impact and benefit for the costs?
- What is the value added by the scheme to our existing strategies to manage sex offenders safely in the community?
- What else are we doing that contributes to public safety, and can we strengthen it?
- What else could we do to achieve public safety?

At present the evidence is mixed at best on costs and benefits, with limited take-up. While there is evidence of positive outcomes it is difficult to discern fully whether such outcomes might have been achieved through other channels (e.g. disclosure via MAPPAs, or the collection of police intelligence on registered sex offenders (RSOs)). Value added to existing public protection measures is particularly difficult to establish reliably.

Conclusion

The community management of sex offenders can be conducted safely in the majority of cases if the right things are done, and done well. Multi-agency arrangements such as PPANI in Northern Ireland have much to offer, and recent research (albeit in an adjoining jurisdiction) supports this. Programmes of intervention supported by supervised accommodation, safe employment and well monitored reintegration are successful, with persuasive impacts on further reconviction rates.

Disclosure, particularly third-party disclosure through police and probation, can provide added safety for children and their families, but general public disclosure, while politically attractive, may have a rather more limited take-up and consequently lower levels of impact for the costs involved. The safe management of sex offenders in the community requires a number of strategies to be brought together in a coherent, well-resourced and cost-effective way. Politicians, policy makers and practitioners all have a responsibility for ensuring that these strategies are effective, properly used and well co-ordinated.

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‘Not in My Back Yard’: The Challenge of Meeting the Housing Needs of Offenders

Paul Thompson*

Summary: Evidence points to the fact that a lack of suitable housing and accommodation can increase the risk of offenders going on to commit further crimes. However, people continue to have concerns about known offenders, particularly sex offenders, living within communities. How do we attempt to meet the housing needs of offenders while at the same time providing reassurance and protection to local communities?

Keywords: Approved accommodation, probation, resettlement, community involvement, housing, homelessness, reoffending, high risk, sex offenders, Northern Ireland.

Introduction

PBNI supervises around 3,600 offenders in the community subject to a range of court orders and licences (PBNI, 2014). The majority of these offenders will be accommodated within the community, usually with their own families and in their town of origin. However, for some offenders returning to their families and previous homes is simply not possible. This may be because of family and relationship breakdown during a period in custody or because of restrictions in relation to accommodation being imposed on an individual. For example, civil court orders such as Sexual Offence Prevention Orders can be used to place all kinds of restrictions on the behaviour of the offender. These might include, for example, restrictions on where an offender can reside and who they can associate with.

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So if an offender is not returning to his or her home and family, how is the risk of reoffending managed? What is the role of the agencies involved in the supervision of offenders in the community, and in particular what is the role of probation? Will communities ever embrace the idea of known offenders living in their midst?

This paper considers the housing of offenders and ex-prisoners in Northern Ireland. The discussion is situated in the context of the development and implementation of the PBNI (2012) *Accommodation Strategy*. The challenges in engaging the community on offender accommodation are addressed. In particular the paper addresses issues relating to the provision of 'approved accommodation' (or hostels), a form of supported accommodation where offenders may be required to reside for a period in order to 'test out' or monitor behaviour in the interests of public safety.

Does accommodation really impact on reoffending?

A range of research has shown that there is a link between stable and sustainable accommodation for offenders and ex-prisoners and preventing reoffending.

A thematic inspection of offender accommodation in England and Wales by Her Majesty's Inspectorate of Probation (HMI Probation, 2005) demonstrated markedly higher rates of reconviction by offenders who had accommodation needs (29.6%) than those in the general probation caseload (19.6%).

An offender housing survey in Avon and Somerset carried out in conjunction with Gloucestershire Probation Trust sought the views of 405 offenders and found that barriers to accessing housing and related support services were experienced at every stage, from homelessness through to permanent accommodation (Nicholas Day Associates, www.nicholasday-associates.co.uk). The survey found that the majority of offenders interviewed said they offended when homeless and stopped when housed. Research also suggests that offenders in the community who are subject to community-based programmes are significantly more likely to complete their programme of supervision if they live in stable accommodation (Social Exclusion Unit, 2002).

There is limited recent local research on the impact of homelessness on reoffending in Northern Ireland; however, the Northern Ireland Housing Executive through its 'Supporting People' funding stream has

agreed that some of its budget can be used to help conduct local research in 2014. This will be important to support the work carried out in providing for the accommodation needs of offenders. We do know, however, that in 2012–13, for the offenders on PBNI's caseload commencing supervision in the community, 'lack of stable or suitable accommodation' was identified by their supervising officers as contributing to the offending behaviour of some 26% of the caseload. The figure for young offenders was significantly higher (44%).

Speaking in 2012, Peter Shanks, a Lecturer in Housing at Ulster University (UU), said:

Links between homelessness and offending are well established and suitable housing has been identified as one of the key factors that can reduce re-offending. It's recognised that suitable and secure accommodation is the main pathway for the resettlement and reintegration of ex-prisoners and ex-offenders back into the community. Despite the considerable involvement of housing advice agencies and voluntary sector organisations – in terms of offering advice and support – gaining access to secure and stable housing remains a key challenge. (UU, 2012)

The question of why access to secure and stable housing in Northern Ireland still represents a key challenge and the role that PBNI has in addressing the accommodation needs of offenders to help provide safer communities is now explored.

PBNI accommodation strategy

PBNI is not an accommodation provider, but over the years it has worked closely with statutory and voluntary sector partners and local community groups to identify and address the accommodation needs of those subject to supervision.

As the principal Housing Agency in Northern Ireland, the Housing Executive is the key partner in helping to assess and address the accommodation needs of those supervised by PBNI. The Housing Executive's statutory duty to homeless people is set out in the Housing (NI) Order 1988. This legislation requires the Housing Executive to assess the duty owed to homelessness presenters in relation to eligibility for such services as temporary accommodation and permanent housing.

The Order also makes provision for the Housing Executive to financially assist voluntary sector organisations to provide a range of services to assist the Housing Executive in fulfilling its statutory duties. The Housing (Amendment) Act (Northern Ireland) 2010 placed a statutory duty on the Housing Executive to develop and publish a five-year homelessness strategy and to provide advice and assistance on homelessness to the broader public free of charge.

In 2011 in consultation with partners, PBNI reviewed its Accommodation Strategy to refocus on the accommodation needs of those under supervision; to identify deficits and agency priorities; and to develop an Action Plan to maximise the opportunities for enhanced outcomes through existing partnerships and the development of new partners. Firstly it is important to note that the strategy acknowledges that offenders in need of accommodation are not a homogeneous group. Some have more complex needs than others, particularly those who have poor emotional and physical health, women, older offenders and those from minority ethnic backgrounds.

The strategy identified a number of key objectives, including:

- ensuring suitable moves on accommodation and providing floating support to sustain tenancies
- addressing the needs of vulnerable groups including the learning disabled and those with mental health issues
- improving access to approved accommodation for high-risk offenders.

We will now look at these in more depth.

Ensuring suitable moves on accommodation and floating support

The Northern Ireland Housing Executive provides financial support to voluntary organisations for support services to help offenders move on from approved accommodation into independent accommodation within the Greater Belfast area. Approved accommodation in Northern Ireland, which is discussed further below, is managed by voluntary and community sector (VCS) organisations and is often used to test offenders' suitability to live independently in the community. The Housing Executive provides this support on an ongoing basis to those who have difficulty living independently to help sustain them in their tenancies. Such support is available elsewhere in the province through a range of organisations, but Probation Managers in rural teams have identified more consistent availability of such a service as a priority.

In the past two years PBNI Area Managers have developed access to new floating support providers in areas where there had previously been deficits in provision. Floating support is offered to people living in public or private housing who are having difficulty keeping their accommodation as a result of their offending behaviour. As part of the project a project worker meets with the participant to discuss the reasons for these difficulties and help plan a way forward. The project worker gives ongoing support and practical assistance to achieve this. This may include linking up with other service providers or those providing support in the community.

This is ongoing work and we are seeking to develop new partners across Northern Ireland to ensure the availability of floating support services to all offenders who are moving on from temporary accommodation, leaving institutions or assessed as being at risk of not sustaining their tenancies.

Addressing the needs of vulnerable groups

Accessing accommodation for offenders with mental health issues can pose a significant difficulty. Between 60% and 80% of prisoners in Northern Ireland are diagnosed as having psychosis, a personality disorder or a substance misuse problem (Department for Health, Social Services and Public Safety, 2010). Based on Assessment, Case Management and Evaluation (ACE) assessments conducted on 31 March 2013, around 70% of offenders on PBNI's caseload have been assessed as having a drug or alcohol offending related problem. PBNI has contributed to the NIHE Homelessness Strategy and highlighted the particular needs of learning disabled and those with mental health issues in the offender population. A strategic outline case for a personality disorder unit has been prepared with the Health Trusts and is currently with the Department for Justice for progression.

PBNI has also met with providers of supported housing and secured initial agreement to develop a partnership to develop provision for those with a learning disability and mental health needs as well as increasing the supply of suitable move-on accommodation from approved premises.

PBNI is continuing to help address the accommodation needs of specific offender groups including women offenders with complex needs, young people and foreign nationals.

The Corston report, *A Review of Women with Particular Vulnerabilities in the Criminal Justice System*, published in 2007, identified housing as a major concern for female offenders, in particular because women's lives

tend to be more disrupted than those of men by custodial sentences (Baroness Corston, 2007). A number of barriers were identified in relation to accommodation – the application process, a shortage of accommodation options and the issues relating to access to children. Other issues specific to women offenders include that their offending is most often associated with poverty and financial difficulties and that their financial situations are further strained by having sole responsibility for children.

As part of PBNI's strategy, working with the Inspire women's project we have increased access to female accommodation through work with voluntary sector partners including Women's Aid, and we are working with partner agencies to identify a solution for under-18s, who present difficulties in placing in mainstream Trust accommodation.

Foreign nationals with no access to public funds present a particular challenge to the criminal justice agencies. There are no mainstream budgets to address this issue and it is likely that it will be a priority area of work as the number of foreign nationals entering Northern Ireland increases.

Foreign national prisoners represent an increasingly significant and vulnerable proportion of the prison estate in England and Wales, accounting for 13% of the population in custody (Prison Reform Trust, 2010). They are ever present in the Safer Custody statistics, accounting for nearly a quarter of self-harm incidents and self-inflicted deaths (HM Inspectorate of Prisons, 2009). Recent Inspectorate Reports (2006, 2007, 2010) and a handful of research studies outline the lack of support facing many foreign national prisoners, in terms of language problems, social and cultural isolation, family support, immigration uncertainties and diversity issues. (Barnoux and Wood, 2013, p. 241)

In January 2011 there were 131 foreign national prisoners in custody in Northern Ireland's prisons. In a prison population of 1,477, this was 8.9% of all prisoners. It is likely that numbers will continue to increase and therefore further research is needed on how best to assist this group with accommodation.

Approved accommodation

These professionally run establishments work to probation-approved standards for offender management and are regulated by Supporting People, which is funding managed by the Housing Executive to support

vulnerable people in the community. The majority of referrals to the approved premises are for offenders being released into the community from prison. They are subject to licence conditions to reside there and these are given priority. PBNI supervises and enforces these licences until their date of expiry. Each offender is risk assessed jointly by PBNI and hostel staff and other relevant partners, including the Northern Ireland Prison Service and the agencies that compose the Public Protection Arrangements for Northern Ireland (PPANI). An individual risk management plan is created and enforced for each offender for the duration of their stay.

In 2011 PBNI partners in the voluntary sector provided 76 beds for offenders under supervision in six hostels funded through Supporting People. This provision was primarily in Belfast and housed people who needed close monitoring due to their risk of reoffending and the need to protect the public.

Demand for AP places has increased with the introduction of the Criminal Justice (Northern Ireland) Order 2008, which created new sentences that required statutory supervision of more released prisoners than previously. Pressure on bed spaces increased after the Northern Ireland Prison Service (NIPS) suspended its Prisoner Assessment Unit (PAU) in April 2011, as this removed around 20 beds for testing life and long-term prisoners in the community before their release.

Over the past two years and since the PBNI strategy has been in place, the number of available beds has increased by a third (from 76 to 100), with expanded availability throughout Northern Ireland rather than just concentrated in Belfast city centre.

Thompson House, an approved premises in north Belfast, has undergone an extensive refurbishment programme which has increased capacity and ensured that the premises are fit for purpose, including providing additional security cameras and facilities for people with disabilities. In 2013 the Simon Community became a partner for PBNI and it has taken over one hostel and provided offender-dedicated beds in the North West, with plans to expand in the coming months to release beds in four other towns.

The Simon Community hostel in Portadown is scheduled for refurbishment in 2014, which will further increase its capacity and improve its estate. While PBNI currently has access to 100 beds, by the end of March 2015 it is anticipated that there will be 120 bed spaces in 11/12 facilities, with all the new locations outside Belfast.

While enhancing the provision of approved accommodation it has been necessary to engage with local communities and stakeholders to explain the purpose and need for this form of accommodation. This has at times been challenging, and local communities have not always been positive in their response to the development of approved accommodation in their vicinity (McGreevy, 2013). However, PBNI with partners has been committed to being open and transparent and engaging with communities.

Much of the work carried out by PBNI and partners in relation to approved premises, including the work in engaging communities, was endorsed by the Criminal Justice Inspection Report published in 2013. Indeed, the Criminal Justice Inspection Report on Approved Premises stated that one of the most significant findings of this inspection had been to demonstrate tangibly that offenders reduce their risk levels while living in approved premises.

As part of the inspection PBNI compiled data to assess residents' progress after they left the approved premises. This was done by sampling ACE scores of 104 residents. ACE measures the risk of reoffending and was the most tangible measure of progress available. Analysis of the data shows that offenders who resettled from approved premises reduced their risk score by an average three points while living in the approved premises; their average scores had reduced by a further three points by the end of 2012. The inspection states that 'While this progress cannot be uniquely attributed to an AP placement, when considered alongside the qualitative feedback that we received, it is reasonable to surmise that the APs made some contribution' (Criminal Justice Inspection Northern Ireland (CJINI), 2013, p. 24).

The data also showed that:

- the average ACE score of unsettled leavers increased by four units by the time they left the approved premises and it remained the same at the end of 2012
- those most likely to resettle after leaving an approved premises were older on arrival
- resettled residents had an overall average six months' stay; unsettled leavers stayed for an average of five months
- significant differences in average lengths of stay were effected by a small number of residents who stayed for very long periods of time.

It is clear that much headway has been made in delivering on the objectives of PBNI's Accommodation Strategy; however, one area that continues to pose a challenge is the public's concern about known offenders, particularly sex offenders, living in the local community. Indeed, PBNI is so mindful of this area of work that it has developed an engagement and communication strategy to provide reassurance to communities and explain why adequate accommodation is important in contributing to community safety.

Engaging with communities

The CJINI (2013) report found that all of the Northern Ireland approved premises were known in their local areas; some suffered adverse attention because of their role. This included damage to the property and staff cars, as well as pickets, petitions, media articles, verbal abuse and graffiti.

PBNI and partners have sought to have in place an integrated communications and engagement strategy to help support the development of the accommodation strategy. That strategy seeks to explain the key messages around accommodation. It is clear from the evidence (CJINI, 2013) that a key message to local communities has to focus on the fact that there is a much lower rate of reconviction of offenders while they are living in approved premises (3.1%) than for offenders who accessed mainstream accommodation services (36.6%).

Reconviction rates for sex offenders are low – Ministry of Justice (MoJ) Quarterly Proven Reoffending Statistics show that 'Between July 2010 and June 2011, as in most previous years ... sexual (child) offences had the lowest proven reoffending rate at 8.9 per cent' (MoJ, 2013, p. 12). Previous CJI inspections have also demonstrated that sex offenders in Northern Ireland can be effectively managed within the PPANI (CJINI, 2011).

In many cases the issue raised by local communities centres solely on sex offenders and particularly those who pose a risk to children. Communities continue to ask about disclosure; some want a process of 'naming and shaming' and have taken to social media sites such as Facebook to try to identify sex offenders in the local area.

Agencies such as probation fully understand and appreciate the concerns of local communities about sex offenders but it is our view, and indeed the view of the Public Protection Arrangements Victim Sub Group, that the benefits of approved premises outweigh the concerns. The

strategy for PBNI and others will be to continue to engage with communities in an open and upfront manner in order to listen to concerns and show them the work we do in making communities safer.

In 2013 and 2014 PBNI, along with a number of other agencies, held a series of meetings in areas including Belfast, Down, Newry and the North West in order to explain to public representatives and interested parties the benefits of having sustainable and suitable accommodation in place. These meetings at a local level are key factors in providing local buy-in and increasing public understanding.

Conclusion

The successful reintegration of offenders into the community provides the best solution to the reduction of further offending. We know that offenders are not a homogeneous group, but have different needs and therefore there must be different accommodation solutions.

Community confidence in reintegrating offenders back into the community is critical. PBNI, working with its statutory, voluntary and community partners, has a proven track record in assessing and managing the risk posed by offenders in the community and reducing rates of reoffending.

Gaining community confidence and even greater community participation in the support structures for offenders is a significant challenge for the Probation Board. Providing support for socially isolated individuals is central to their sense of wellbeing and belonging to society and helps them sustain positive lifestyles and avoid relapse into substance misuse and other negative behaviours which increase the likelihood of reoffending.

Those who have committed sexual offences cause particular concern for the community. They can, however, be effectively managed within the PPANI, of which PBNI is a core member, and reoffending rates with this particular client group are low. Community understanding of the extensive resources committed to these arrangements by probation and its criminal justice partners is important to the potential for increased tolerance of approved premises where some of these offenders may be temporarily accommodated prior to placement in approved long-term residences. Without such facilities PBNI's capacity to protect the public would be significantly diminished.

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Community Service at the Crossroads in Ireland

Justin McCarthy*

Summary: Community service as a penal option for criminal offending is at a crossroads in Ireland. Though available as a sanction in court since 1983 as a direct alternative to a custodial sentence, under-utilisation and economic prioritisation have, in recent times, prompted government policy to promote community service as a cost-effective penalty and as a measure to alleviate a burgeoning prison population. New legislation and the development of a prisoner resettlement programme incorporating unpaid community work signal an anticipated significant increase and a broadening of the participant base. However, several problematic issues exist. Its penal philosophy is obscure, its aims are variable according to different stakeholder audiences, and the absence of clarity in effectiveness poses definition and measurement dilemmas. This paper seeks to locate community service as a penal sanction in its current context in Ireland, to identify influencing factors and to ask key questions to determine the way forward.

Keywords: Community service, Ireland, courts, sentencing, criminal justice, penal policy, penal culture, imprisonment, alternatives, community sanctions.

Introduction

The work penalty has found a place between the two extreme poles of (rehabilitative) probation and (retributive and deterrent) imprisonment. This intermediate position undermines its substitutive character. (Beyens, 2010, p. 9)

Community service as a sanction for criminal offending has been available to the Courts in Ireland since 1983, the first Community Service Order (CSO) having been made in 1985. A CSO requires the performance of between 40 and 240 hours' unpaid work in the

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community by a person who is 16 years or over, who has been convicted of an offence for which the alternative appropriate penalty would be an immediate custodial sentence, and who has given his/her consent. There are conditions that must be met before the making of a CSO. A court must be satisfied, on the basis of an assessment report, that the convicted person is a suitable person (capable of completing the Order), that appropriate work is available and that the convicted person has consented to the Order.

Community service is one of the penal community measures administered by the Probation Service in Ireland. Probation Officers have integral tasks in recommending suitability for community service, inducting participants once the Order is made, managing attendance compliance and returning non-compliant cases to court. Community service is most often performed by participants at a group project, supervised by a Community Service Supervisor and facilitated through a network of host agencies that includes schools, voluntary sector agencies, community organisations, charitable organisations and local authorities.

In recent years, community service as a sanction has evoked renewed interest, both as a cost-effective community sanction and as a measure to alleviate an increasing prison population. The Department of Justice, Equality and Law Reform's (2009, pp. 3–7) *Value for Money and Policy Review of the Community Service Scheme* (VFM Review) emphasised the under-utilisation of existing community service resources together with a high level of affinity between the functions of the Probation Service and the penal aims of community service.

The Probation Service's commitment to 're-launch Community Service ... as an effective Court sanction adding value to communities and enriching reparation by offenders' (Probation Service, 2009, p. 17) involved increasing its ability to efficiently manage larger numbers of CSOs from the courts. This development reflected government policy to promote the use of CSOs, and included the piloting of an innovative 'Community Return' programme in 2011.

The Community Return programme provides for qualifying prisoners to be released early from custodial sentences with unpaid community work as a condition of their release. New legislation – The Fines (Payment and Recovery) Act 2014 and The Criminal Justice (Community Service Amendment) Act 2011 – are anticipated to increase use of community service. With a comprehensive review of penal policy in Ireland currently being completed (Department of Justice, Equality and

Law Reform, 2010a, 2010b; Department of Justice and Equality, 2013) and with community service at a crossroads in its history, it is an opportune time to appraise its contribution as a penal measure.

An emerging new model of community service

At a time of reduced public sector funding and a rationalisation of public sector service delivery, the Probation Service's commitments to 'focus resources on community service as a "Service prioritised target"' (Probation Service, 2010, p. 4) and to 'refocus and rebrand Community Service ... as a credible alternative to custody' by implementing a new model of community service delivery (Probation Service 2011, p. 8) reflect the opportunity for community service to become an increasingly prioritised criminal justice measure in Ireland.

The initial focus of the reinvigoration of community service was the Probation Service's commitment to implement the recommendations of the VFM Review. The review's terms of reference included the identification of the aims and objectives of the Community Service Scheme, an examination of the continued validity of those objectives and their compatibility with the overall strategy of the Probation Service, the identification of associated outputs of the scheme, establishing the level of Probation Service staff time used in the supervision of the scheme, establishing the effectiveness of the scheme and finally to evaluate the data and information resources (Department of Justice, Equality and Law Reform, 2009, pp. 17–18 and 84). The VFM Review produced 11 key findings with seven 'high' and four 'medium' priority recommendations (Department of Justice, Equality and Law Reform, 2009, pp. 3–11 and 12–15).

High-priority findings and recommendations included the following.

- Community service was acknowledged as a cost-effective alternative to imprisonment, but Orders had declined for some years up to 2007. The report recommended promoting greater use of community service through analysis of sentencing patterns, consultation with the judiciary and Courts Service to identify suitable offenders and encouraging the judiciary through an information campaign.
- Significant parts of Ireland had very few Community Service Orders. The report recommended that community service be developed in a targeted manner in those areas.

- It found that the successful completion rate for community service was in the 80–85% range. It recommended expeditious processes for dealing with non-compliance and the development of standards for prompt implementation (within 14 days) of Community Service Orders being made.
- It found capacity utilisation to be approximately 33% nationally. It recommended development of capacity utilisation as a key performance indicator, with a target of 70% capacity utilisation and a rationalisation of provision if this was not achieved.
- It found that available management data were of limited value and recommended the development of upgraded information technology and a robust reporting strategy.
- It described cost and management information as weak, and recommended the development of systems for regional and local cost and management information.
- It indicated that management of community service involved a disproportionate amount of Probation Service resources and recommended a revised staffing structure for implementation.

The VFM Review also made the following medium-priority findings and recommendations.

- Wide variations were identified in the lengths of CSOs and the equivalence rate in default custodial sentences (how much community service is required to satisfy a specified custodial period), and recommended providing data on the sentencing patterns of community service to the judiciary.
- Challenges in finding suitable work projects should be addressed through a review of existing work sites and a strategy developed for future procurement.
- Absence of key performance metrics for the operation and management of community service should be addressed by incorporating the VFM review recommendations with key performance indicators.
- Empirical research was identified as necessary to assess the impact of community service in reparation and added value to the community as well as its contribution to positive change in the behaviour of offenders and their integration in the community.

The VFM Review was conducted under the Expenditure Review Initiative, a programme of systematic expenditure analysis introduced by the Irish government in 1997 (Department of Justice, Equality and Law Reform, 2009, p. 16). The review is primarily a cost-effectiveness analysis of community service infrastructure and resource utilisation rather than a policy analysis of the nature, scope and effectiveness of community service from the perspectives of varying penal paradigms. In this regard, it is consistent with Garland's (1996) description of the 'systemisation of criminal justice' as one of a series of governmental 'adaptive strategies' in response to the dilemmas arising from the normality of high and persistent crime rates and the crime control limitations of criminal justice agencies.

The 'systemisation of criminal justice', Garland (1996) maintains, involves responding to the demands for increased workload throughput by developing 'new strategies of system integration and system monitoring which seek to implement a level of process and information management which was previously lacking' (Garland, 1996, p. 455). A related adaptation strategy pertains to:

financial management initiatives which are symptomatic of: the widespread movement towards a more managerialist, business-like ethos which emphasizes economy, efficiency and effectiveness in the use of criminal justice resources. Central government initiatives such as the Financial Management Initiative have been applied to all public services, including the police, the courts, the prisons and community measures, and have led to the development of clearly specified 'performance indicators' against which the organization's activities can be measured, as well as an emphasis upon strategic planning, line management, devolved budgets and financial responsibility within the agencies. (Garland, 1996, p. 455)

While the VFM Review privileged economic priorities over penal ideology, as indicated by Garland (1996), it also provided notable empirical and qualitative insights. It found that community service 'forms a key part of the overall strategic vision and goals for the Probation Service' (Department of Justice, Equality and Law Reform, 2009, p. 4) and that a strong compatibility exists between the benefits of community service and the strategy of the Probation Service in providing reparation to the community, the integration of offenders in the

community and providing an alternative to imprisonment (Department of Justice, Equality and Law Reform, 2009, p. 30).

In an analysis of data from 2006–2007, regional variations were highlighted in use of community service by courts. Of 108 court venues, 29 courts accounted for 80% of CSOs, while just 12 courts accounted for 60% of Orders made.

The cost of a CSO was found to be approximately one-sixth the cost of imprisonment. CSOs were also analysed by offence type and reveal the complexity of the equivalence rate, which results from variable factors in sentencing. Judges are required to indicate the required number of hours' work (40–240 at the discretion of the judiciary) to be performed and also to specify the appropriate default custodial sentence (at the discretion of the judiciary within parameters set out in legislation). The equivalence rate indicates the relationship between the two.

The number of hours' work required and the default custodial sentence are not bound by conversion guidelines. This leads to significant variation in both custodial sentences for an offence and the extent of community service required as an alternative.

Certain types of offence appear to attract a higher number of CSO hours. For example, Public Order type offences, for which 312 CSOs were made on individuals in 2006, had an average alternative prison sentence of 3.5 months and attracted on average 128 hours community service with an average equivalence of 37 hours. On the other hand, CSOs made on individuals related to drug offences, of which there were 110 in 2006, resulted in an average alternative sentence of 6.7 months, 144 hours community service and an average equivalence of 27 hours per month. There is thus considerable variation in the application of Community Service Orders across the different offence types. (Department of Justice, Equality and Law Reform, 2009, p. 46)

Public order, road traffic offences, drugs, theft, assault and criminal damage offences accounted for almost 80% of all CSOs in 2006 (Department of Justice, Equality and Law Reform, 2009, p. 46).

While the impetus for the reform of community service infrastructure and delivery in Ireland has roots in the VFM Review, the seeds of the New Model of community service can also be found in an earlier and broader review of the Probation Service's operations, the Comptroller

and Auditor General's report on the Probation and Welfare Service (2004). Regarding community service, this review highlighted the practice of resource limitations being communicated to the judiciary that may have reduced demand (Comptroller and Auditor General, 2004, p. 36), the significant delays in sentencing due to prolonged intervals required after service for the production of assessment reports (Comptroller and Auditor General, 2004, p. 40), that one-third of CSOs had not been commenced within two months of the Order being made and that less than half had commenced within one month (Comptroller and Auditor General, 2004, p. 41).

In implementing the recommendations of the VFM Review, the Probation Service developed strategies to increase significantly its capability to efficiently manage larger numbers of CSOs from the courts. Newly dedicated Community Service Teams have been in place since early 2010 and a new service delivery model and practices have been piloted and embedded, including the introduction of 'same-day' suitability assessment reports to replace the traditional four- to six-week adjournments required for such assessments.

The Probation Service has also established capacity targets and goals of more efficient and prompt induction (commencement of community service work), attendance management and enforcement (prompt completion of Orders and a swift return to court of participants who do not co-operate with Orders). The Probation Service also prioritised use of 'greener' environmental type and visible community service projects as strategic goals (Probation Service, 2011, pp. 8–9 and 18).

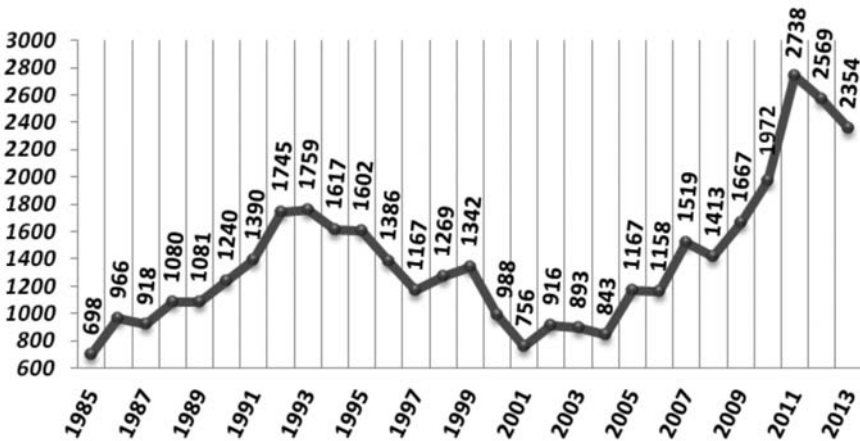
The extent of community service in Ireland

Historical data indicate that following the introduction of community service in Ireland in 1985, a gradual yearly increase followed until 1993, when 1,795 Orders were made, followed by a general decline to a low in 2001 with 753 CSOs (see Figure 1).

This decline has not received adequate analysis and explanation. The Comptroller and Auditor General report (2004) suggested two possible reasons:

- a lack of suitability of community service for offenders with addictions combined with a preference by the Courts to use 'informal

Figure 1. Number of Community Service Orders made in the Republic of Ireland, 1985–2013



Source: National Crime Council Statistics; Probation Service Annual Reports; Dáil Éireann Debates, Parliamentary Question responses). Derived as follows: 1985 – Dáil Éireann Debates, vol. 389, no. 4, Parliamentary Question response 857/89, 2 May 1989; 1986–2004 – National Crime Council Statistics; 2005–2013 – Probation Service Annual Reports.

supervision’ (supervision during deferment of sentence) when doubts prevailed about offenders’ capacity to participate in community-based sanctions without reoffending (Comptroller and Auditor General, 2004, p. 22)

- a reduction in the rate of unemployment is suggested as explaining reduced use of community service during the normal working week (Comptroller and Auditor General, 2004, p. 23).

After 2001 a gradual increase was evident, but by 2008 the number of Orders had not exceeded its 1993 peak (Department of Justice, Equality and Law Reform, 2009, p. 35). The implementation of the ‘new model’ of community service in 2010 coincided with an 18% increase from the 2009 figure of 1,667 CSOs to 1,972 for 2010, surpassing the 1993 peak for the first time. As the new model was embedded nationally during 2011, the response from the judiciary appeared significant, with 2,738 CSOs made by the courts – a 39% increase on the total for 2010. Since this historic peak, the number of CSOs has declined by approximately 6% in 2012 and 14% by 2013.

New legislation

In addition to the Probation Service's promotion and reorganisation of the delivery and management of community service, new legislation has been introduced to encourage the use of CSOs as an alternative to imprisonment. In March 2011 the Minister for Justice and Equality, publishing *The Criminal Justice (Community Service Amendment) Bill 2011*, stated:

There is substantial concern that the sanction of community service orders is not being sufficiently used by our courts in the sentencing of offenders. Increasing the use of community service delivers financial savings, diverts from the prison system offenders whose imprisonment is a substantial expense to the state and provides reparation in the form of unpaid work to the benefit of the community. (Department of Justice and Equality, 2011a)

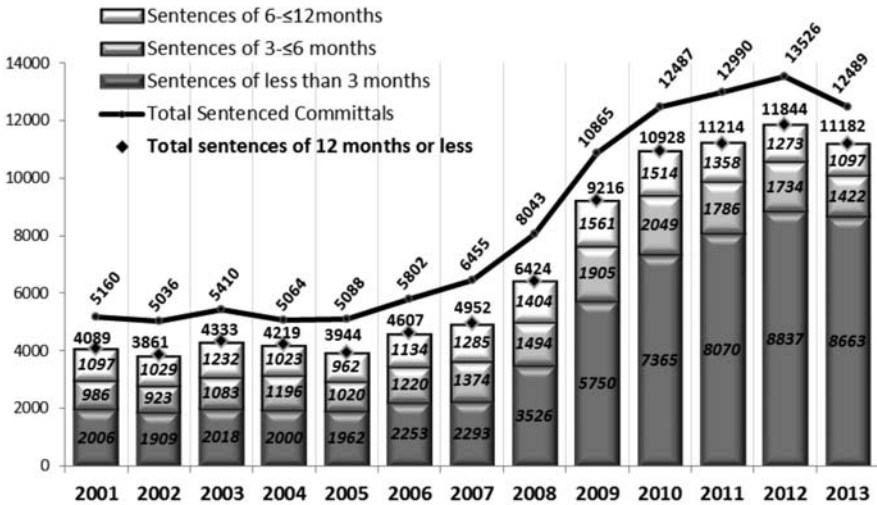
The *Criminal Justice (Community Service Amendment) Act 2011* was enacted on 1 October 2011. It obliges judges, when considering a custodial sentence of 12 months or less, to first consider the appropriateness of community service as an alternative sanction.

Figure 2 shows trends in the length of such sentences. The top number for each year is the number of total sentenced committals, below which is the number of total sentences of 12 months or less. The bar chart indicates the sentence length distribution, with sentences of six to 12 months at the top, followed by sentences of three to six months in the middle and sentences of less than three months at the bottom.

The majority of custodial sentences in Ireland are for 12 months or less. Since 2001 such sentences have ranged between 76% and 89% of sentenced committals each year (see Figure 2). Between 2001 and 2007, approximately half of these were for less than three months. Since 2007, a sharp increase in the use of short custodial sentences of less than three months is evident. 67% of committals for 12 months or less in 2010 were for less than three months, approximately 60% of all sentenced committals to prison that year. Sentences of three months or less accounted for approximately 62% of sentenced committals in 2011, 65% in 2012 and 69% in 2013.

The Minister for Justice and Equality commented on the multi-dimensional benefits of community service as an alternative to imprisonment:

Figure 2. Trends in lengths of custodial sentences of 12 months or less, 2001–2013 (see text)



Source: National Crime Council Statistics; Irish Prison Service Annual Reports. Derived from National Crime Council Statistics (2001–2006) and Irish Prison Service Annual Reports (2007–2013).

community service as an alternative sanction to custody achieves several goals benefiting the State, the community and the individual offender. Community service delivers significant financial savings, as it is a considerably cheaper sanction than imprisonment. An analysis of the costs involved indicates that the comparative cost of a community service order is unlikely to exceed 34% of the alternative cost of imprisonment and may be estimated to be as low as 11%–12%. Community service benefits the offenders by diverting them from prison, allowing them to maintain ties with family, friends and community, including continuing in education or employment as the case may be. Community service also offers reparation to the community, which benefits from the unpaid work of those serving these orders. (Dáil Éireann Debates, Vol. 729, No. 4; 7 April 2011)

These themes of national (financial savings), community, and individual participant benefits were reiterated by the minister in his second stage speech in Dáil Éireann on 26 July 2011. The minister clarified the

intended impact of community service expansion on prison capacity, stating that ‘the motivation to deliver the proposals contained in this Bill is not to deliver prison spaces but diverting those persons receiving these relatively short sentences away from prison and making them subject to a sanction which benefits them and their communities’ (Department of Justice and Equality, 2011b).

A fall in the number of CSOs made during 2012 and 2013 was noted by the minister when launching Joint Irish Prison Service & Probation Service Strategic Plans and Annual Reports for 2012 and 2013 (Department of Justice and Equality, 2013, 2014).

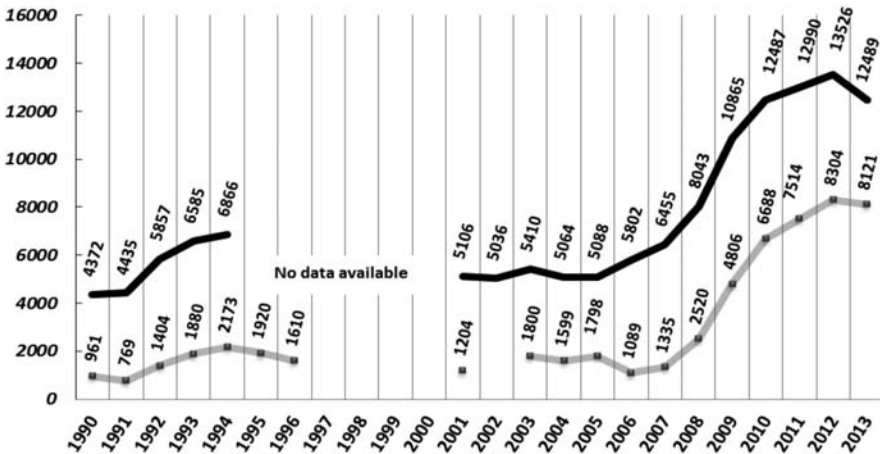
I am concerned with the continued drop in Community Service Orders made ... Although this drop should be seen in the same context as the drop in committals from court to prison, it is particularly disappointing when the Probation Service has the capacity to take on more offenders ... While these figures are certainly better than in the years prior to the review of community service, I want to ensure that even greater use of community service is made. Under the Criminal Justice (Community Service) (Amendment) Act in 2011, judges are required to consider the appropriateness of a community service order in circumstances where an alternative sentence of imprisonment of up to 12 months would be considered. The effects of this legislation should be more visible in the numbers of Orders made. (Department of Justice and Equality, 2014)

Non-payment of fines

The Fines (Payment and Recovery) Act 2014 sets out to minimise the extent of fine default and to ensure, as far as possible, that fine defaulters are not committed to prison. A court must first consider the financial circumstances of the fined person before the fine is determined, fines may be paid by instalment, receivers can be assigned to recover outstanding fines, and community service can be used as a sanction for unpaid fines instead of a custodial sentence.

Fine default, for which the only previous legislative sanction was imprisonment, makes up a significant proportion of those committed to custody. In 1990, 961 prison sentences for fine default accounted for approximately 22% of sentenced committals to Irish prisons (see Figure 3). Between 2001 and 2008, this proportion has varied between a high of

Figure 3. Sentenced custodial committals for non-payment of fines (light line) and total custodial sentences (dark line), 1990–2013



Source: National Crime Council Statistics; Irish Prison Service Annual Reports. Figures for non-payment of fines derived as follows: 1990–2006, National Crime Council Statistics; 2007–2013, Irish Prison Service Annual Reports. No data available for 1997–2000 and 2002. Figures for custodial sentences derived from National Crime Council Statistics (1990–2006); Irish Prison Service Annual Reports (2007–2013). No data available for 1995–2000. Neither the Irish Prison Service Report on Prisons and Places of Detention for the Years 1995–1998 nor the Irish Prison Service Report 1999 and 2000 contains separate statistics for remand and sentenced committals.

approximately 33% (1,800 fine default sentences) in 2003 to a low of 19% (1,089 fine default sentences) in 2006.

In more recent years the number and proportion of custodial sentences for fine default has risen dramatically. In 2009, approximately 44% (4,806) of all sentenced committals to prisons were for fine default. This escalated to 53% (6,688) in 2010, approximately 58% in 2011, 61% in 2012 and 65% in 2013.

A study of imprisonment for fine default and civil debt conducted in Ireland in 2002 (Department of Justice, Equality and Law Reform, 2002), based on a sample of 1,514 prison committals in 1999 for fine default or civil debt offences, concluded that:

Persons committed for fine default tend not to be representative of the general population. The relatively high proportion of persons who are unemployed or not in the labour force because of disability is atypical.

A significant minority are living in poverty. It is clear from their own accounts that in many cases these are individuals who have troubled family backgrounds with life problems that overshadow the offences and fines at issue. In general, offenders in these circumstances do not have the capacity to pay the fines, especially if they must be paid in full or if there has been an accumulation of fines ... For offenders, the consequences of imprisonment go beyond the deprivation of liberty. Concerns are expressed about the impact on social welfare entitlements or benefits and also on current or future employment. (Department of Justice, Equality and Law Reform, 2002, p. 53)

The practice of imprisoning fine defaulters in Ireland has been criticised as being ‘as pointless as it is relentless’ because it is viewed as being largely ineffective (O’Donnell, 2009: 1). In another Irish study involving the four-year follow-up of 20,000 prison releases, fine defaulters committed to custody were found to be twice as likely to be re-imprisoned as recidivists as those imprisoned for offences that received an immediate custodial sentence (O’Donnell *et al.*, 2008). Ethical concerns have also been expressed about incarcerating such large numbers whose offending did not warrant a custodial sentence in the first instance (McIvor *et al.*, 2013, p. 21; Irish Penal Reform Trust, 2012; O’Donnell, 2008, 2009).

Short prison sentences have been asserted as having very limited effectiveness (Johnson and Godfrey, 2013; Armstrong and Weaver, 2013; McIvor *et al.*, 2013; Trebilcock, 2011; Killias *et al.*, 2010), as they offer negligible opportunity to address offending pathways or risk factors, cause significant disruption to protective capital and may entrench pro-offending attitudes. In Scotland, these concerns have led to the provision of ‘a presumption against the use of short sentences’ under the Criminal Justice and Licensing (Scotland) Act 2010, whereby prison sentences of three months or less are replaced by alternative community-based measures.

The promotion of community service

The Government Programme for National Recovery 2011–2014 (Government Publications, 2010) committed ‘to review the proposal to build a new prison at Thornton Hall and to consider alternatives, if any, to avoid the costs yet to be incurred by the State in building such a new

prison' (Irish Prison Service, 2011b, p. 1). In April 2011, the Minister for Justice and Equality established the Thornton Hall Review Group to review the need for the Thornton Hall Prison Project.

The planned expansion of community service may be seen to have gathered momentum following the pragmatic policy reversal of the largest planned expansion of the capacity of the prison estate in the history of the state that followed (Irish Prison Service, 2011b). This prison expansion had been intended to respond to the urgent need to address chronic overcrowding and persistent expressions of concern about the poor conditions 'of the old and dilapidated prisons' and 'the safe and humane treatment of prisoners' (Council of Europe: Committee for the Prevention of Torture, 2011, p. 15; Office of the Inspector of Prisons, 2010, 2011).

The Thornton Hall Review Group Report, in analysing projected prison population growth, indicated that there was a high predicted rate of prison population growth (Irish Prison Service, 2011b, p. 29), which, if continued, would result in a doubling of prison population between 2009 and 2016. The issue of overcrowding had resulted in the increasing use of temporary release from an average of 4.4% in 2007 to an average of over 17% in 2011, with the rates for Mountjoy and Cork prisons being 21% and 35% respectively (Irish Prison Service, 2011b, p. i).

Forecasts of trends in the rate of imprisonment over the next five years indicate further increases. These trends, if they crystallise, would require a temporary release rate of in excess of 30%. Temporary release at this level would create a real risk that public confidence in the criminal justice system would be undermined. (Irish Prison Service, 2011b)

The urgency in addressing this penal crisis within the prevailing fiscal constraints led to recommendations for a smaller scale expansion of prison capacity together with the development and increased use of a range of 'front and back door' community sanctions (Irish Prison Service, 2011b, pp. 60–62) that included the introduction of Community Return, a programme of earned temporary release with a condition of unpaid community work, to prepare offenders for release on completion of their sentences and based on principles of normalisation, progression and reintegration (Irish Prison Service, 2011b, p. 60).

Community Return

community service, in Ireland and internationally, has traditionally functioned as a 'front door' diversionary penal measure, with the only route to participation being through the Courts. In October 2011 the Probation Service, in partnership with the Irish Prison Service, commenced a pilot Community Return programme in which qualifying prisoners can be released early from their custodial sentences, with a term of unpaid community work as a condition of their reviewable release. Senior officials from the Department of Justice and Equality, the Irish Prison Service and the Probation Service outlined the Community Return programme to the Oireachtas Sub-Committee on Penal Reform in February 2012:

The community return scheme involves swapping prison time for time in the community and paying back through unpaid work. It roughly equates to a week of community work for extra remission of one month. The first 60 or 70 people who have been released under the scheme have proved to be extremely successful in complying with the conditions of their release, for example, in terms of their attendance at work and performance of whatever activities in which they are required to engage.

As well as the work element, we try to include whatever other structures or programmes that the individuals need in the community, be it re-socialisation in their families or community, attendance at drug programmes, etc. To the end of the year, only one or two prisoners needed to be returned to prison. Overall, there was an extremely high level of co-operation and compliance. This is a unique initiative internationally, as I am unaware of anything comparable in place elsewhere. (Oireachtas Sub-Committee on Penal Reform, 2012)

Regarding concerns about the compatibility of CSO and Community Return participants, the Sub-Committee was told:

Prisoners involved in the scheme undertake the same type of work as people on court order community service. In many situations, the groups of offenders work side-by-side. We have found that having people coming out of prison working side-by-side with court ordered community service offenders has had a positive impact. The prisoners

have been good role models for the people sent by the courts to do community service although there was concern that the opposite might be the case. (Oireachtas Sub-Committee on Penal Reform, 2012)

The programme is an incentivised scheme of earned and structured temporary release. It was initially planned for 300 participants per year, now expanded to 450 participants. Prisoners serving between one- and eight-year sentences, who have served more than half of their sentences, may be eligible for consideration, subject to their engagement with an incentivised regime policy (Irish Prison Service, 2012, p. 28). Between October 2011 and December 2013, 584 participants successfully completed the programme, with a reported compliance rate of approximately 90% (Probation Service, 2014, p. 11).

A resettlement-enhancing community service?

Post-prison resettlement adjustment has been increasingly acknowledged as a critical period and process for people leaving prison (Losel, 2012; Maruna, 2006, 2011; Moore, 2012; Munn, 2011; Nugent and Pitts, 2010; Shinkfield and Graffam, 2010; McGuire and Raynor, 2006; Burnett and Maruna, 2006).

Resettlement difficulties have been highlighted by Arditti and Parkman (2011), who emphasise that the detrimental lack of rehabilitative programmes and interventions aimed at building social capital coincides with a crucial resettlement period in terms of asset building and identity formation. Bain and Parkinson (2010, p. 72) discuss the importance of 'de-labelling' to the process of successful resettlement, which, they suggest, is proportionate to the social inclusion of the individual.

Bazemore and Boba (2007) and Bazemore and Stinchcomb (2004) proposed a specific civic engagement model for prisoner re-entry. Civic community service, restorative justice decision-making and reparation and democratic participation are cited as practices to achieve resettlement aims of 'weakening community barriers to the development of pro-social identities for persons who have been under correctional supervision, altering the community's image of such persons and mobilizing and/or building community capacity to provide informal support and assistance' (Bazemore and Boba, 2007, p. 27).

Bazemore and Boba (2007) set out a theoretical model for the 'civic engagement' resettlement model, by focusing on community service as a potentially powerfully generative and transformative process. Theoretical approaches of identity transformation, life course criminological approaches (the understanding of how prosocial bonds are developed and maintained) and theories of social capital and collective efficacy (community building) are presented as key components of the model in bridging the considerable resettlement gap between the offender and the community. The model outlined by Bazemore and Boba (2007) and Bazemore and Stinchcomb (2004) remains theoretical and appears not to have been implemented or evaluated for any resettlement population.

The Community Return scheme is an opportunity for in-depth research regarding its capacity to facilitate more effective transition from prison to the community and for recommendations about how the scheme might enhance such potential and provide an evidence base to inform its development.

Community service research in Ireland

There has been very limited analysis of the effectiveness and penal nature of community service in Ireland. Walsh and Sexton (1999) provided the first comprehensive empirical exploration of community service in Ireland through an analysis of a sample of 269 offenders in respect of whom a CSO had been made from a 12-month period between 1996 and 1997. They conducted a direct observation of practice for one week at Limerick District Court, one day each at five Dublin and at two rural District Courts, interviewed Probation Officers and reviewed practice in other jurisdictions.

Walsh and Sexton (1999, p. 13) describe the penal intention, in 1983, of community service as symbolically punitive and more predominantly rehabilitative. The profile of participants provided by Walsh and Sexton (1999, pp. 25–33) reveals an overwhelming male (95%), young (50% under 24 years of age), unmarried (77%) population, who predominantly resided with parents (65%); with no formal educational qualifications (62%), no vocational skills (42%) and who were unemployed (58%). 81% of CSOs were successfully completed (of these, 3% had breach proceedings initiated but successfully completed following a further opportunity given by the court) (Walsh and Sexton, 1999, pp. 54–55). CSOs were found to be completed most frequently when imposed for

minor assault offences. Breach proceedings were initiated in cases most frequently involving public order offences (Walsh and Sexton, 1999, pp. 57–58). Completed CSOs were achieved within 12 months in 94% of cases but Walsh and Sexton (1999, p. 60) concluded that, when analysed against participant unemployment and availability, CSOs were not being worked off as quickly as they should be, attributing the delays to absenteeism and interruptions in the continuity of work projects.

Just under half (43%) of the sample had no previous recorded criminal convictions, while a further 18% had one previous conviction (Walsh and Sexton, 1999, p. 28). Comparing profile characteristics with existing profiles of a prison population (O'Mahony, 1997), Walsh and Sexton (1999, p. 29) concluded that:

this high percentage of first time offenders served with a CSO cannot be fully explained by the seriousness of the offence(s) of which the offenders were convicted. It is difficult to avoid the conclusion that there is a tendency to resort to CSOs in cases where a term of imprisonment would not have been imposed had CSOs not been available.

Walsh and Sexton (1999, pp. 100–101) concluded with concerns about the need to address the significant sentencing variations and a view that the general principle of 'an alternative to custody' was too broad, and more detailed guidance was required. Concern was also expressed about the irregularity and lack of uniformity in equivalence rate sentencing (amount of community service matched to a custodial sentence) and that legislative changes might be required to address more thoroughly the manner in which the consent of the participant was given and recorded.

The VFM Review (Department of Justice, Equality and Law Reform, 2009) canvassed the views of the judiciary. 100 judges of the Circuit and District Courts were invited to respond to a questionnaire. The 29 responses indicated a highly positive inclination among these members of the judiciary towards community service. 76% of these respondents were strongly in favour of increasing the maximum limit (240 hours) of community service to accommodate more serious offences, while judges were equally divided about the benefits of lowering the 40 hour minimum limit of community service. 82% of the 17 District Court judges and 65% of all judges were in favour of establishing community

service as a sanction in its own right and not as an immediate alternative to a custodial sentence.

Only a narrow majority of judges (52%) expressed confidence that community service is beneficial to the community; there was a similar level of confidence that community service is beneficial to the ‘offender’ (Department of Justice, Equality and Law Reform, 2009, pp. 50–57). This contrasts with 80% of the 42 Community Service Supervisors surveyed who indicated confidence that community service benefited the community (Department of Justice, Equality and Law Reform 2009, p. 64).

These findings resonate with a New Zealand study of variance in community service views and perspectives of Probation Officers, sponsors (host work placement agencies), offenders, and judges from seven New Zealand probation districts (Leibrich *et al.*, 1986). The New Zealand study found that benefiting the offender was the strongest response (58%) identifying the aim of community service, most likely to be identified by judges and Probation Officers. Providing benefit to the community was identified by 50%, again mostly by judges and Probation Officers. An alternative to imprisonment was identified by 35%, most commonly by Probation Officers. Community–offender integration was identified by 26%, most likely by Probation Officers and least likely by offenders; and punishment was identified by 22%, most typically by judges.

The study also found that a significant majority of respondents were confident that their identified aims were being achieved, with the exception of judges, a slender majority of whom were confident that their identified aims were being met. ‘Benefit to the community’ was felt to be achieved most strongly by offenders (Leibrich *et al.*, 1986, p. 57). These variations in perspective support Beyens’ (2010, p. 10) suggestion that ‘the work penalty is a very complex sentence in its execution, because of the diversity of actors involved’.

A number of dissertations and theses have been produced by students in third-level colleges, focusing on aspects of community service in Ireland. Jennings (1990) explores the origins of community service in Ireland and internationally, and analyses its penal orientation. Her suggestion that community service emerged from the numerous penal traditions of coercive labour was the dominant understanding in the international literature at the time, but has since been vigorously

disputed by Kilcommins (2002), who argues that community service is more aptly viewed as a deprivation of leisure time, a relatively recent concept and not a progressive refinement of earlier traditions.

McGagh's (2007) study reviewed Irish and international community service literature, identifying other jurisdictions that have adopted predominantly rehabilitative approaches and practices. Participants having contact with beneficiaries of their work, having access to basic skills training and having positive experiences with prosocial supervisors were seen as effective in completion of orders and possibly resulting in less reoffending. Some rehabilitative practices in the operation of community service were said to occur on an informal basis in Ireland. The data also suggested that because of the setting and the supervisory relationship with clients, Community Service Supervisors are well placed to instigate planned programmes of rehabilitation.

Riordan (2009) explored the utilisation of community service from a judicial perspective in Ireland. He found that its under-utilisation is in part explained by judges' reluctance to equate community service with a custodial sentence. Judges are reported to have a strong desire to use the sanction as a penalty in itself, without reference to custodial consideration, and the requirement for the latter undermines community service's usage (Riordan, 2009, p. 174).

Riordan also highlighted a judicial concern that the sanction may not be adequately monitored and executed (Riordan, 2009, p. iv). Central to judicial concerns, Riordan (2009) maintained, is the historical use of discretionary practices by Probation Officers, which may result in 'probationising' community service and diminish more rigid community service compliance expectations (Riordan, 2009, pp. 83, 114).

In addition, Riordan (2009, p. 105) suggested that while there is significant variation in judicial practice regarding community service, the introduction of 'strict criteria' to standardise the administration of community service might result in greater use of the sanction. Riordan further highlighted the paradox within the legislation which requires rigid sub-custodial criteria in order to impose community service and 'unfettered' judicial discretion in dealing with breaches: 'a wide ranging discretion unwittingly imported from [the] British legislation into the Irish Act appears to undermine the purpose of the community service order as a penalty designed to act as an alternative to custody' (Riordan, 2009, p. 146).

Community service dilemmas

Community service as a penal sanction has some unresolved historical issues. Its focus on work and task completion contrasts sharply with other probation interventions' orthodox endeavours to engage with probationers in a meaningful way towards effecting change, regardless of how this process is subject to variations in best practice discourses, penal philosophy and political ideology (see, for example, Bottoms and McWilliams, 1979). Community service represents a more regulatory relationship between practitioners and community service participants in implementing and enforcing the requirements of the Court Order, but the extent and nature of this engagement and process, to effect participant change, remain ambiguous.

As a sentencing measure with multiple variables, community service in Ireland has considerable variation and inequitable equivalence rates between the required work and the alternative custodial sentence. The VFM Review found a national average equivalence rate of one month's custodial sentence to 30 hours of community service, with a range of 26–43 hours' work (Department of Justice, Equality and Law Reform, 2009, p. 43).

Walsh and Sexton (1999, p. 35) found that the average equivalence rate was 27 hours' work in lieu of 1 month imprisonment with a range from 11 hours to 63 hours (Walsh and Sexton, 1999, pp. 50–51).

For those participating on the Community Return programme with three days' community service per week, the equivalence rate is 48 hours in lieu of one month's imprisonment.

Fine default participants can be expected to further widen the range of required community service equivalence rates. The Fines (Payment and Recovery) Act 2014 provides a requirement for 30–100 hours' community service for fine defaulters convicted of summarily disposed offences, with the maximum custodial alternative sentence being between five and 30 days' imprisonment determined by the unpaid/unrecovered fine. Community service of 40–240 hours can be applied to fine default in indictable cases, with the maximum alternative custodial sentence being 12 months (The Fines [Payment and Recovery] Act 2014: Sec. 19 and 20).

Within these ranges for Orders in summary and indictable cases, there is no mechanism to mandate the number of hours that should be imposed for an outstanding fine. Significant variations in equivalence

rates between the required community service to satisfy a custodial sentence raise concerns about the ‘proportionality and commensurability of punishments’ (McIvor *et al.*, 2013, p. 22).

The origins and antecedents of the emergence of community service are disputed (Riordan, 2009; Kilcommins, 2002; Jennings, 1990, p. 14; Pease, 1985) and the penal and judicial philosophy underpinning its use is varied and ambiguous, and remains contested because it has not been sufficiently and consistently grounded in any specific penal paradigm (Gelsthorpe and Rex, 2004; Hine and Thomas, 1996; Bazemore and Maloney, 1994; Hudson and Galaway, 1990; Carter *et al.*, 1987; Perrier and Pink, 1985; Young, 1979).

Penal policy, Garland (1990, p. 7) informs us, has a ‘rich and flexible tradition which has always contained within itself a number of competing themes and elements, principles and counter principles’. Each of these gives rise to academic, political, cultural and professional practice discourses, whose ‘key terms have been developing and fluid rather than fixed, producing a series of descriptions – “moral reform,” “training,” “treatment,” “correction,” “rehabilitation,” “deterrence,” “incapacitation”’ (Garland, 1990, p. 7). Several discourses relating to punishment, reparation, restoration, integrative/reintegrative and expiation might be added, as pertaining to claims made about community service’s penal potential.

In describing the aims of community service in Scotland, for example, McIvor (2010) articulates its multidimensional penal aspirations:

Community service in Scotland was intended to fulfil a number of sentencing aims including *punishment* (through the deprivation of the offender’s free time), rehabilitation (through the positive effects of helping others) and *reparation* (by undertaking work of benefit to usually disadvantaged sections of the community). The *reintegrative* potential of community service was to be achieved through the offender being enabled to remain in the community, retaining employment and family ties, and, through coming into contact with others while carrying out unpaid work, avoiding social isolation. (McIvor, 2010, p. 42; emphasis in original)

It has been suggested that the inherent multidimensional ambiguity surrounding the penal role and nature of community service has contributed to its appeal (Gelsthorpe and Rex, 2004, p. 230). It has been

both praised and criticised for its capacity to appeal to supporters of a range of penal philosophies (Jennings, 1990, p. 52): ‘a chameleon-like sanction that has wide appeal and compatibility with all penal paradigms’ (Beyens, 2010, p. 9), ‘a penalty for all seasons, perfectly adaptable to the seasoned and unseasoned offender, and perfectly adaptable to any micro-climate’ (Hine and Thomas, 1996, p. 134), a sanction that incorporates numerous elements that appeal to protagonists of conflicting penal philosophies and as such represents ‘all things to all people’ (Perrier and Pink, 1985, p. 32).

As far back as 1985, Pease cautioned:

The consequences of confused thinking become evident when community service ceases to be words on paper and starts being work in a community. The choice of type of work, level of supervision, and contact with beneficiaries of service may be determined by the justifying aim of the sentence. If rehabilitative, organizers will seek to maximize contact between offender and non-offender volunteers; if reparative, they may well seek to find work for crime victims. If rehabilitative, an organizer may be guided in the decision to revoke an order by the circumstances of the individual offender. Because the probation officer, the sentencer, the revoking court, and community service organizers may hold different views about the justifying aim, there are many possible confusions. (Pease, 1985, p. 59)

Despite this basis for wide appeal, community service exemplifies Garland’s (1990) analysis of the challenging task facing the range of penal sanctions:

Contemporary penalty exists within societies which are themselves marked by pluralism and moral diversity, competing interests and conflicting ideologies. In such a context, and with the need to appeal to a range of different audiences at one and the same time, it is no surprise to find that penalty displays a range of rhetorical identifications and a mosaic of symbolic forms. (Garland, 1990, p. 275)

The ambiguity surrounding the explicit purpose and penal philosophy of community service has problematic consequences. A lack of reinforced clarity about its place in the rank of sentencing tariffs gives rise to

confusion about its optimal target population and consequent inconsistent sentencing practices by the judiciary (Gelsthorpe and Rex, 2004, p. 203; Riordan, 2009).

Related concerns also surround its reputed intention towards its target population, to divert people from custodial sentences who would otherwise have been imprisoned (McIvor, 2010, p. 42; 1998a; 1998b, p. 280; 1990; McIvor and Tulle-Winton, 1993). Similar concerns relate to its potential for 'net-widening' and 'mesh-thinning', whereby its use as a punitive alternative to other non-custodial sanctions, instead of a direct alternative to imprisonment, increases the severity of sanction for those who would not ordinarily have been considered for a custodial sentence (McIvor, 2010, p. 56; Kilcommins, 2002, p. xlix).

Recent commentaries about the expansion of unpaid work sanctions in Belgium (Beyens, 2010), Spain (Blay, 2010) and the Netherlands (Boone, 2010) contend that this has corresponded not to a reduction in the use of prison sentences, but to an expansion of prison populations and of the penal system as a whole. The implications of a lack of clear and adequately anchored explicit purpose are articulated by Bazemore and Maloney (1994):

A major problem with community service today is that it is ordered and implemented in a vacuum with reference neither to sentencing objectives nor to a theory of intervention with offenders. In the absence of a guiding conceptual framework for intervention and lacking value-based guidelines and performance objectives derived from a clear mission, it is impossible to gauge success or failure of these sanctions or determine quality of the service experience. If the goal is punishment or bureaucratic convenience, for example, many current projects may well be accomplishing intended performance objectives. If the goal is meaningful restoration to the community or offender rehabilitation and reintegration, however, community service as now practiced in most jurisdictions would be viewed as a failure. (Bazemore and Maloney, 1994, p. 25)

Difficulties also pertain to the definition and measurement of the effectiveness of community service as a penal measure (McIvor, 2010, p. 51). The capacity utilisation of community service resources and the completion of required community service by participants might be assumed as acceptable successful outcomes. However, other intended

goals such as benefit to the community, participant reparation and reintegration, impact (independently and comparatively to other sanctions) on participant offending and a reduction in sentencers' use of imprisonment pose a matrix of significant quantitative and qualitative design, measurement and evaluation challenges.

Concluding comments

Irish penal policy is notable for the absence of an ideological philosophy driving its direction and content (Rogan, 2011a, 2011b; O'Donnell, 2007; Kilcommins *et al.*, 2004), and sentencing practices in Ireland display a historical preference for custodial rather than community measures (O'Donnell, 2004, 2005; Healy and O'Donnell, 2005; Bacik, 1999).

Government penal policy development in Ireland has also tended to be characterised by prolonged periods of inertia and has involved the adoption of pragmatic solutions to political crises (Rogan, 2011a). While susceptible to policy transfer from abroad, Irish penal policy tends to manifest these influences in 'a dilute and distinctive hybrid form' (Kilcommins *et al.*, 2004, p. 292). As Rogan (2011b) summarises:

This picture of Irish prison policy, therefore, has a number of contradictory elements, some which could be considered progressive and others less so. Equally, the ideological basis for many of these developments is uncertain. The penal ideology of Ireland is ill-defined and changeable. Neither punitive nor more liberal sentiments are deeply embedded. The sensibilities which make up Irish conceptions of prison policy have somewhat shallow roots, giving rise to a form of prison policy which incorporates sometimes conflicting penal approaches and objectives. (Rogan, 2011b, p. 33)

It might appear, then, that an ideologically malleable penal policy in Ireland is compatible with a pliable, multi-paradigmatic penal sanction such as community service.

As a pragmatic solution, Pease (1985) suggests that the intuitive appeal of community service to those who engage in it is not evidence that the sentence rests on a firm theoretical footing. The 'smorgasbord of penal purpose' is most likely when a sentence has intuitive appeal (Pease, 1985, p. 58). He notes prevalent factors 'underlying the rapid develop-

ment of community service schemes'. These include concern about prison overcrowding and the cost of building new prisons, a shift towards increased interest in more punitive non-custodial options, and concerns that victims and 'offenders' should be somehow reconciled (Pease, 1985, p. 58).

Despite its inherent pragmatism, tensions still exist between promoting and balancing several competing considerations. These include the penal credibility of community service as viewed by public and political support, its credibility as viewed by the judiciary, whether community service produces a benefit to the community and is adequately enforced and implemented and, not least, its legitimacy for those subjected to it, in that it involves 'giving' and not the retributive 'taking' of reparation (Young, 1979, p. 36). As Maruna and King (2008, p. 346) suggest, 'by symbolically transforming the probationer into a "giver rather than a consumer of help", non-custodial penalties might be seen in a more positive light'.

At the core of these concerns is an apparent struggle between an orientation that prioritises punitive versus alternative transformative processes for participants, involving rehabilitative, restorative and reintegrative participant enhancement values. A primary concern is articulated by McCulloch's (2010, p. 401) claim that 'there is a danger that the reparative, re-integrative, and rehabilitative ideals of community payback become obscured in misguided efforts to publicly "package" community payback as a punishment first and last'.

The new priority target populations, non-compliant fine defaulters, custodial sentences of one year or less and a prison resettlement cohort further demonstrate the potential elasticity of unpaid community work as a penal measure and also highlight the necessity to overcome concerns relating to the ability for unpaid work to operate successfully at more than one point in the criminal justice process (McIvor *et al.*, 2013, p. 21).

How participants approach community service from their varying contexts and perspectives makes for potentially interesting comparative research into the relative compliance with, impact of, and experience of the punitive, reparative, reintegrative, restorative and rehabilitative dimensions of community service. Hypotheses to be tested could include a range of participant factors as well as the nature of sliding or escalating tariff pathways to participation, how consent is provided and its perceived fairness and legitimacy.

While the 'new model' of community service might address judicial concerns regarding its administration by the Probation Service, retaining the potential for enhancing rehabilitative, restorative and generative capacity may foster higher levels of compliance, promote the legitimacy of the measure for participants and in doing so facilitate participant desistance from offending. In this sense, consideration of the quality of the community service experience might yield greater benefits than a preoccupation with increased quantity.

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Embracing and Resisting Prisoner Enfranchisement: A Comparative Analysis of the Republic of Ireland and the United Kingdom

Cormac Behan*

Summary: This paper examines prisoner enfranchisement in the Republic of Ireland and United Kingdom. Despite being close neighbours, having similar legal and political traditions, both being members of the Council of Europe and European Union, and latterly politicians tending towards similar rhetoric on 'law and order', the debates and outcome in the two states have been significantly different on prisoner enfranchisement. The paper considers why the two states took such diverging approaches. Not only did the attitudes of governments and legislators differ on prisoner enfranchisement, but the debates revealed variance in portrayal of prisoners. Media interest was very different in the two states and discussions over parliamentary sovereignty, European influences, and judicial activism were central to the outcome of the deliberations on prisoner enfranchisement.

Keywords: Ireland, United Kingdom, European Union, prisons, elections, prisoner enfranchisement, penal policy, European Convention on Human Rights, European Commission of Human Rights, European Court of Human Rights.

Introduction

Prisoner enfranchisement remains one of the few contested electoral issues in twenty-first-century democracies. It is at the intersection of punishment and representative government. In recent decades, prisoner enfranchisement has been a source of controversy in many countries, from Israel to South Africa and Australia to Canada (Ewald and Rottinghaus, 2009).

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Outside the United States of America (Manza and Uggen, 2006; Uggen *et al.*, 2012), prisoner enfranchisement has caused most debate in the United Kingdom (Easton, 2011). In December 2006 the United Kingdom's Department for Constitutional Affairs (DCA; 2006, Foreword) launched a consultation process with the statement that 'The government is firm in its belief that individuals who have committed an offence serious enough to warrant a term of imprisonment should not be able to vote while in prison'. Some days earlier, the Oireachtas¹ had quietly introduced legislation to allow prisoners to vote.

This paper will examine why governments and legislators in the United Kingdom have resisted and their counterparts in the Republic of Ireland have embraced prisoner enfranchisement. It then explores other issues that become embroiled in the deliberations about prisoners' access to the franchise. The paper concludes by considering whether this indicates more than a different attitude to prisoner enfranchisement, but something deeper in penal policy.

Republic of Ireland

Prior to the establishment of the Free State, legislation governing prisoners and voting was covered by the Forfeiture Act 1870, which barred from voting anyone serving a sentence over 12 months. Legislators in the early decades of the state were reluctant to deal with penal reform in general (Rogan, 2011; Tomlinson, 1995) and were even less interested in prisoners' rights (Behan, 2014).

Even though no law was introduced to bar prisoners' access to the franchise, before the passing of the Electoral (Amendment) Act 2006, Irish prisoners were in an anomalous position. They could register to vote, but there was no facility to allow them to cast their franchise. The registration of prisoners as electors was specifically set out in Section 11(5) of the Electoral Act 1992, which provided that: 'Where on the qualifying date, a person is detained in any premises in legal custody, he shall be deemed for the purposes of this section to be ordinarily resident in the place where he would have been residing but for his having been so detained in legal custody.' With little likelihood of ballot boxes being provided in prisons and no procedure to allow postal voting, the

¹ The Oireachtas, also referred to as Oireachtas Éireann, is the legislature of Ireland. www.oireachtas.ie

registration was moot. However, it left open the possibility that if a serving prisoner was on temporary release on election day, and registered to vote, they were legally entitled to do so (McDermott, 2000, p. 335).

Supreme Court rejects prisoner voting

Two years after the passing of the Electoral Act 1992 the Irish Courts rejected an application from a prisoner, Patrick Holland, to suspend the European Parliament elections to allow him to pursue constitutional proceedings because he was denied the facility to vote (Hamilton and Lines, 2009, pp. 209–10). He pursued the case to the European Commission of Human Rights (ECmHR), where the Irish government maintained that there was no constitutional or convention guarantee of a postal vote. It argued that it would be impractical to have hundreds of ballot boxes in prisons throughout the country to facilitate prisoners from different constituencies, and it was too much of a security risk and a burden on the Prison Service to allow the release of all prisoners to vote.

In rejecting the application, the ECmHR felt bound to conclude that:

the legislator, in the exercise of its margin of appreciation, may restrict the right to vote in respect of convicted persons. Such restrictions could, in the Commission's opinion, be explained by the notion of dishonour that certain convictions carry with them for a specific period. (*Holland v Ireland*, 1998)

Accordingly, the Commission concluded that the suspension of the right to vote was not arbitrary and did not contravene Article 3 of Protocol No. 1 of the European Convention on Human Rights (ECHR), which binds signatories to 'hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature'.

Two years after the *Holland* judgment, the High Court ruled in the *Breathnach* case that prisoners retained the right to vote under the Electoral Act 1992. The court declared that the failure of the state to provide a means whereby a prisoner could vote breached the constitutional guarantee of equality before the law. It ruled that prisoners enjoyed a right, which had been conferred on them by the constitution, to vote at

elections for members of Dáil Éireann, and no legislation was currently in force that removed or limited that right. Drawing on European human rights standards, Mr Justice Quirke stated that not providing the necessary machinery to enable Breathnach to exercise his right to vote:

comprises a failure which unfairly discriminates against him and (a) fails to vindicate the right conferred upon him by article 40.1 of the Constitution of Ireland to be held equal before the law and; (b) fails to vindicate the right conferred upon him by article 14 of the European Convention on Human Rights to vote in national and local elections without discrimination by reason of his status. (*Breathnach v Ireland*, 2000)

During the hearing the state had acknowledged that the extension of postal voting to prisoners would not impose undue administrative demands, but Justice Quirke noted that no legislative provisions existed for such a facility.

On appeal, the Supreme Court unanimously overturned this judgment. The Supreme Court ruled that while prisoners were detained in accordance with the law, some of their constitutional rights, including voting, were suspended. ‘It is of course clear’, Chief Justice Ronan Keane concluded, that ‘despite the deprivation of his liberty which is the necessary consequence of the terms of imprisonment imposed upon him, the applicant retains the right to vote and could exercise that right if polling day in a particular election or referendum happened to coincide with a period when he was absent from the prison on temporary leave’ (*Breathnach v Ireland*, 2001). After outlining the jurisprudence, Susan Denham, future Chief Justice, ruled that imprisonment was only part of the punishment.

The applicant [Stiofán Breathnach] is in a special category of person – he is in lawful custody. His rights are consequently affected. The applicant is in the same situation as all prisoners: there is no provision enabling any prisoners to vote. Consequently, there is no inequality as between prisoners. The inequality as between a free person and a person lawfully in prison arises as a matter of law. It is a consequence of lawful custody that certain rights of the prisoner are curtailed, lawfully. Many constitutional rights are suspended as a result of the lawful deprivation of liberty. It is a consequence of a lawful order not an arbitrary decision. (*Breathnach v Ireland*, 2001)

Oireachtas enfranchises prisoners

The Supreme Court had set out the constitutional position. With government politicians reluctant to champion the rights of prisoners, and clarification provided by the courts, it seemed the matter was closed. However, despite the Supreme Court judgment, there continued to be some muted debate about the enfranchisement of prisoners. In 2002, a report from the National Economic and Social Forum (NESF) on the reintegration of prisoners recommended that the Department of Justice, and the Prison Service, should ‘develop a Charter of Prisoner Rights (including consideration of extending voting rights to prisoners)’ (NESF, 2002, p. 71). In 2005 Opposition TD, Gay Mitchell, proposed a private member’s bill on prisoner enfranchisement. With the possibility of this bill being discussed in the Oireachtas, the Tánaiste, Mary Harney, told the Dáil that the ‘Government has cleared the legislation to provide for prisoners’ voting by way of a postal ballot in their own constituencies’ (Dáil Debates, 2005, vol. 612, col. 1115).

In December 2006, the Oireachtas passed the Electoral (Amendment) Act to allow prisoners to vote by postal ballot. The legislation to enfranchise prisoners was introduced by a coalition government of Fianna Fáil and the Progressive Democrats, neither known for their liberal attitude to prisoners, and the former party responsible for popularising ‘zero tolerance’ discourse in the Irish political lexicon (O’Donnell and O’Sullivan, 2003).

Introducing the Electoral (Amendment) Bill to the Dáil, the Minister for Environment, Heritage and Local Government, Dick Roche, stated that the legislation would modernise existing electoral law and meet the government’s obligations under the provisions of the European Convention on Human Rights, which had been incorporated into Irish law in 2003 (Egan, 2003). Referring to the *Hirst* judgment (see next section), he argued that while the legal position in the UK differed significantly from Ireland, ‘in light of the judgment it is appropriate, timely and prudent to implement new arrangements to give practical effect to prisoner voting in Ireland’ (Dáil Debates, 2006, vol. 624, col. 1978).

During the Oireachtas debates on the bill, no parliamentarian spoke against the enfranchisement of prisoners. Amendments were put forward to make sure prisoners would have trust in the electoral process. Outside parliament, there was little discussion about prisoners and enfranchise-

ment in the lead-up to, or during, the passing of the legislation. In stark contrast to the role played (especially by the tabloid press) elsewhere, particularly when it comes to the issues of crime and prisoners' rights, the Irish media was remarkably silent on the legislation, with very few newspapers even mentioning it (Behan and O'Donnell, 2008).

The Irish government decided to introduce legislation to allow prisoner voting, even though neither the prison population nor the general public were clamouring for it, the courts did not require it and little political capital could be expected in return. The passing of the legislation to enfranchise prisoners in the Republic of Ireland went against the international trend in recent years, as 'much prison policy strengthens the "criminal" as an identity rather than an incarcerated "citizen"' (Stern, 2002, p. 137). Nevertheless, perhaps equally significant was the lack of controversy among policymakers, politicians and media compared to other jurisdictions.

Advocated as an electoral rather than a criminal justice reform and with no legislation to be repealed, it was easier to introduce a relatively minor piece of legislation. It also did not use up any political capital for the minister initiating the measure. So with a minister with responsibility for the franchise professing electoral reform as a priority, this progressive piece of legislation passed quietly through the Oireachtas. This stands in stark contrast to the experience in the United Kingdom.

United Kingdom

Outside of the United States of America (Manza and Uggen, 2006), no country in the world has been as concerned by prisoner enfranchisement as the United Kingdom (Easton, 2011). It has been contested in the courts (both domestic and European), considered in a number of consultative processes, debated in parliament and had a parliamentary committee established specifically to consider the subject. At the time of writing, the issue has not been settled and prisoner enfranchisement remains a matter of some controversy.

When the United Kingdom increased the franchise threefold with the Representation of the People Act 1918, the Forfeiture Act 1870 still barred from voting anyone sentenced to over 12 months. Effectively all prisoners were disenfranchised because they were unable to register, as they were not in a position to attend polling stations (Murray, 2013, pp. 515–16). While various electoral acts mentioned prisoners, the

Representation of the People Act 1983 stated explicitly that a ‘convicted person during the time that he is detained in a penal institution in pursuance of his sentence is legally incapable of voting at any parliamentary or local government election’. As there was no facility to allow them to vote, all prisoners (whatever their status) were in effect excluded from the franchise. This was amended to allow remand prisoners to vote with the Representation of the People Act 2000.

George Howarth MP, for the Home Office, stated that while the legislation was being amended to allow remand prisoners to register to vote, ‘it should be part of a convicted prisoner’s punishment that he loses rights and one of them is the right to vote’ (*Hansard*, HC Debates, 15 December 1999, vol. 341, col. 300).

ECtHR rejects blanket ban on prisoner voting

In 1998, the Human Rights Act incorporated the ECHR into United Kingdom law. Three years later, the High Court rejected an application from three prisoners that denying them the vote contravened their rights under the ECHR. Lord Justice Kennedy concluded that ‘there would seem to be no reason why Parliament should not, if so minded, in its dual role as legislator in relation to sentencing and as guardian of its institutions, order that certain consequences shall follow upon conviction or incarceration’ (*Pearson and Martinez v Secretary of State for the Home Department* EWHC [2001] Admin 239).

One of those involved in the case, John Hirst, appealed and in March 2004, the European Court of Human Rights (ECtHR) ruled that there had been a breach of Article 3 of Protocol No. 1 of the ECHR. The rights to vote and participate in elections are ‘central to democracy and the rule of law’, the court ruled, but it conceded that ‘they are not absolute and may be subject to limitations’. However, it rejected as ‘arbitrary’ and ‘disproportionate’ a ban on all convicted prisoners. It accepted that while this is ‘an area in which a wide margin of appreciation should be granted to the national legislature ... It cannot accept however that an absolute ban on voting by any serving prisoner in any circumstances falls within an acceptable margin of appreciation’ (*Hirst v United Kingdom (No. 1)*, 2004). In effect, the court decided that some prisoners in the United Kingdom had their human rights contravened by being denied the vote.

The UK government appealed to the Grand Chamber of the ECtHR on the basis that under the ECHR the right to vote was not absolute.

Convicted prisoners, it argued, forfeited the right to take part in deciding who should govern as they had ‘breached the social contract’. The government claimed that disqualification would achieve the aims of preventing crime, punishing offenders, and enhancing civic responsibility and respect for the rule of law by ‘depriving those who had breached the basic rules of society of the right to have a say in the way such rules were made’. Disenfranchisement only affected those who had been given a custodial sentence and, thus, the duration was ‘accordingly fixed by the court at the time of sentencing’ (*Hirst v United Kingdom (No. 2)*, 2005).

In October 2005, the Grand Chamber of the ECtHR, by a margin of 12 votes to five, found against the British government. While the Grand Chamber accepted that each signatory to the ECHR must be allowed a margin of appreciation, ‘the right to vote is not a privilege’. The automatic blanket ban lacked proportionality and encompassed those who served from one day to life in prison, from those who were convicted of minor to the most serious offences. Rejecting the UK government’s argument that parliamentary approval had been given for this measure, the Grand Chamber ruled: ‘It cannot be said that there were any substantive debates by members of the legislature on the continued justification in light of modern-day penal policy and human rights standards for maintaining such a general restriction on the right of prisoners to vote’. As for the plea from the UK government that the lower court’s ‘finding of a violation was a surprising result, and offensive to many people’, Judge Calfisch remarked that ‘decisions taken by the court are not made to please ... members of the public but to uphold human rights principles’ (*Hirst v United Kingdom (No. 2)*, 2005).

Resisting enfranchisement I: Executive

In December 2006, in response to the court’s judgment and the criticism of lack of substantive debate on prisoner enfranchisement, the UK government issued a consultation paper (DCA, 2006). Lord Falconer, the Lord Chancellor, continued to argue that the loss of the vote ‘is a proper and proportionate punishment for breaches of the social contract that resulted in imprisonment’. Successive governments held that the ‘right to vote forms part of the social contract between individuals and the state’ (DCA, 2006, Foreword). The consultation document laid out a number of options: retain the current ban on voting rights for convicted

prisoners; enfranchise prisoners sentenced to less than a specified term; allow sentencers to decide on withdrawal of the franchise; or enfranchise all tariff-expired life sentence prisoners (DCA, 2006, pp. 23–5).

The government had completed the first phase of the consultation process by March 2007, and in April 2009 it launched the second stage after giving ‘careful consideration’ to how to respond to the ECtHR judgment. By this stage, the government had reached ‘the preliminary conclusion that to meet the terms of the judgment a limited enfranchisement of convicted prisoners in custody should take place’ (Ministry of Justice, 2009, p. 21). Postal voting was the most likely mechanism, with prisoners declaring a ‘local connection’, and eligibility would be based on sentence length. This consultation paper put forward four options – those sentenced to less than one, two, or four years would retain the right to vote. The final option was that those sentenced to two years or under would automatically retain the right to vote and prisoners who received a sentence of between two and four years could apply to vote, but only where a judge allowed it. The government was nevertheless ‘inclined towards the lower end of the spectrum of these options’ and the seriousness of the offence should determine eligibility to vote. But ‘no prisoners sentenced to 4 years’ imprisonment would be eligible to vote’ (Ministry of Justice, 2009, p. 25).

Despite repeated criticism of the UK government from the Council of Europe’s Committee of Ministers (see White, 2013, pp. 20–1), a general election took place in May 2010 without any measures to include prisoners in the franchise. While the Liberal Democrats had previously voiced support for prisoner voting (White, 2013), their coalition partner and Conservative Prime Minister, David Cameron, set the tone for the new coalition government’s position: ‘It makes me physically ill even to contemplate having to give the vote to anyone who is in prison. Frankly, when people commit a crime and go to prison, they should lose their rights, including the right to vote.’ However, he conceded that some prisoners would have to be enfranchised, because of pending litigation by prisoners, ‘painful as it is’ (*Hansard*, HC Debates, 3 November 2010, vol. 517, col. 921).

Resisting enfranchisement II: Parliament

In February 2011, a backbench debate was held on prisoner enfranchisement which the initiators hoped would satisfy one of the ECtHR’s

rulings, that the lack of political discussion undermined the legitimacy of disenfranchisement. The debate was proposed by high-ranking members of the Conservative and Labour parties. David Davis, Conservative MP, believed that there ‘have been many important debates in this slot, but I lay claim to this one being unique, because it gives this House – not the Government – the right to assert its own right to make a decision on something of very great democratic importance, and to return that decision to itself’. He suggested there were two different issues at stake: firstly, the right of the ECtHR or the UK parliament to decide on the matter and secondly, voting rights for prisoners. While rejecting European interference on the matter, he took up the latter subject. He supported the concept that ‘if you break the law, you cannot make the law’. If a crime is serious enough for a perpetrator to be sent to prison, ‘a person has broken their contract with society to such a serious extent that they have lost all these rights: their liberty, their freedom of association and their right to vote’ (*Hansard*, HC Debates, 10 February 2011, vol. 523, col. 494).

Former Labour Home Secretary Jack Straw was one of those who proposed the motion. He asked whether ‘through the decision in the *Hirst* case and some similar decisions, the Strasbourg Court is setting itself up as a supreme court for Europe with an ever-widening remit’ (*Hansard*, HC Debates, 10 February 2011, vol. 523, col. 502). After much discussion, the House of Commons noted the *Hirst* ruling and by a majority of 234 to 22 passed a motion acknowledging the ‘treaty obligations of the UK’, but believed that ‘legislative decisions of this nature should be a matter for democratically elected lawmakers; and [the House] supports the current situation in which no sentenced prisoner is able to vote except those imprisoned for contempt, default or on remand’ (*Hansard*, HC Debates, 10 February 2011, vol. 523, col. 586). Despite the House of Commons giving its answer to the ECtHR, it was still up to the government to respond to the *Hirst* judgment.

After the *Hirst* judgment, a number of countries introduced legislation to enfranchise some or all prisoners, including the Republic of Ireland, Cyprus, Belgium and Moldova (White, 2013, pp. 45–57). Subsequently, the ECtHR heard similar cases on prisoner voting (*Frodl v Austria* and *Scoppola v Italy*). While these cases were ongoing, the UK government was allowed more time to respond to *Hirst*. Finally, after the ruling of *Scoppola v Italy* in May 2012, the UK government was given another six

months by the ECtHR after it was reminded that ‘the Court has repeatedly affirmed that the margin in this area is wide’ (*Scoppola v Italy*, 2012).

On 22 November 2012, over seven years after the *Hirst* judgment and just over 24 hours before the deadline set by the ECtHR, the UK government introduced the Voting Eligibility (Prisoners) Draft Bill. The bill, to be considered by a committee of both Houses of Parliament, proposed three options: prisoners sentenced to less than four years would be allowed to vote; prisoners sentenced to less than six months would retain the franchise; and the final option – a restatement of the existing ban on voting for all sentenced prisoners. In his statement to the House of Commons, the Justice Secretary, Chris Grayling, argued that the court had gone beyond the original intention of the ECHR. He was giving parliament the authority to consider the bill as its response to the ECtHR, because, while he recognised that it was his ‘obligation to uphold the rule of law seriously ... Equally, it remains the case that Parliament is sovereign’ (*Hansard*, HC Debates, 22 November 2012, vol. 553, col. 745). While he would ask a parliamentary committee to consider legislative proposals, ‘Ultimately, if this Parliament decides not to agree to rulings from the ECtHR, it has no sanction. It can apply fines in absentia, but it will be for Parliament to decide whether it wishes to recognize those decisions’ (*Hansard*, HC Debates, 22 November 2012, vol. 553, col. 754). Nevertheless, he was conscious that there was a case to be heard in the Supreme Court in summer 2013 on the right to vote in European elections and the nearly 3,000 cases taken by prisoners for compensation, which were on hold pending implementation of the judgment.

The Labour Party supported the government’s approach. This was, according to Shadow Justice Spokesman, Sadiq Khan, ‘not a case of our Government failing to hold free or fair elections, or an issue of massive electoral fraud; it is a case of offenders, sent to prison by judges, being denied the right and the privilege of voting, as they are denied other rights and privileges’ (*Hansard*, HC Debates, 22 November 2012, vol. 553, col. 746–7). As a draft bill is published to enable consultation and pre-legislative scrutiny, it can take years to reach the statute books. This move by the government was seen by some commentators as an attempt to play for time with the ECtHR and the Council of Ministers of the Council of Europe (Rozenberg, 2012; Jenkins, 2012). Nevertheless, the UK government could legitimately argue that it had brought forward legislative proposals and it was now for parliament to decide.

While this bill was being considered, another case came before the UK Supreme Court when prisoners challenged their right to vote under EU law. This was rejected by the Supreme Court because it considered eligibility to vote under EU law as a matter for national parliaments. Lord Mance ruled that relevant EU treaties were concerned with ‘ensuring equal treatment between EU citizens residing in member states other than that of their nationality, and so safeguarding freedom of movement within the EU’. Lord Sumption echoed this: ‘In any democracy, the franchise will be determined by domestic laws which will define those entitled to vote in more or less inclusive terms.’ He believed that the Strasbourg court had ‘arrived at a very curious position’, concluding that ‘Wherever the threshold for imprisonment is placed, it seems to have been their view that there must always be some offences which are serious enough to warrant imprisonment but not serious enough to warrant disenfranchisement. Yet the basis of this view is nowhere articulated’ (*R (Chester) v Secretary of State for Justice and McGeoch v Lord President* [2013] UKSC 63).

Meanwhile, the Joint Select Committee on Draft Voting Eligibility (Prisoners) Bill began taking oral evidence in April 2013. At the opening session, chair of the committee, Nick Gibb MP, explained that ‘All the main parties in the UK, and the vast majority of Members of Parliament and the public, are opposed to allowing prisoners to vote’. However, the committee would ‘examine these issues in great depth, to form a view about the draft Bill and to consider how the public’s position on this issue can be squared with that of the European Court of Human Rights’.

The committee believed that the vote should ‘not be removed without good reason’, but argued that those guilty of ‘heinous crimes’ should be disenfranchised. After considering a range of evidence from a wide range of organisations and individuals (including this author), the majority report (with dissension from three members, including the chair) recommended enfranchising prisoners serving 12 months or less and that those with longer sentences should be entitled to apply for registration six months before their scheduled release date (Report of the Joint Committee on the Draft Voting Eligibility (Prisoners) Bill 2013, pp. 62–3). It recommended that a bill to this effect be presented to parliament during the 2014–15 session. However, with no mention of prisoner enfranchisement in the Queen’s Speech setting out the legislative agenda for the 2014–15 parliamentary session, it is unlikely that the bill, even if introduced, will pass all parliamentary stages in time for the next general election in 2015.

Penal policy, politics and enfranchisement

Despite their close proximity and similar legal and political traditions, the approach to prisoner enfranchisement was significantly different in the Republic of Ireland and the United Kingdom. This section will consider whether this indicates something deeper about levels of punitiveness, penal policy and the treatment of prisoners. While 'law and order' language may have become more punitive in the Republic of Ireland (Rogan, 2013; O'Donnell and O'Sullivan, 2003) in recent decades, this rhetoric had a greater impact on the discussions about prisoner enfranchisement and, more generally, prisoners' rights in the UK (Drake and Henley, 2014).

Other differences that influenced the debates were attitude to European influences, media interest and the political dynamic behind the issue. The courts in the Republic of Ireland and the United Kingdom were in agreement that prisoner disenfranchisement was a political rather than a legal matter, and should be left to legislators to decide. Therefore, to allow or deny prisoners access to the ballot box was, in both states, down to politics and policy.

Despite diverging in their approach to prisoner enfranchisement, the two states were similar in terms of imprisonment rates, treatment of prisoners, and conditions of confinement (Bell, 2013; Rogan, 2013). While it is recognised that using imprisonment rates to determine punitiveness is fraught with difficulty (Pease, 1994; Ruggiero and Ryan, 2013), the two states have experienced a similar upward trajectory in the numbers incarcerated in the past two decades. In England and Wales, the number increased from 45,817 (90 per 100,000) in 1992 to 84,977 (149 per 100,000) in 2014. The prison population in Northern Ireland, having dropped significantly in the wake of the prisoner releases under the Good Friday Agreement, is at a similar level to 1992. In Scotland, the number of prisoners increased from 5,257 (103 prisoners per 100,000) in 1992 to 7,797 (146 per 100,000) in 2014. Imprisonment rates went in a similar direction in the Republic of Ireland, rising from 2,185 (61 per 100,000) in 1992 to 4,104 (89 per 100,000) by 2014 (International Centre for Prison Studies, 2014).

Old, inadequate prison estate, overcrowding and poor conditions characterise the prison systems of England and Wales and the Republic of Ireland (Bell, 2013; Jesuit Centre for Faith and Justice (JCFJ), 2012). Despite enfranchisement, conditions in prisons in the Republic of

Ireland remained unchanged. The practice of ‘slopping out’, condemned regularly by both national and European reports (Committee for the Prevention of Torture, 2011; Inspector of Prisons, 2009a), was still in operation in the older prisons, with the ‘great majority’ who did not have access to proper toilet facilities having to share a cell (JCFJ, 2012, p. 29). While legislators concerned themselves with prisoner enfranchisement, prison rules dated from 1947;² the Inspector of Prisons, established in 2002, had yet to be put on a statutory footing; and prisoners had no access to the Ombudsman, or a designated Prisoner Ombudsman, which even the government-appointed Inspector of Prisons pointed out ‘seems to suggest a lacuna in the system’ (Inspector of Prisons, 2009b, p. 37). The UK had a more robust system of oversight and monitoring (Owers, 2006).

Plans have been announced to tackle some deficiencies in Irish prison oversight and to make improvements in the Irish prison estate – especially the ending of ‘slopping out’ in Ireland’s largest prison, Mountjoy. Nevertheless, the practice of ‘slopping out’ and overcrowding was still blighting the Irish penal landscape during this period of electoral reform. The lack of penal reform was cited by many prisoners as one of the reasons for abstaining from voting in the 2007 general election (Behan, 2012).

The Irish discussion about prisoner voting was intertwined with the debate around creating the ‘responsible’ prisoner. During the debates on enfranchisement, politicians were keen to stress that this legislation could be used to rehabilitate prisoners and encourage them to behave more responsibly and appreciate the implications of citizenship (Behan, 2012). In 2007, the Irish Prison Service (IPS) mission was to help ‘prisoners develop their sense of responsibility’ and to enable them ‘to return to live as a law abiding member of the wider community having reduced the risk to society of further offending’ (IPS, 2001, p. 34). Voting, it was hoped, would become part of the process of developing a pro-social, responsible identity.

However, policies that seek to encourage prisoners to behave responsibly are not confined to Ireland. The Council of Europe (2006, Rule 102) suggests that ‘the regime for prisoners shall be designed to enable them to lead a responsible and crime-free life’. The ‘rehabilitated’

² Ireland implemented new Prison Rules in 2007 (S.I. No. 252 of 2007).
www.irishstatutebook.ie/2007/en/si/0252.html

and 'responsible' prisoner has come into vogue in international prison policy and management (see Bosworth, 2007; Crewe, 2012; Garland, 2001). The concept of individual responsibility pervades prison management discourse internationally (Bosworth, 2007) and reflects the wider drive towards responsabilisation that is characteristic of attempts to respond to crime in late modern societies (Garland, 2001). It is also prevalent in attitudes to prisoners in the United Kingdom (Crewe, 2012). However, clouded in other political issues, the discussion in the UK did not get as far as discussing enfranchisement as a way of encouraging prisoners to behave responsibly.

The deliberations on prisoner enfranchisement revealed very different attitudes to European standards, conventions and institutions. In the Republic of Ireland, the discourse around 'Europe' was generally positive, emphasising European jurisprudence and human rights standards (see Griffin and O'Donnell, 2012) and the desire to locate Ireland in a progressive European setting. Indicating a much more positive tone towards the *Hirst* judgment, Dick Roche believed that there was 'an obligation under the European Convention of Human Rights and Fundamental Freedoms which guarantees the right to vote', and there 'is a moral responsibility on member states that if you sign the Charter, you abide by the Charter'. While recognising that Ireland's position was different from that of the UK, he thought it was 'better to deal with it at our pace, of our own volition than have a challenge to us in the Court of Human Rights' (interview with author, November 2007).

In the UK, discussion around European influences has been somewhat negative. The debate on prisoner enfranchisement has been framed primarily around powers and jurisdiction of 'Europe' and its institutions. Many politicians and commentators rather carelessly intermingled discussion about the Council of Europe and the European Union, either unaware or unconcerned that it was a Council of Europe rather than an EU court that ruled in *Hirst*. In the February 2011 backbench debate, Bernard Jenkin, Conservative MP, suggested that votes for prisoners 'was never an issue in the British prison system until the lawyers got hold of it through the European Convention on Human Rights, and to that extent it is completely irrelevant to the real issues that face our prison system and the prisoners in it' (*Hansard*, HC Debates, 10 February 2011, vol. 523, col. 494). While David Cameron personally believed that prisoners should lose the right to vote, 'it should be a matter

for Parliament to decide, not a foreign court' (*Hansard*, HC Debates, 23 May 2012, vol. 545, col. 1127).

Combined with the hostility towards what was deemed European interference was an argument that this was a case of judicial activism. One Conservative MP believed that prisoner voting was 'fabricated by judicial innovation contrary to the express terms of the ECHR' by the 'Strasbourg Court' (Rabb, 2011, p. xiii). He believed that the UK government should inform the ECtHR that it 'cannot – rather than it will not – enact legislation to give prisoners the vote, in light of the contrary express will of parliament' (Rabb, 2011, p. 31; emphasis in original). During a previous parliamentary debate, the Conservative peer Lord Tebbit railed against 'judicial imperialism, to which we are becoming accustomed'. He argued that the British people through 'the Parliament of this Kingdom has not yet been invited to give its view on this matter' (*Hansard*, HL Debates, 20 April 2009, vol. 709, col. 1248). As Yasmin Qureshi MP pointed out, the debate began about whether prisoners should have the right to vote, 'but it seems to have been turned into an opportunity to bash the European Court of Human Rights' (*Hansard*, HC Debates, 10 February 2011, vol. 523, col. 535).

Politicians in the UK claimed to be following the public mood in resisting enfranchisement, perhaps reflecting a more embedded 'populist punitiveness', which conveys 'the notion of politicians tapping into, and using for their purposes, what they believe to be the public's generally punitive stance' (Bottoms, 1995, p. 40). In October 2005, in the wake of the *Hirst* judgment, the *Manchester Evening News* found that 74% of respondents in its poll were against giving prisoners the right to vote (Easton, 2011, p. 220). Five years later, 76% of respondents believed that prisoners should not be allowed to vote. Only 17% believed that they should retain the right to exercise their franchise (YouGov/The Sun, 2010).

In another sign of widespread political rejection of *Hirst*, the Scottish parliament in preparation for the referendum on independence in 2014 passed the Scottish Independence (Referendum) Bill, which included a clause banning convicted prisoners from voting. The Scottish government relied on legal advice that Article 3 of Protocol No. 1 of the ECHR applied only to elections, not to referenda. The Scottish National Party, as it made much of its desire to widen the franchise to include 16- and 17-year-olds, sought to limit voting eligibility with the exclusion of

prisoners: Deputy First Minister Nicola Sturgeon argued that the government was ‘not persuaded’ of the case for allowing convicted prisoners to vote (cited in Robertson, 2013, p. 44).

The lack of media interest in the Republic of Ireland (even in Irish editions of UK tabloids) is in stark contrast to much of the comment in the tabloid press in the UK (Behan and O’Donnell, 2008, p. 328). In the latter, the debate was constructed around the argument that giving prisoners the right to vote would be an attack on victims’ rights, with many papers coming out against prisoners’ access to the franchise (Drake and Henley, 2014). In reporting the launch of the second consultation process in 2009, the *Daily Express* in an outraged front page article suggested: ‘Europe Says: Give Votes to Convicts’ (Milland, 2009). It reported that: ‘Thousands of rapists, killers and paedophiles will get the right to vote after ministers caved in to pressure from Europe.’ This was the perfect storm of a story for some sections of the media, combining the ‘law and order’ issue with European interference and judicial activism.

In the Republic of Ireland, in contrast to most other jurisdictions, prisoner enfranchisement was framed as an electoral rather than a penal reform issue. During the early years of the twenty-first century, the Irish government proclaimed its desire to create a more progressive electoral system, and voting for prisoners was one such measure, along with a much criticised and subsequently abandoned introduction of electronic voting. Mary Rogan (2013, p. 106) has argued that ‘it is difficult to state what precisely is the particular ideology – or political or penal philosophy – driving change within Irish penal policy’. She suggests that a ‘confluence of factors must be examined’ and ‘individual ministers and civil servants have enormous influence’. Although it is not a criminal justice measure, the role of the minister in charge of the franchise had a considerable bearing. Dick Roche professed himself personally committed to, and publicly extolled, electoral reform. As a former Chairman of the Irish Commission for Justice and Peace, he believed that prisoner enfranchisement was ‘intrinsically the right thing’. He thought that ‘every citizen has the right to vote, even citizens that found themselves locked up’. So at minimal cost, with no political and media opposition, and an eye to Europe, Dick Roche believed it was ‘one of those serendipitous moments’ and concluded: ‘it just struck me that we had an opportunity to introduce this and the sky didn’t fall down’ (interview with author, November 2007).

Conclusion

While the debates on the introduction of legislation to allow prisoners to vote in the Republic of Ireland made reference to the international situation, the impetus for reform was more complex and local. In contrast to many other jurisdictions, where ‘disenfranchisement is a punitive sanction’ (Uggen *et al.*, 2012, p. 64), the Republic of Ireland had legislation specifically setting out the practicalities of registration, making enfranchisement easier to legislate for rather than having to repeal other legislation. With no political or media opposition and at little cost, this eased the passage of legislation and did not need to use up any political capital.

In an attempt perhaps to avoid possible political fallout, those who introduced the legislation reminded prisoners of their responsibilities and the obligations of citizenship, while reassuring the general public of their abhorrence of crime. This short piece of enabling legislation allowed a measure that has been controversial in many other jurisdictions to be passed relatively unnoticed in political or public discourse. In contrast, prisoner enfranchisement in the United Kingdom has been intertwined in the wider discourse around European influence, judicial activism and a zero-sum dichotomy between prisoners’ and victims’ rights. Politicians both used and played to media hostility towards ‘European interference’. At the time of writing, the debate is ongoing and perhaps the UK government will introduce legislation to allow some prisoners to vote, not because it wants to, but rather to remain uncensured within the Council of Europe or to avoid the potential of compensation for prisoners.

Despite similarities in legal and political traditions, the Republic of Ireland and the United Kingdom have taken very different approaches to prisoner enfranchisement. Rising levels of imprisonment and conditions of confinement were somewhat similar in the two states. Nevertheless, even with enfranchisement, penal policy remained unchanged in the Republic of Ireland. More than revealing differences in penal policy or approaches to criminal justice, the deliberations on prisoner enfranchisement indicated significant distinctions in the role of the media and a marked divergence in attitudes to European influences, judicial activism and parliamentary sovereignty among governments and legislatures in the Republic of Ireland and United Kingdom. These issues, along with those concerning penal and criminal justice policies, may help us understand why legislators in the Republic of Ireland

embraced prisoner enfranchisement and their counterparts in the United Kingdom continue to resist enfranchisement of its confined citizens.

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The Lived Experiences of Men in 12-Step Recovery against a Backdrop of Hegemonic Masculinity

David Dwyer*

Summary: Hegemonic masculinity is a theoretical construct within sociology and represents socially constructed conceptions of dominant masculinity. Much of the sociological literature links aspects of this form of masculinity to men's poor health status, including a range of societal ills such as substance abuse. 12-step recovery is a widely endorsed model of addiction recovery which is based on spiritual principles. The features of hegemonic masculinity and 12-step recovery appear to be at odds with each other. This paper is based on the findings of a small qualitative study exploring the lived experiences of six men in 12-step recovery against a backdrop of hegemonic masculinity. The findings show how the active construction of hegemonic masculinity evolved throughout the life course of the men. A central theme to emerge is one of old and new formations of identity. Additionally, hegemonic masculinity interacts in a number of ways with the men's recovery.

Keywords: Hegemonic masculinity, identity, social class, addiction, alcohol, drugs, 12-step recovery, men's health, social constructions, status, change, crime, offending, desistance.

Introduction

A report carried out by the European Commission (2011) on the state of men's health in Europe identified substance abuse among men and social constructions of masculinity as a crucial area for academic exploration. The *National Men's Health Policy 2008–2013* suggests that 'it is crucially important to consider how men actively construct beliefs, attitudes and behaviours that can impact on their health' (Department of Health and Children, 2008, p. 23). It is within this social constructionist perspective that this paper is situated.

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The paper presents the findings of a small study which explored the experiences of men in 12-step recovery against the backdrop of hegemonic masculinity. The main aim of the study was to analyse how hegemonic masculinity interacts with 12-step recovery. The qualitative study involved in-depth interviews with six participants. The first section gives the background to the concept of hegemonic masculinity and the context within which it is used in this study. The literature is outlined briefly, taking account of issues such as social class, identity, men's health, 12-step recovery and how 12-step recovery may conflict with dominant masculinity ideology. The methodology is then briefly discussed. The final section presents the findings, discussion and conclusion.

Background

The development of the sociology of masculinity has been forced to confront many powerful myths, including the notion that gender is destiny (Whitehead, 2002). Throughout the 1980s a number of empirical studies gave rise to the concept of hegemonic masculinity (Connell and Messerschmidt, 2005). Among these was a study of social inequality in Australian high schools which provided empirical evidence of multiple hierarchical constructions of masculinity (Kessler *et al.*, 1982). Such studies undermined the dominant sex-role theory of that time, which implied two fixed, static and mutually exclusive roles of men and women (Courtenay, 2000).

According to Hatty (2000), hegemonic masculinity is the dominant model of masculinity within the gender hierarchy. The term was first coined by R.W. Connell in *Gender and Power: Society, the Person and Sexual Politics* in reference to the acquirement of power through private life and cultural processes (Connell, 1987). Connell broadened the concept in *Masculinities* (1995), where it is described as the gendered practice of legitimising patriarchy, which guarantees the dominant position of men and the subordination of women (Connell, 1995, p. 77).

Connell emphasises three elements that characterise hegemonic masculinity: toughness and competitiveness; the subordination of women; and the marginalisation of gay men (Connell, 1987). It is argued that this model of masculinity becomes hegemonic when a culture accepts and honours it and when this acceptance reinforces this gender ideology into the culture (Hatty, 2000). Consequently, hegemonic masculinity

perpetuates the unequal relations of economic, social, judicial and political power of men over women and also between different groups of men (Connell and Messerschmidt, 2005; Dover 2005; Bhana 2005). Regardless of whether or not individual men achieve the ideal-type masculinity, Connell (1995) suggests that the majority of men support it because of the patriarchal dividend of honour, prestige and control derived from the subordination of women.

One of the strengths of hegemonic masculinity as a theoretical tool, according to Hearn (2007), lies in its ability to describe layers of multiple masculinities at the structural level. However, Hearn further asserts that it does little to account for the variety of dominant masculinities that exist beneath this umbrella term, and indeed the complexities between them (Hearn, 2007). Whitehead (2002) argues that Connell's hegemonic masculinity fails to incorporate agency and highlights the need for analysis of everyday social interaction of people's gendered being. This argument is reinforced by Howson (2005), who calls for the hegemonic form to have more interaction and negotiation with other masculinities rather than being seen in purely dominative terms.

In their seminal text on masculinities, Connell and Messerschmidt (2005) assess a number of criticisms of the concept of hegemonic masculinity. In short, they suggest that hegemonic masculinities can be constructed that do not correspond closely to the lives of any actual men; rather, the concept serves to express widespread ideals, fantasies and desires.

Contextualising hegemonic masculinity

In further developing the concept, Trujilo (1991) sets out five particular dimensions of hegemonic masculinity within western society. These are physical force and control, occupational achievement, familial patriarchy, frontiersmanship and heterosexuality. Trujilo outlines how masculinity becomes hegemonic when defined through each of these features, which are summarised below.

Masculinity becomes hegemonic through physical force and control as this is one of the main ways in which the superiority of men becomes 'naturalised' and in this way the male body comes to represent power, control, toughness, force and domination. Defined through occupational achievement, masculinity becomes hegemonic when it contributes to the division of labour based on gender, thus ascribing masculine status to 'men's work' as opposed to 'women's work'.

Through patriarchy, masculinity can be seen as hegemonic through the institutionalisation of male dominance over women and children, not only in the family but also in society in general. The frontiersman represents the daring and romantic figure, the archetypal white cowboy with working-class values exploited and reproduced in advertising, film and literature. Finally, masculinity is hegemonic when heterosexually defined. This requires having only social relationships with men and primarily sexual relationships with women. By extension, it requires not being effeminate in appearance or mannerisms, not having associations with men that are overly intimate, and not failing in sexual relationships with women (Trujilo, 1991).

Similarly to Howson's critique above, Kupers (2005) highlights the integrative and harmonious dimensions in social roles, albeit without subscribing to any essentialist viewpoint. While acknowledging the positive aspects of male socialisation such as relational duty and obligation to society, the current study is concerned with the negative effects of dominant masculinity ideology on men. Kupers (2005) suggests that the efforts of subordinated masculinities aimed at establishing a respectable dominant masculinity often lead to many men living outside of society's rules and norms. Likewise, Courtenay (2000) alludes to subordinated masculinities often compensating their masculinity in destructive ways, in some cases leading to alcohol and drug abuse. In this sense, the concept of hegemonic masculinity as it is deployed in this study refers to how it can negatively impact on men's lives and how it interacts with 12-step recovery. The literature reviewed illustrates how the five dimensions outlined by Trujilo can play out in a negative way.

Hegemonic masculinity and social class

The allure of attaining social approval through hegemonic masculinity is especially strong among young working-class men, to whom access to power is often denied by their socioeconomic status (Evans and Wallace, 2008). A poor, jobless youth may compensate his manhood with displays of sexist banter, gangland activity or drug use to assert masculinity and enhance status (Karp, 2010).

Research into masculinity construction between working class male drug users in Liverpool revealed that efforts to reaffirm masculinity formed the basis for drug use and associated risk behaviours (Stanistreet, 2005). Groes-Green (2009) carried out research on hegemonic and

subordinated masculinities with 500 young men and women in South Africa. This study illustrated how participants from poor backgrounds, in the absence of work, status and money yet still strongly influenced by the familial breadwinner ideal, actively reasserted their masculinity through bodily powers such as sexual performance. These draw comparisons to the research of Scheff and Retzinger (2001) on shame. These authors highlighted the connection between emotions and social structures. They proposed pride as corresponding to secure bonds and social solidarity while placing shame as corresponding to threatened bonds and alienation (Scheff and Retzinger, 2001).

Notwithstanding McCullagh's (2007) assertion that it is mainly the crimes of working-class groups that are policed and punished, Levant (1997) argues that attributes of dominant masculinity ideology leave working-class men overly represented among prison populations. Levant further suggests that many of these men are substance abusers and experience stress-related illnesses. The examples cited here represent occupational achievement, familial patriarchy, the acquirement of power and the frontiersman figure living outside society's boundaries.

Hegemonic masculinity and identity

According to Bowker (1998), performing a masculinity that sits on top of the pile often involves violence and threat. It has been suggested that some men overly associate masculine identity with the external aspects of performance such as physical size, ability to fight, power and dominance, characterised as 'hardness' (Frosh *et al.*, 2002, p. 12).

This macho identity is one contributing factor to the detriment of men's wellbeing, as it creates emotional and psychological isolation (Scase, 1999). Irvine and Klocke suggest that failure in any sense leaves men feeling excluded from the category of men. As they succinctly put it, 'when men fail, they fail alone' (Irvine and Klocke, 2001, p. 34). These are examples of control and force displayed through the physical male body, a fundamental attribute of hegemonic masculinity.

Hegemonic masculinity and men's health

Gender has a crucial bearing on men's health, in that how men perceive themselves as masculine impacts on the management of their health

(Department of Health and Children, 2008). Men may avoid seeking help when they are unwell so as to escape the risk of being labelled feminine. Indeed, health-related problems pose such a threat to masculine identity that many men choose to remain stoic and to self-care, resulting in the use of alcohol and drugs, which are perceived as more masculine ways of coping (Department of Health and Children, 2008).

In a study of men's health, Tannenbaum and Frank (2011) found that many men pay the price for suppressing emotions and vulnerability in their efforts to subscribe to the masculine ideal. Further, the negative effects on their health and wellbeing far exceed any social advantage they may gain from the so-called patriarchal dividend. Similar results were found in an Irish study exploring men's heterosexual relations within the framework of hegemonic masculinity. Here it was revealed that just beneath the social construction that compels men into outward displays of hegemonic masculinity lie anxiety and insecurity (Hyde *et al.*, 2009). The playing out of heterosexuality through the denial of emotions and femininity is clearly seen. By extension, the decision not to seek help exhibits control and emphasises hegemonic masculinity.

12-step recovery

12-Step Programmes (TSPs) emphasise the spiritual nature of change and recovery as a continuous process and as a way of life (Tangenberg, 2001). Invariably, the steps suggest accepting powerlessness over one's addiction rather than denying it, accepting the inability to manage one's life alone, faith in a higher power, daily personal inventories and, in time, the willingness to help others along this path (Tangenberg, 2001). Farrell *et al.* (2005) see it simply as confession, restitution, reconstructing relationships with people and an injunction to help other addicts. A central component in TSP is the perception of addiction as a chronic disease, and recovery therefore as ongoing and unending (Ronel, 2000; White and Kurtz, 2005). This indicates that 12-step recovery needs to become a way of life rather than seen as 12 sequential steps to the point of being cured (Kurtz, 1982).

Regular 12-step meetings are an integral part of 12-step recovery, helping to maintain and reinforce one's recovery after initial treatment (Ronel *et al.*, 2010). They further serve to provide a sense of belonging

and community between recovering addicts (White, 2007). Such fellowships sustain recovery through fostering and embedding 12-step principles in the lives of members (Ronel *et al.*, 2010).

The strength of 12-step recovery is reflected through the efforts of behavioural health professionals in developing a series of parallel therapeutic approaches that maintain a consistency with the 12 steps (Moore, 2010). Treatment for problem substance use in Ireland is provided by statutory and non-statutory services, including residential centres, community-based addiction services and general practices (Health Research Board, 2011).

In this jurisdiction, the Minnesota Model is firmly established within treatment options for those seeking help from addiction. Treatment centres working under this model provide in-house workshops, lectures and individual written tasks with the aim that residents gain a deep understanding and embrace the 12 steps (Moore, 2010). Furthermore, 12-step self-help groups such as Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) are well established on the island of Ireland. A comprehensive examination of the origins and place of AA in Ireland is provided by Butler (2010), who traces AA's path from its first meeting in Ireland in 1946 (also the first in Europe) to its current role as an important institution in supporting recovering alcoholics.

12-step recovery and masculinity

According to Clark (2006), 12-step recovery is a suggested pathway for ongoing recovery, of which the essence is a changed lifestyle including a gradual spiritual renewal and altering of behaviours and attitudes. The emphasis on spirituality is important as it forms the basis for 12-step recovery (Narcotics Anonymous, 2008). Yet the prevailing mode of dominant masculinity holds much sway in shaping men's lives, almost reconfiguring what it means to be human (Bendelow and Williams, 2005). Moreover, Elkins (1995) maintains that dominant masculinity, with its emphasis on the external, has for many men rendered an inward spiritual journey off limits.

12-step recovery is characterised by conceding power and control over one's addiction (steps 1, 2, 3 and 11) and a deep sense of humility (4, 5, 6, 7, 8, 9, 10 and 12) (Travis, 2009). As Seidler (2007) acknowledges, humility can be a difficult emotion for men who are conditioned to believe that they ought to know best. Indeed, 12-step recovery would

appear to be at odds with that which characterises dominant masculinity. Nowhere is this more evident than in the first step, where recovering addicts need to admit powerlessness over addiction and the unmanageability of one's life (Narcotics Anonymous, 2008).

It has been suggested by Griffin (2009) that men in recovery are expected to communicate in ways that are possibly neither familiar nor comfortable. According to Griffin, the 12-step community are reluctant to discuss the freedom of expression for men inherent in the philosophy of the 12 steps. While members are not pressured into talking at NA/AA meetings, a study by Weiss (1996) indicates that merely attending rather than actively participating yields less successful abstinence.

White and Hagen (2005) suggest that recovery involves a reconstruction of personal identity and a reconstruction of one's relationship with the world. It may be assumed, having reviewed the literature, that men in recovery are effectively recovering against social constructions of masculinity as well as addiction. However, it could be that they are only aware of the challenge of addiction, as their gendered dispositions are, according to Lynch *et al.* (2009), learned reflexively and habitually, thereby feeling natural and inevitable. It could therefore be argued that 12-step recovery is in some ways, albeit implicitly, a process of transition from hegemonic masculinity.

The study

The focus of the study is to explore the lived experiences of men in 12-step recovery against the backdrop of hegemonic masculinity. The main aim of the study is to explore how hegemonic masculinity interacts with 12-step recovery. It firstly seeks to establish the role that the construction of hegemonic masculinity may have played in the participant's lived experiences. It then aims to highlight how this mode of masculinity impacts on recovery. For instance, does it create barriers to 12-step recovery, as some of the literature suggests? The next section of this paper outlines in brief the methodology employed by the study.

Whitehead (2002) suggests that a qualitative approach is the most effective method when attempting to understand masculinity within a social and cultural context. Purposive sampling was chosen for this study. Study participants needed to be male and in 12-step recovery from substance addiction.

In the literature, the influence of socioeconomic status on how men constructed masculinity appeared substantial throughout. Therefore, a

sample of recovering male addicts from differing socioeconomic backgrounds seemed worthy of inclusion in this study. A residential addiction treatment centre based on 12-step recovery was chosen as the research site to recruit participants. Ethical approval for the study was achieved through the ethics committee at Waterford Institute of Technology.

Creswell (2003) refers to someone who has insider status within the research site and through whom access can be gained as a 'gatekeeper'. Given that the researcher at the time was a part-time employee of the study site, access was more straightforward. In the first instance I explored whether it would be possible in principle to gain access to carry out the research (Devers and Frankel, 2000).

Once permission had been secured in principle, a formal letter describing the research, its possible benefits and a description of the sample criteria was submitted and agreed upon by the manager. At this stage some exclusion issues were discussed, and it was decided that only ex-residents who had managed to remain abstinent would be approached for inclusion. One of the strengths of the treatment centre is its policy of actively remaining in touch as a support mechanism for ex-residents. Therefore the task of recruiting participants was left with the gatekeeper, given his knowledge of ex-residents in terms of their accessibility, characteristics and general wellbeing.

This process basically consisted of the gatekeeper contacting ex-residents who fitted the sample criteria and making them aware of the research. This was the only involvement the gatekeeper had, and after this it was left to the participants to come forward voluntarily. When they did so, the study was explained again and it was stated that participation was completely voluntary, and should they participate they could withdraw at any time and without explanation. Informed consent was achieved at this point.

Six participants, listed here with pseudonyms, aged between 24 and 33 were recruited for this study. Two were from high socioeconomic backgrounds, measured by their completion of third-level education and their immediate family's high occupational achievement: Frank, 31, from Meath, and Pat, 30, from Kerry. Four were from low socioeconomic backgrounds, measured by low educational achievement and long-term unemployment of both the participants and their immediate families: Nathan, Wexford, 24; Simon, Limerick, 33; Peter, Louth, 29; Kevin, Dublin, 27. The period of time in recovery across the various participants

ranged from one to five years. In-depth interviews were chosen as a means of data collection for this research.

All interviews for this study took place in the relatively safe environment of the residential addiction treatment centre, with which all participants were both familiar and comfortable. The study was structured by a thematic interview guide relevant to the research question (May, 2001). The questions focused on the participants' views of what it means to be a man, their experiences of growing up as a man, their history of addiction, their experiences of recovery thus far, and what it is like for a man in recovery.

The interviews were all recorded and transcribed in full. Interviews ranged in duration from 50 to 85 minutes. Descriptive and pattern coding was used to analyse transcripts. Three broad interrelated themes emerged: Hegemonic Masculinity; Identity; Recovery and Masculinity.

Findings

Hegemonic masculinity: Constructing crests of manhood

The emphasis on male role models was prominent across the interviews. Role model influence appears to have served as an ideal against which to measure oneself as a man. The findings show that the ideals internalised by the men in this study were some of the essential elements underpinning hegemonic masculinity, such as competitiveness, invulnerability, material success and power.

my father told me that I had to get a man's job, I went for business but I loved art, I was told that men don't cry, don't show emotions and always show yourself to be hard ... he was the only one I could refer to as being a man so I latched onto it. (Nathan)

where I grew up there was always drugs and crime, people looked up to them, they were top men. There was one guy who I had as my idol ... he was the main man ... I wanted to be like that. (Simon)

There was also evidence of socioeconomic conditions impacting on the construction of hegemonic masculinity. Closely linked to this is the role of education. For some, education stands out as a means of achieving a socially accepted masculinity, while for others education is overlooked in such efforts:

I got my degree, I had my own business and house when I finished college so that people could see that as a man I was a success. I never portrayed being the hard man: for me it was smart and clever which defined a real man. (Pat)

I was always bullied and that was it for me in school ... I just didn't see the importance of education ... I was busy fighting and being funny to fit in with the cool guys so I'd be seen as a man and wouldn't be bullied. (Peter)

Data from research respondents also supports the idea that the construction of masculinity, in this instance through criminal activities, is an ongoing activity as opposed to something that is ultimately secured.

I was 10 when I began smoking hash, I was the first in my group to do it and that made me the top man, then at 14 I had to do the same by taking Es, I got something from that, the drugs became like 'crests of manhood'. (Simon)

When it came to drugs it was all lads older than me, I used to be pretending 'cos I was too afraid of drugs, then I eventually started taking drugs and it was all about being the bravest man, you know. (Kevin)

I started dealing drugs proper then I got respect and the ego kicked in and then when I started selling drugs lads who had bullied me began to fear me and I started going up a ladder of ... a ladder of social status as I saw it, with, eh, the likes of [named prominent criminal figure] at the top of it and I was moving me way up there so I was looking down at the lads who had bullied me a year or two ago. (Peter)

Identity and transition

A central finding was a narrative of the transition between old and new identity. 'Yeah well, like, I definitely think my life is in two parts like, in recovery and pre-recovery' (Kevin). The literal use of terms across all transcripts highlights these old and new identities, such as 'looking back', 'the old me', 'back then', 'that was then, this is now'. There is also evidence of change in masculine identity, which highlights the transition from hegemonic norms towards a more open and spiritual masculine identity:

you just wouldn't go around talking about stuff back then, some of my friends died at 15 and 16 from heroin so I was afraid of it but I'd have a bag of it like a crutch when emotions were too much ... better than being seen as

a weak man talking about them, now I have freedom to be soft and I can say how I am, I like that. (Kevin)

in recovery everything has changed, before I'd never reveal feelings or vulnerabilities, for me to go into a meeting and reveal how I might be struggling in front of 30 people when I couldn't tell my mates of 20 years, now that's big change, I would've seen that stuff as being weak and girly. (Pat)

A clear theme that emerged from the participants' accounts was the transition they experienced from viewing themselves as being outside of society to a sense of belonging within it. This change appears to run alongside the easing of hegemonic traits and may be seen as a move towards a more interrelational state of being.

I didn't feel part of the family, I took on the outsider identity and I withdrew from society; the drugs helped me escape from the world, now I am one of those people in society doing normal things, going to work every day. (Nathan)

I was taking coke in school and was asked to leave, then I was asked to leave home, I was excommunicated from my family. I had the opportunities others had but I couldn't manage life, I didn't feel part of it; now I'm in it, I'm part of life, I'm living that type of normal way which as a man I feel I ought to be. (Frank)

Recovery and masculinity

Insights from the interviews also suggest that hegemonic masculinity interacts with recovery in a number of ways. Firstly, hegemonic masculinity has been drawn upon and served as a motivational mechanism in the lives of the men in this study as a means to enter recovery in the first instance.

My last year of addiction, I had no control and no structure, I knew I was fucked when I had to admit defeat because that meant I had lost control. My long-term plan is to get that manly control of my life; this recovery thing will give me direction. (Peter)

My last session, the come-down lasted days; it was a bad time but I saw my life and it had nothing ... no car, no job, no bird, no money. I had no control over my life so I headed for treatment to take back control. (Kevin)

Secondly, traditional conceptions of masculine norms appeared to create conflict for participants in the maintenance of their recovery.

I like to bake and cook and I take drama classes, it's therapeutic for me; if I was seen back in my own city with an apron and recipe book they would all think I was gay. (Simon)

Growing up, you were told never to talk about how you're feeling. I do find the meetings difficult; I get a lot of anxiety in them. (Peter)

I found the sharing in meetings, all the dealing with emotions and weaknesses very hard, 'cos that to me was revealing me as a soft person, I just wasn't able to take on recovery and spiritual principles; in my mind you had to have a career and be a success. (Frank)

Thirdly, when taken as a whole, the recovery culture appears to act as a safe environment to navigate and overcome these conflicts. The self-reflective nature of 12-step recovery provides an environment which in essence allows for new conceptions of masculinity to unfold:

Being in recovery, like whoever is around you will definitely shape you, and like now I am surrounded by people in recovery who are far more open and I don't feel so bad for trying to be more open. (Pat)

The first step was difficult, I never seen myself as powerless over anything let alone drugs ... I couldn't admit that; as a man you need to be in control but I listened to other men in recovery and that kind of made it easier to admit powerlessness over drugs. (Nathan)

Discussion

Male role models appeared to be a strong issue for the men in this study in setting in motion an ideal against which to measure oneself in terms of being a man. The notion of a masculine ideal was common across all of the participants' conceptions of being male. This sits well with Connell's

(1995) notion of a hegemonic ideal, in that the men in this study seem consciously aware of measuring themselves against such an ideal. One of the participants referred to his social environment as endorsing the dominant behaviours of a certain group of men within that environment, thereby creating its own version of hegemonic masculinity.

The impact of socioeconomic status on masculinity features throughout the literature, particularly in the research of Evans and Wallace (2008). The results from the current research appear to fit comfortably with their findings. For instance, and similar also to the findings of Karp (2010), the allure of attaining hegemonic masculinity for a number of men in this study has been satisfied through criminal activities associated with gangs and illegal drugs.

This route offered them the opportunities to attain power, status and, perhaps more importantly, to be seen by others as being in possession of such hegemonic traits. Similar to Kupers (2005), Kimmel (1994) and Connell (1987), further embodiment of the masculine ideal can be seen throughout the narratives by the rejection of that which is deemed feminine and/or stereotypical notions of being gay. Here, an element of fear was attached to ownership of gentler traits such as emotional expression; the heterosexual dimension of hegemonic masculinity was thus acted out.

Many of the men in the study seem acutely aware that their old identity may still be assigned to them if and when they decide to return to their old environments. The findings also illustrate how the men in this study have made, or are in, a transition from viewing themselves as outside of society to holding a firm place within it. It is worth bearing in mind Kupers' (2005) work which highlights men relying on destructive and illegal means to achieve hegemonic masculinity, thus living 'outside' societal norms. It does not take much effort to see the link between being 'outside' society in this way and the frontiersman figure living in a risk environment where rules are blurred.

Concern for physical and mental health was notable by its absence from the participants' accounts. This reflects Courtenay (2000) in highlighting that such health issues carry the potential risk of reducing masculine status, again emphasising the opposition to effeminate traits. Similarly, Seidler's (2007) reference to concealing vulnerabilities so as to maintain a credible masculinity seems to have applied to the men in this study during their addictive lifestyles; for instance, concealing fears and anxieties. Indeed, the loss of hegemonic traits such as control and power

provided the motivation for recovery above issues of health, whether physical or mental. Additionally, Stanistreet's (2005) findings relating to efforts at establishing masculinity as a basis for drug use and associated risk behaviours bear resemblance to some of the participants' accounts here.

Throughout the interviews the use of illegal substances was shown primarily as a means of achieving and maintaining masculine status. This reflects Levant's (1997) finding that attributes of hegemonic masculine ideology see working-class men overly represented in substance abuse figures and prison numbers.

All of the men in this study had engaged in criminal lifestyles, some more than others. In tandem with their recovery, the men had achieved crime-free lifestyles. The conflict comes from striving for new ways of being against years of masculine socialisation to a point where, as Lynch *et al.* (2009) and Kimmel (1997) suggest, it feels natural and inevitable. This transition mirrors the findings of White and Hagen (2005), who maintain that 12-step recovery is essentially a reconstruction of personal identity and of one's relationship with the world.

From the past perspective of the 'old me', hegemonic masculinity provided a focal point, albeit a constantly shifting one, for the men here to work towards. The opposite of this represents the perspective of 'the present me', in that the dominant masculine ideal serves as a focal point to move away from. While the main focus here is on masculinity and 12-step recovery, the presence of criminal activity is substantial throughout. The narrative change outlined in this study may have implications for the field of desistance.

According to Maruna (2001), narrative is a crucial element in desistance and is linked to promoting positive emotional responses in the lives of offenders. Moreover, it is argued that maintaining desistance depends largely on forging a new identity, beliefs and value system incompatible with offending behaviour (Maruna, 2001). While 12-step recovery and desistance seem to have considerable overlap (see for example Marsh, 2011), it is not too far a stretch to see the role that hegemonic masculinity may play in the new life script advocated by Maruna (2001) in the desistance literature.

Supporting this view, Carlsson (2013) suggests that men 'do' masculinity and that this needs to be considered when one is attempting to understand persistence and desistance. The current study links to the work of Sampson and Laub (1997), who describe the process of

marginalisation from the institutional fabric of society resulting in offenders persisting in criminal activities in order to reproduce themselves as men over and over. The participants in this study had successfully managed to maintain abstinence and desistance while supported in a therapeutic environment. Future studies might focus on those who relapse into active addiction and crime, and explore the possible role that hegemonic ideology may play.

Conclusion

The research has shed light on the varying ways and means by which these men have adapted to their recovery despite having exhibited many of the negative hegemonic traits referred to throughout the literature. In terms of masculinity, it revealed evidence of the internalisation and the active construction of hegemonic masculinity among the participants. It showed how early conceptions of masculinity may have been influenced by significant others who portrayed the dominant masculine ideal. This internalised ideal served as a template to pursue and adhere to over the life course in securing an accepted masculine identity.

Recovery represents a crossroads in the lives of the men in this study. The complex nature of hegemonic masculinity can be seen clearly through the lens of recovery. In one sense, it played a significant role in addiction. It further provided the impetus to seek help for their addiction, not from concern regarding health but rather because of a loss of hegemonic control, self-reliance and material accumulation. Once in recovery, the norms of dominant masculinity created conflict for the men within the recovery process. This appears to be a conflict that is played out in the lives of these men and is defined by old and new conceptions of self. The recovery process, however, is buttressed by the collective culture of recovery, thus creating and maintaining its own construction of masculinity and producing a less rigid and restrictive environment. This point is illuminated by the insistence of the participants on remaining in close proximity to the recovery community, seemingly aware of the old masculine identity that awaits them where earlier manifestations of the hegemonic norm were formed.

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Memorandum Re: Women and Girls Who Come before the Central Criminal Court on Serious Charges – And Other Relevant Matters

E.M. Carroll*

Summary: In this paper, a memorandum written in July 1941, the author provides her own analysis of female offending, particularly infanticide, at the time and how it was addressed in the criminal justice system in Ireland. The author examines issues in social attitudes as well as the treatment, aftercare and resettlement of female offenders. She makes proposals for changes in approach, probation supervision and more effective interventions in the interests of the young female offenders and the community in general.

Keywords: Ireland, female offenders, offending, infanticide, sentencing, imprisonment, detention, Borstal, aftercare, Industrial Schools, Magdalen Asylum, institutions, treatment, education, training, probation supervision.

Background and introduction

This paper is a memorandum submitted by Evelyn (Leila) Carroll, Probation Officer to the Department of Justice in July 1941. It was found in the archives of the Department of Justice and Equality and is published here with the permission of the department. There is no record of a response to the memorandum.

Evelyn Carroll was born in Kiltteely, Co. Limerick in 1897. In a career that included poultry keeping, managing a boarding house, working as a journalist and sub-editor at the (Catholic) Standard in Dublin and studying Social Service in Holland during 1935, Evelyn Carroll was appointed as a female Probation Officer in the Dublin Metropolitan Area following one of the first

* Evelyn Carroll was a Probation Officer in the Dublin Metropolitan Courts and the Adoption Board between 1938 and 1969.

Civil Service Commission competitions for the appointment of Probation Officers.

Evelyn Carroll was a strong-willed person with a firm sense of purpose and commitment to social justice. During the 1930s she was an active member of the Legion of Mary and a member of its central council. At the same time she contributed news reports and articles to Catholic newspapers in Great Britain and America.

As a Probation Officer, Evelyn Carroll was professional, authoritative and highly regarded from early in her career. On 28 June 1944, the President of the High Court, Mr Justice Conor Maguire made the following statement at the close of an infanticide case in the Central Criminal Court.¹

I would like to take the opportunity of saying how much I, and all the Judges of the trials in this court, appreciate the assistance we get from Miss O'Carroll [sic]... Judges do require investigation by an officer of her experience and sympathy and I feel that in assisting me and the other Judges she is rendering a great service to the community. It would be useless, in dealing with this type of case in these Courts, but for the fact that Miss O'Carroll [sic] investigated the circumstances. She is a person who is able from her long experience, tact and understanding to enable me to feel some degree of certainty as to the attitude of mind of these persons and to decide on the appropriate course of action to take in dealing with them.

Counsel for the Attorney-General and other parties in the case endorsed the President's comments.

In July 1953 Evelyn Carroll was assigned, on loan, to the newly established Adoption Board as Investigations Officer, where she remained until her retirement in 1969. She had been due to retire in November 1962 on reaching the age of 65 years but, on grounds of hardship (she had minimal pension entitlements, as Probation Officers become permanent pensionable Civil Servants only in April 1957) and requests by the Adoption Board citing her essential expertise as the 'sheet anchor of the Board's welfare staff', was granted extensions of service 'in the public interest' until January 1969 when, at the age of 71 years, Evelyn Carroll finally retired.

Evelyn Carroll, with her few colleagues in the Probation Service and the Adoption Board, through their personal dedication and commitment to their work in the middle of the 20th century, despite poor conditions and minimal

¹ Extract from the stenographer's transcript cited in correspondence to the Attorney-General, 11 July 1944 (unpublished).

resources, established the authority and standing of the nascent Probation Service and, in doing so, built the foundations of the service as it is today. Her commitment, knowledge, insight and desire for improvement shine through her calmly and firmly argued case for change and development in service provision for female offenders before courts. How much of it is still relevant and applicable today?

Gerry McNally (Joint Editor)

Memorandum Re: Women and Girls who come before the Central Criminal Court on serious charges – and other relevant matters

Types

Girls appearing before the Central Criminal Court on charges of infanticide, murder, or manslaughter, or concealment of birth, are in the majority of cases from country districts, often from isolated places in the West. Their ages vary from 17 years, or perhaps younger, to 39 years, the greater number being between 17 and 25 years.

In most instances they are first offenders, i.e. never previously charged with a criminal offence, though a certain percentage have previously given birth to one or more illegitimate children. As a class the majority spring from the ordinary labouring family, some from the decent small farmer, a few from the riff-raff of the small town back street population.

The majority of these girls have been employed as domestic servants, either in country districts near their own homes, or in provincial towns, and a small proportion may have met their “fate” when thus employed in Dublin, or other cities.

Causes

The cause of the downfall of these girls may be as varied as the types. Very often in the case of the younger girls the cause may be traced in the first instance to ignorance which left them an easy prey to the snares of the first unscrupulous man who cared to take advantage of them. Particularly is this the case with young country girls who “get into trouble” in Dublin where their inexperience is easily recognised and readily exploited by the depraved types who are always seeking such victims with impunity. Older girls, or women, are very often led astray by the promise of marriage.

Environment is an important factor to be reckoned with and must be considered when dealing with criminals of any description. Perhaps more crimes could be traced to existence in unfavourable surroundings where the atmosphere is polluted with vice of various kinds than to hereditary weaknesses such as inebriety, insanity or immorality, which may often appear the obvious causes.

The actual commission of the crime of infanticide may very often be traced to the fact that by some strange series of circumstances the girl's pregnancy has remained a secret up to the last. For example, in a large proportion of cases, these crimes are committed in the residence of the girl's employer, who had failed to notice her condition. It is easy to see why a girl is driven to such a tragic act – extreme mental strain, a terrible fear of discovery, depression and the necessity for guarding her secret – all play their part.

The girl, as one of them declared to me, may have no knowledge of her real condition for a considerable time, and having discovered it becomes bewildered, even desperate. Fearing instant dismissal if her condition becomes known, she says nothing and just carries on until the baby is born. Then in the frenzy of a moment and still trying to cover up her shame, she kills her child.

Many of these crimes would have been prevented if the condition of the girls was known to their employers beforehand, or to some person of responsibility who would take the necessary steps to safeguard them. The same applies to cases occurring in the girls' own homes to which they have either returned shortly before the event, or may have been home and managed to conceal their condition from unsuspecting parents or family. Had they but confided in somebody trustworthy, they would never have appeared in court on such a charge.

Perhaps very many of these girls would never have fallen if they had been given at least some idea of the facts of life before being launched on the world at the tender age of 14 or 16 years. To propose reformative treatment for a girl who has murdered her unwanted infant is a far more serious and difficult problem than that which arises in the provision of some attempt to prevent the fall of the girl in the first instance.

Girls who have been brought up in Industrial Schools (and the same is true of most Primary Schools) and who not infrequently come before the courts on one charge or another, have often told the Probation Officer that they received no preparation whatever calculated to help them in the vital matters of sex. Neither did they get any instruction of a practical nature concerning courtship and marriage. Frequently they attribute

their downfall to their lack of knowledge of these things. How far this neglect of essential moral training may be held responsible for our “unmarried mother” problem is worthy of serious consideration and investigation.

Treatment

The treatment of convicted girls in the category under discussion, and other categories, whether it be the serving of a prison sentence, penal servitude, or residence in an institution under the care of a religious order, is lacking in any preconceived constructive system of reform calculated to deal effectively with the problem along modern lines.

Prison

Apart from the fact that punishment – an essential element in criminal reform – is imposed, that the public is safeguarded and the girl deprived of her liberty, there is little advantage to the State in sentencing a girl to a term of imprisonment under our existing system, for the system is lacking in fundamentals.

For example the prison system provides:

- No educational facilities.
- No practical occupational training.
- No adequate segregation of case types.
- No facilities for up-to-date treatment for venereal disease.
- No blood tests (necessary in certain suspected cases of disease).
- No organised system of after-care of ex-prisoners.

(These shortcomings, it should be noted, are in no way the fault of the Prison Governor or staffs.)

Perhaps the greatest disadvantage of the system is that young girls, even while on remand, are able to meet and converse with hardened offenders “doing time”, whose vile influence is seen in the changed attitude of the newcomer, even after a few days. In my experience of probation work, I have not yet found a *first offender* really benefiting from a prison sentence, but on the contrary have seen many young girls become embittered, hardened and morally decadent as the result of association with the depraved characters who form the normal population of our prisons. Moreover, this first term of imprisonment, especially if a short one, is usually the prelude to many another and soon the girl becomes an “incorrigible type”.

After-care

Lack of an organised system of after-care of ex-prisoners (female) may be responsible to some extent for a large proportion of these second and third convictions – not to mention the considerable number of confirmed offenders.

However a start has now been made in Dublin where a group of Approved Lady Visitors has recently been organised under the direction of the Catholic Chaplain with the object of visiting the female prisoners in Mountjoy and of keeping in touch with them as far as possible when discharged. In accordance with the rules of the Organisation to which these lady visitors belong, their work is voluntary and is of great value in the moral and spiritual aspect, especially when they are able to do effective “follow up” work.

The institutions or homes

Apart from the Probation System (not applied in the type of case that comes before the Central Criminal Court) – the only alternative to prison treatment is the expedient of sending the girl to an institution under the care of a religious order, on her own recognisance, or under the restriction of a suspensory prison sentence. I mention “expedient” because, as already stated there is not provided at any such institution a well-planned, adequate, or specialised system of reform in keeping with modern requirements. Neither are such Homes or Institutions subject to inspection from any Government department – an essential condition in “approved homes” elsewhere.

The difficulty arises in that the Homes are voluntary, i.e., conducted according to the rules of the particular order in charge, and not in receipt of any Government grant, except in one instance where a very small grant per annum is allowed.

This is Our Lady’s Home, Henrietta St., Dublin, which accepts first offenders provided they are not of immoral character. In addition to these girls who are placed there under the supervision of a Probation Officer, the Home accepts the “better types” among girls charged with infanticide and kindred crimes. Besides the “court cases” there are in the Home, a number of young girls sent there on a voluntary arrangement by parents, guardians, social workers etc.

This is the only Home in Dublin catering chiefly for girls of an age group from 18/24 years or thereabouts, with a few exceptions on either end of the scale. In this the Home has an advantage over other

institutions. And also in the fact that the Management has a preference for Court cases.

The Home is maintained by a laundry in which most of the girls work. The others are engaged in the work room, sewing and mending, in the kitchen helping with the cooking, etc., scrubbing and cleaning. A general all-round training is not provided, for example a girl who is sent to work in the kitchen, or in the laundry on admission is likely to remain at that particular work while in the Home. Neither are ordinary educational facilities provided.

There are limited opportunities for reading, and recreation in the form of music, dancing etc., appears to be adequate. On Sundays the girls go out together for walks; there are various outings during the year in the form of a picnic in the Summer, and visits to other Houses of the Sisters of Charity of St Vincent de Paul, as well as a few visits to the Pantomimes around Christmas.

On leaving the Home after completion of the prescribed period of probation, or other Court order, each girl (unless going home) is placed in a situation as domestic servant, or as maid in one of the hospitals or institutions in the city, and is supplied with a suitable and full outfit for house and outdoor wear.

Here, however, the after-care ends, unless the girl happens to be still under the supervision of a Probation Officer for a further period outside the Home, or unless she continues voluntarily to visit the Home on her evenings off.

On the whole, results from this Home are fairly satisfactory. The girls are given the advantage of a fresh start without the stigma of a prison sentence and many of them definitely make good.

Better results however, might be expected from a more general all-round training by the introduction of occasional lectures by competent speakers on subjects of educational value and by adequate provision for after-care, such as a club for past inmates.

The Magdalen Asylums or penitentiaries

These represent the only other type of institution where these girls *may* be accepted as an alternative to imprisonment. Here again the great difficulty arises in lack of any specialised training calculated to permanently reclaim the subjects of court orders and give them a fresh start in life. Another aspect is if the subject is difficult to handle and unbidable she will not be kept.

In these Homes girls and women of all classes, ages and types work side by side. There is no minimum or maximum age limit and one may find a girl still under sixteen subject to the same regulation and doing the same type of work as the woman of 50 or 60 years who has been through the "world" and has decided to give the remainder of her life to atone for her evil ways.

Again the educational facilities are absent and the only "training" (in the physical sense) is the ordinary routine work of the institution which always includes a public laundry, sewing, mending and cleaning. The supervision is strict and the religious atmosphere and moral training provide a barrier against contamination not available in prison treatment. This religious training, however, is directed with the purpose of leading the subjects to a permanent renunciation of the world and to a life of penance in the particular institution, in accordance with its rules. All very laudable, but hardly appropriate for the type of girls undergoing a court sentence for a serious crime, seeing that with very rare exceptions none such would dream of remaining on in a Home voluntarily after the period of detention has expired.

In keeping with the idea of renunciation is the failure to equip the girls for suitable employment in the world. With very rare exceptions no Magdalen Asylum will obtain a situation for a girl on leaving. In a sense this policy may be justified in the argument put up for it by the different Orders in charge, i.e. that a reference from a Magdalen Asylum is no help to anybody.

The result is that a girl is virtually let loose on the world after a long period of discipline and close supervision, without any steps being taken to give her a fresh chance to earn an honest living. Left without a friend, with little or no money, plus the handicap of no reference or recommendation, what is such a girl to do? Seldom will her family, if she has one, welcome her home, and even if they do, she may refuse to return home. It is obvious that she needs, now more than ever, some sympathetic friend capable of advising and directing her, and where possible finding her suitable employment. Without the assistance of the Lady Probation Officers attached to the District Courts it is to be feared that many of these girls on leaving the Magdalen Home would find themselves in a deplorable position, unless it should happen that they can be put in touch with voluntary social workers, e.g. the Legion of Mary.

Here it may be remarked that none of the Catholic Girls' Hostels in Dublin will admit a girl *known* to have come from a Magdalen Home,

except the two hostels conducted under the auspices of the Legion of Mary, one of which is definitely for the "street girl" and the other for "down and out" women and girls. Neither will any of the other Catholic Hostels put up a girl for even one night if it is known that she has appeared in Court on however trivial a charge.

It is obvious then from the foregoing that our prison and reformative system for female delinquents suffers from many defects. Chiefly the items that call for immediate attention are:

Remand Home

The setting up of a properly constituted Remand Home for girls is essential. The only such establishment in being at present is at St Joseph's, Whitehall, Dublin, and may only be used for juveniles. It is inappropriate in as much as it is not a separate building; it is not in fact a Remand Home; it is a Girls' Industrial School in which young girls on remand may be detained. In order to keep these girls as far apart as possible from the pupils in the School, they are generally relegated to a portion of the house little frequented by the latter, for instance the kitchen – an arrangement not to be commended, but perhaps unavoidable under the circumstances.

Again, if a girl on remand is for *any* reason considered by the Manager an undesirable type for the "Remand Home", she may be sent (without waiting for official sanction) to the Magdalen Asylum attached, even though the girl is still a juvenile and perhaps awaiting trial of such offences as house-breaking, larceny, etc. Very often these girls are subjects for the Reformatory School – St Joseph's, Limerick. If and when they have been committed to the Reformatory School, the Manager learns that they have spent even a week in High Park (i.e. the Magdalen Home and not the "Remand Home") they are no longer considered suitable subjects for St Joseph's, and they are immediately transferred to the Good Shepherd Convent adjoining. Scarcely a fair start for young girls under 16 years who hitherto may not have had immoral tendencies.

Perhaps even a stronger argument in favour of a Remand Home comes from the unsatisfactory arrangements in Mountjoy for the accommodation of the more respectable type of girl offender. These have been referred to already:

- (a) Possibility of association with most undesirable types of prisoner who even in a brief interval can do much to induce the newcomer to

abandon good intentions and to follow (probably without realising it) the down-ward path.

- (b) Lack of facilities for the provision of absolutely definite medical reports. Indefinite reports are of little use when dealing with certain types of cases.

Still another argument in favour of the Remand Home is that prison loses its terrors for a girl who has gone there (i.e. to prison) once, even on remand, and many after a week of this experience, ask to be allowed to do a short term sentence instead of the longer period of Probation – not realising or wishing to – the ultimate result. As long as a girl can be kept out of prison she has a great fear of it and may be deterred from evil by its imagined punishments. When the actuality has been experienced by even a term of seven days, the spell is broken and the culprit finds prison not as bad as was anticipated. The fear has been removed: she does not mind very much having to go there again.

Specialised treatment

The necessity for more up to date and adequate machinery for dealing with girl offenders between the ages of 16 and 21 years. The establishment of a Borstal for girls has often been advocated, but was apparently considered impracticable. As a modification it should be possible to arrange, say with one of the religious Orders to conduct a Home subject to Government inspection and restricting admission so that none other than cases from the courts would be eligible. Some educational facilities should be available in the form of occasional lectures etc., and a good general all-round training should be provided, the aim being to give the girls as wide an interest as possible, housewifery, dressmaking, gardening and poultry-keeping, for example would be highly suitable subjects for study and occupation. A Government grant would necessarily be entailed, but the functioning of such a Home, if conducted on approved lines, would save the State much of the money now expended in the maintenance in prison of many who might never have had to be sentenced, if in the early stage of their criminal career they had the advantage of a period in such a Home.

The period of detention should not be less than one year nor more than three years, and each inmate, on leaving the Home should be under some form of licence or restraint for a period of from three to six months

according to their age and individual circumstances. This could best be effected by personal supervision, such as by voluntary after-care.

In considering this suggestion it might be found practical to approach the Sisters of Charity of St Vincent de Paul with a view to a possible transfer of their Henrietta St Home to a place outside the city where opportunities would be available for training in agricultural pursuits in addition to the other subjects normally provided.

In such a development the Sisters might be induced to open three separate sections: (1) A Remand Home; (2) A Home for the types at present catered for but larger and with the additional subjects; (3) A Home for girls who are heading for the immoral life – just starting a career on the streets.

Girls of the latter type constitute a serious problem at the moment. A large proportion of these cases on first appearance in Court are found in a bad state of venereal disease requiring prolonged treatment. Since in a first conviction the Court has power only to inflict a fine of 40/= or one month's imprisonment (the maximum), such a sentence would not give time for any effective medical treatment even if such were available in prison. Therefore the course generally adopted where there is a reasonable hope of moral reclamation is to place the girl on probation with a condition of residence, the place designated being the Westmoreland Lock Hospital. This course, however seldom proves entirely satisfactory, because even if a girl on Probation and under the supervision of a Probation Officer, asks the Medical Officer for her discharge from hospital, he will give it to her although she may be far from well and may have been only a few weeks, or less, under treatment when she really needs a few months' course of injections.

The hospital is a voluntary institution and has no power to compel patients to remain. A girl thus obtaining her discharge may do so contrary to the express instructions of the Probation Officer, or without prior intimation of her intention. She may be induced to stay in the Legion of Mary Hostel at 76 Harcourt Street and from there may continue to attend hospital, return to her former life and soon become a dangerous source of infection. Yet if she appears in Court on a similar charge or on a warrant for breach of Probation and is convicted – it is only a first conviction and must have an option of fine or rule of bail which provide the loophole for escape from even a short sentence. The number of girls in Dublin suffering from venereal disease and failing to take proper treatment is alarming.

Could the sisters therefore provide for an appropriate clinic in the section of the above suggested section where this type of girl might be sent and where discharge would not be given until medical treatment was complete. These girls of course should be obliged to work and follow the regulations of the system which for this type should include physical exercises, drill etc. and if possible outdoor occupation in the endeavour to turn their minds to other ways of living than the one which they had begun to practice.

Court Orders

To raise a last point in relation to Court Orders, it is that any Order made should be capable to being enforced and *should* be enforced. For example if a girl is bound over for two years, one of which is to be spent in a Home selected by the Court, and the other in her own home under her parents' supervision or probation, steps should be taken to see that the latter condition is observed. Otherwise the Law becomes an object of ridicule. A few years ago when an order of this kind was made, the girl in question went to her home in the country, having completed the first year in an approved Home. Instead of remaining as ordered by the Court, under her mother's supervision at home for another year, she left home, apparently with her parents' knowledge and consent and went to England. That the matter was ever questioned by the authorities is extremely unlikely, considering that no particular person was made responsible for seeing that the order was carried out. An apt example of the saying that "What is everybody's business is nobody's business".

Note

It should not be inferred from the foregoing memorandum that it is intended by the suggested innovations that criminals are to be pampered or crime condoned by the provision of what might appear to be advantages for offenders above those enjoyed by the rank and file who are not law-breakers. The idea is to provide adequate treatment for those in need of it and to give them what they lack in character to enable them to overcome the disadvantages in which their environment or upbringing may have placed them.

E.M. Carroll
Probation Officer
7th July 1941.

Practical Strategies for Coping with Child-to-Parent Violence: The Non Violent Resistance Programme in Practice

Eileen Lauster, Alan Quinn, John Brosnahan and Declan Coogan*

Summary: Child-to-parent violence (CPV) is an emerging problem coming more frequently to the attention of practitioners in a wide variety of settings. This paper describes the ways in which the Probation Service and Le Chéile in the Limerick Young Persons' Probation region implemented the Non Violent Resistance (NVR) programme as a response to CPV. The goal of the programme is to address the parents' expressed needs to reduce the violent and controlling behaviour of their children in the home. Parents needed a programme that gave practical strategies for coping with CPV violence. We describe how the practitioners in Limerick came to find the NVR programme and how they adapted the programme based on the parents' feedback from a previous parenting programme and during the NVR programme. We reflect on whether the goal of practical strategies for coping with CPV was reached by the programme end, and suggest how this approach could be useful in future practice. Throughout the paper the authors share quotes from parents who attended the NVR programme in Limerick.

Keywords: Children, child-to-parent violence, Non Violent Resistance Programme, collaborative and strengths-based practice, social support, Probation Service, Young Persons' Probation, Le Chéile, social work, evidence based practice, Limerick, restorative justice, domestic violence.

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Introduction

Child-to-parent violence (CPV) is an abuse of power through which the child or adolescent attempts to coerce, control or dominate others in the family (Tew and Nixon, 2010; Coogan, 2011, 2012).

It's not everyone has family, neighbours and friends around to come in and help so I feel very alone and abused. (Parent 1 from focus group original transcript)

Many parents, as in this quote, report feeling completely alone as they live in silence with CPV. It is a newly discussed form of domestic violence in Ireland, and as such there are few data on prevalence. Estimates vary. Findings elsewhere are quoted: for example, 18% of two-parent and 29% of one-parent families in the United States experience CPV (Walsh and Krienert, 2009). Pagani *et al.* (2009) found that among 15–16 year olds in Canada, 12.3% of males and 9.5% of females had been physically aggressive towards their fathers in the previous six months. Unlike the Walsh and Krienert research, which used the statistics from police records, Pagani *et al.*'s study was a longitudinal childhood developmental study involving families that had not previously presented to statutory or voluntary support services. In Ireland we have provided training to a variety of professionals who, when asked, felt the above estimates of prevalence were low compared to their experiences.

Practitioners often comment on the similarities and differences between CPV and other domestic violence. They are both forms of violence in the home and tend not to be reported due to the special relationship between the abused and abuser. In both types, the victim will tolerate a vast amount of verbal, physical and financial abuse before seeking help (Hunter and Piper, 2012). This is especially true with CPV, where the parents feel particularly guilty. There are also similarities along gender roles as in both cases it is usually the male perpetrating violence on a female in the household, though some female young people do use violence towards their mothers, and both male and female young people use violence towards their fathers (Pagani *et al.*, 2009; Wilcox, 2012; Coogan, 2012).

Probably the biggest difference between these two forms of domestic violence is how they are handled by the criminal justice system in Ireland and the UK. It is not possible for a victim to apply for a Protective Order

against a minor. Even if they could, the parents cannot remove the abuser because they have an ethical, moral and legal responsibility to provide food and shelter for their child. Furthermore there are no government agencies in Ireland or the UK that have CPV as part of their remit, yet families are very much in need of help (RCPV, 2015, forthcoming). It would appear, as a possible practical option, that the youth justice system and domestic violence services in Ireland and the UK working closely together could be well placed to address CPV. An integrated approach by practitioners in these services could draw on their agency mandates and their knowledge, skills and values to respond to and address youth behaviour problems and domestic violence concerns.

Like other domestic violence, CPV is not confined by socioeconomic class or education factors. It takes place in one-parent and two-parent households and in families from well-resourced as well as poorer backgrounds (Weinblatt and Omer, 2008; Coogan, 2011). In his work in Australia with families experiencing CPV, Eddie Gallagher uses the term ‘over-entitled’ to describe children in two-parent families that are well educated, middle class and perpetrate CPV (Gallagher, 2004, 2008). In these situations, the children sometimes react to parents’ refusals with violence and threats. In other cases, the family may over time develop patterns of escalation between the child and parent where the level of abuse by both or by the child continues to increase, leading to incidents of CPV (Walsh and Krienert, 2009).

A mental health diagnosis such as ADHD or oppositional defiant disorder can sometimes blur the realities of what is taking place within a family living with CPV, whereby practitioners and parents attribute the violent behaviour to the diagnosis. This can leave the child and parent feeling helpless and hopeless, with the belief that there is nothing that can be done about the violent and abusive behaviour (Coogan, 2012). Yet children and young people with such diagnoses frequently refrain from using violence towards friends and other family members, while parents remain targets. Children and young people with mental health diagnoses can also develop self-management skills when supported by practitioners and parents to do so. Parents can develop strategies that assist them in dealing with the difficulties that living with a child with a mental health diagnosis entails.

Families experiencing CPV in the Limerick NVR group talked about their isolation as a family. As one mother said:

they [parents with CPV in the house] don't want people judging them or judging their children and people who don't know what's going on and whose child isn't doing the same thing can be very judgemental and say 'they're a little scumbag'. At the end of the day they're your child no matter what they do. (Parent 5 from focus group original transcript)

As the above quote suggests, parents experiencing CPV have concerns that they and their children are being judged by others, and even though their child uses violence towards them, parents still feel a strong bond with their son or daughter. Their unique needs required an innovative approach and combination of expertise from the partners in this project: Le Chéile,¹ the Probation Service and academia.

Training and research on CPV has started in earnest in Ireland with the involvement of NUI Galway in the Responding to Child to Parent Violence (RCPV) project,² funded by the DAPHNE Programme³ of the European Commission. Drawing on this resource, Alan Quinn of Le Chéile was able to attend practitioner training in the NVR programme.

Le Chéile, as an Irish Youth Justice Service/Probation Service funded project, has a remit to provide a mentoring service to young people involved with Young Persons' Probation (YPP).⁴ The mentors act as a positive role model, adviser and friend. Le Chéile also has a mentoring service for parents. The role of the Parent Mentor is to offer support and a listening ear, and to provide some help in managing the child's offending behaviour. John Brosnahan, YPP manager, observed the similarities between NVR and restorative justice theory. We will discuss this briefly when we explain how Le Chéile and the Probation Service combined their efforts to meet the needs of the parents.

What is the RCPV project?

As there are significant gaps internationally in the knowledge and understanding of CPV, there are disconnected and fragmentary

¹ Le Chéile is a child-centred, non-judgemental non-governmental organisation funded by the Irish Youth Justice Service through the Probation Service. Le Chéile provides mentoring and restorative justice services. www.lecheile.ie

² See www.rcpv.eu/the-project for further information.

³ The Daphne III programme aims to contribute to the protection of children, young people and women against all forms of violence and attain a high level of health protection, wellbeing and social cohesion. http://ec.europa.eu/justice/grants/programmes/daphne/index_en.htm

⁴ Young Persons' Probation is a division of the Probation Service working with child offenders referred by the Children Courts.

responses to it across Europe (Holt, 2013). Out of this need the RCPV project was initiated by Paula Wilcox from Brighton University and Michelle Pooley from Brighton and Hove City Council. They gathered a partnership involving practitioners and academics across Europe, which became the RCPV.⁵ Based in Ireland, England, Spain, Sweden and Bulgaria, the project partners share the hope of increasing awareness about CPV and of implementing and carrying out research on intervention programmes including NVR. The RCPV Project continues until January 2015, with an emphasis on integrating intervention and research in responding to CPV. This is achieved through research, training, practitioner support and the dissemination of findings. Break4Change⁶ and NVR are the two intervention programmes that are being implemented and researched through the project. Break4Change works with young people and their parents in parallel groups.

How and why was the NVR programme implemented by the Probation Service and Le Chéile?

During a parenting programme provided by Le Chéile, some parents revealed that they were experiencing CPV in the home. These parents and new referrals all had a child currently or recently engaged with the Probation Service. From Limerick city and county, most were single-parent households relying on social benefit payments as the main source of income.

Based on their need for practical skills for this particular type of family crisis, Alan Quinn of Le Chéile believed that NVR would be the best programme. Following consultation with Declan Coogan, NUIG, Alan Quinn made a presentation to the Probation Service on the NVR programme. The Probation Service and Le Chéile then piloted the group programme that is the subject of this paper.

The parents from the parenting group that originally expressed a need were contacted, and new referrals were also welcomed from Probation Officers for parents in the same or a similar situation: they had a child engaged with the Probation Service and were experiencing CPV. All parents were contacted by phone, in person and attended an initial group session before the start of the programme, which aimed to outline the

⁵ www.rcpv.eu/the-project

⁶ For further information see www.justice.gov.uk/youth-justice/effective-practice-library/break-4-change

aims of the NVR programme, allow parents to meet the facilitators and each other, and address any concerns they might have.

As there was no handbook in Ireland at the time, the NVR programme in Limerick used a manual from the UK called *Non-violent Resistance Programme* (Day and Heismann, 2010). The 12-week programme in the manual was revised to eight sessions. The methodology of the sessions included small- and whole-group discussions, role plays, and creative discussions with parents on key concepts. Each week, parents were encouraged to put concepts into practice between sessions, equipped with hand-outs and mnemonic devices they created as a group around key phrases. Some parents had literacy issues, so there was a focus on more discussion and less written information in the sessions.

During the course of the programme contact by phone and in person was continued by Le Chéile staff and Probation Officers to reinforce new concepts, address any new concerns and offer advice to parents. Parents also gave each other informal support between sessions; they had volunteered to share contact details with each other at the start of the programme. Based on their feedback during the programme and an ongoing session review by John Brosnahan and Alan Quinn, some material and the pacing of the programme were adjusted to meet the parents' needs. The group ran for a total of eight weeks with eight participants. At the conclusion of the sessions parents were referred to the Family Resource Centre, where Alan Quinn and the Co-Ordinator of the Centre ran a six week programme that combined with a women's group there. This new group focused on coping and wellbeing skills.

Another reason why NVR was chosen as an intervention programme for the families was that it shares principles with Braithwaite's theories on restorative justice (Braithwaite, 2007). Both promote providing stakeholders with the opportunity to discuss the hurts and how future hurts can be prevented. The definition of restorative justice used in Ireland, from the National Commission on Restorative Justice, is: 'Restorative justice is a victim-sensitive response to criminal offending, which, through engagement with those affected by crime, aims to make amends for the harm that has been caused to victims and communities and which facilitates offender rehabilitation and integration into society' (DJELR, 2009).

NVR does not explicitly focus on amends for harm, as restorative justice does. However, in both approaches the focus is on improving the relationship between perpetrator and victim; in the case of CPV, between

the parent and their child. As we will see below, another aspect of NVR is that the parents can also suggest to the child that he/she make reconciliation gestures as well as the parent. In some cases, this can be a way of a son or daughter making amends for harm. Both approaches offer vehicles for participatory learning, and the emphasis throughout is on engagement and inclusion (see also O'Donovan, 2011).

What is the NVR programme?

The origins of the programme are based on the concepts of non-violent resistance to social injustices movements, where participants commit to using non-violent means to change their circumstances. As evidenced by the work of Gandhi in India and Daniel O'Connell in Ireland, an approach of protest, resistance, mutual respect and reconciliation can lead to significant positive outcomes (independence in India and Catholic Emancipation in Ireland) and a reduction in violence and injustices (Sharp, 1973).

The two-day NVR practitioner training programme in Ireland was developed by Declan Coogan, adapted from the work of Haim Omer and his colleagues in Israel (Omer, 2004; Weinblatt and Omer, 2008). The Weinblatt and Omer (2008) study involved parents from 41 families with children aged four to 17 who were displaying acute behavioural problems. Of the families in the study, 32 were two-parent and nine were single-parent households. There were few families with very low socio-economic backgrounds; most fell into the middle- to lower-middle-class range. The study found that the NVR programme had a low drop-out rate and produced significant reductions in the child's aggressive behaviours together with an increase in the child's positive behaviours. Parents in the study also reported significant reductions in their own aggressive and provocative behaviours, together with less permissiveness and less helplessness in their parenting style (Weinblatt and Omer, 2008).

Building on the existing knowledge, skills and values of practitioners working with children and families, the training programme in Ireland equips practitioners with the confidence and the skills to offer parents the NVR programme as a response to CPV. It is an evidence-based, innovative and short-term intervention that responds to the needs of parents while protecting children and responding to needs of agencies to assist and support families presenting with CPV.

The NVR programme for CPV can be used in one-to-one therapy or in a group, as was the case in Limerick. Parents learn new skills and approaches to use with their child and it is designed to work in tandem with other services or interventions. It is an integrated, systemic, strengths-based and cognitive behavioural skill based programme with specific topics. The topics covered during the Limerick group, in order, were: Group Introductions/Contract/Hopes and Fears; Escalations; The Baskets (prioritising desired change); The Support Network; Parental Presence; The Announcement; Refusal of Orders; The Service Strike; Sit-In; and Reconciliation Gestures. We will discuss some of these briefly.

The Support Network

The Support Network is a group of people chosen by each parent with whom they talk about the level of violence in the home and whom they ask for support as they move forward. Specifically, Support Network members are asked to share with the child that they know what is going on and that they support the parent's efforts to bring about an end to violence at home. One of the significant elements of the programme is that the problem of violence is externalised so that the problem is the behaviour and not the child.

Whenever the child is spoken with by parents or support network members about the problem, the message is reinforced that the specific violence and abuse (for example threats of harm, hurtful name-calling, hitting) must end and that the parents are also committed to respect and resisting violence, rather than only the child must change. Taking this non-pathologising approach, the child can also be asked by parents to make suggestions that would bring about an end to violence.

When telling the child about a commitment to non-violence and The Support Network, the parent will have already chosen and spoken with the members of The Support Network. One of the ways in which this can be implemented is illustrated by one of the parents, who said:

What I used the most was saying that I was going to call people to have a word with him if he kept carrying on like that. He just laughed in my face but deep down inside the people I have in mind will have a good influence on him and he's just putting up a bit of a front. He doesn't like to be named or shamed. He's used to a small amount of people knowing but there's certain people he doesn't want to know so I find that one the best. (Parent 4 from focus group original transcript)

Anyone the parent chooses to support them in the ways that they might find useful can be a member and approached by the parent to join The Support Network. Another parent found a support person outside her family:

I did use it during the course when I let his girlfriend's father know what was going on. I didn't have to use it again because he has been all right but I would use it again if all came to all. (Parent 5 from focus group original transcript)

The Announcement

Once a parent is ready to commit to non-violence, has discussed with the practitioner how to avoid escalation and has The Support Network in place, the parent makes what is called The Announcement. All the children are told that the whole family, including the parent, are to refrain from using violent language or behaviours. The specific types of violence and abuse that have been problems for the family are identified. So as part of The Announcement, a parent could say, for example, 'I am no longer putting up with constant name-calling, screaming and punching. I will never do any of these things myself. Here are the names and numbers of the people who are helping us stop violence and abuse at home ...'

In the Limerick group, parents reflected on the usefulness of The Announcement. One parent said:

I think The Announcement has worked 'cos now and again he will say to me 'look I am not stoned' or 'I didn't do anything' so I think it's getting through to him that he knows he is not allowed into my house if he is not himself. So he's taken it on board. It is getting in there slowly but surely. (Parent 5 from focus group original transcript)

Refusal of Orders

Parents are asked to make a list of all the services they provide for their child, including those that are their responsibility, like providing meals. Parents then may refuse to carry out actions that they may have felt forced to do in the past, like providing a constant supply of cash or a taxi service. This can significantly change the dynamic between the parent and child, as illustrated by one parent who stated:

What changed in my house is that my son doesn't come in and roar and shout at me saying I want this and I want that. Now he just asks me. (Parent 2 from focus group original transcript)

Reconciliation Gestures

One of the perhaps understandable consequences of CPV is that parents reduce their interaction with their child to an absolute minimum in order to avoid escalation and violence. As part of the NVR programme, the parent moves from either almost complete withdrawal from interaction with their child or every interaction with their child being negative to more positive and more active involvement through Reconciliation Gestures. Examples of Reconciliation Gestures used by parents could include watching a film chosen by the child or getting in the child's favourite take-away. Parents seem to particularly like this element of the NVR programme, as it releases them from feeling like the 'bad guy', implementing new rules all the time. It also makes space for positive interaction between parent and child. As one parent said:

I liked the Reconciliation Gestures because it works out more positive for me and we seem to be getting on a lot better now and it's easier to talk to him and get on with him. It's a lot healthier than fighting. (Parent 3 from focus group original transcript)

Was the goal of practical strategies for coping with CPV reached by the programme's end?

At the end of the NVR programme in Limerick, parents were invited to attend a focus group meeting to explore the usefulness of the intervention. The focus group was conducted six weeks after the programme ended, and consisted of seven of the eight parents who attended the programme in full.

One of the aspects that most parents said they found helpful was The Support Network. Based on feedback from the parents, it seems that the positive effects of The Support Network and The Announcement can create major shifts quickly in the behaviour of the child. For example, one parent identified that the most stressful thing for her was being called names by her son in public. During the focus group she shared:

It [telling others about the abuse] was the hardest thing for me to do but it was the best thing I did because with the verbal abuse he doesn't call me those names out on the street any more. All I get now is 'Hi love, how are you?'. As I said, that was the hardest but the best. (Parent 2 from focus group original transcript)

Other parents seemed to really appreciate the support available through attending a group focused on CPV and taking part in the discussion with the facilitators and the other parents. For example, one parent said:

I just thought that joining the group was good. This was the first time I joined any group like this and I felt very apprehensive but when I got to know everyone and everyone is going through the same thing, you feel as if you're not on your own and it's that surety in yourself and your child that it's not just you. I felt that my confidence just grew and grew, where my child was concerned, every week. (Parent 5 from focus group original transcript)

Other parents described fundamental shifts in the relationship between them and their sons and how their sons treated them. Parent 5 stated:

The change in my house is the respect me and my son are starting to show each other. Now he respects me and I respect him and he's starting to respect my house too and the other people who live there whereas before he didn't. (Parent 5 from focus group original transcript)

The practical help they received in the group seems to be in practice and becoming part of the family dynamics, as illustrated by one parent:

There's a lot more calm in the house and when there is trouble and things start going out of control it's very easy to bring things back down. I've learnt to walk away and not stand there fighting and answering back. He started getting confused. He didn't know what was going on. But when I explained to him when he was calm he understood and that's what we'll keep doing. (Parent 3 from focus group original transcript)

How can this approach be useful in future practice?

To answer this question it might be useful to share some of the learning for practice gained in adapting the NVR programme with parents involved in the Le Chéile/Probation Service group in Limerick.

Practitioners should meet with each parent individually before the group begins. It was useful to explain clearly that the group was not a support or therapy group, although support will be offered, and that it is skills-based to assist them in making their situations better. It was also found to be essential to introduce a positive element in each session as the subject matter can create a very negative environment. This positive focus and discussions about what the parents are thinking and doing differently helps parents to think more positively about their child. When planning the group, it is useful that the co-facilitators, for every session, agree two or three core messages to convey so that while arising issues are addressed, they can ensure that key skills targets are covered for that session.

In the matter of pacing, it was found best to spend at least two full sessions on The Announcement. The Announcement is a key part of NVR so that the young person gets an accurate picture of what they need to change. The two sessions are needed to explain the concept, break down the individual elements of The Announcement, practise it in pairs, deliver it to the group, get support and feedback, decide when and where the parents will deliver it, and look at possible negative reactions from the child. This increases the likelihood of NVR working and achieving results. It was also found helpful for the attendees to have the group gather in a circle. The parents reported that it felt like it was an open discussion and not as if the facilitators were lecturing to them. The goal should be to create a safe and open environment.

For NVR groups it may be beneficial to examine the viability of offering the programme as a wrap-around systemic intervention. This could involve, for example, the parents being offered a parent mentor before, during and after the eight-week programme as a support to learning, practising, implementing and persisting with the NVR techniques. Where appropriate, and when resources allow, the child could be assigned a youth mentor to work on the child's behaviour in tandem with the parent addressing their own behaviour. It could be of benefit for a facilitator to contact all the families in the group to offer support around NVR for the duration of the programme. The child's Probation Officer should also be informed of the topics as they are addressed during the course of the programme.

Conclusions

The experience of the parents that attended the NVR programme in the Limerick YPP Region reflects a group that trusted the facilitators and were willing to focus on changing their own and not only their child's behaviour. It is hoped that, from the achievements, practitioners will find in NVR a programme that can be used in groups or as a one-to-one intervention with families experiencing CPV.

As adapted in Limerick, the NVR group work programme evolved from the needs of parents and developed through a collaborative initiative between parents, practitioners and NUI Galway. The feedback from parents who participated appears to demonstrate that it met the objectives of providing parents with practical strategies to cope with CPV. As it is a key objective of the EU co-funded RCPV project, it is hoped that the sharing of the experience in implementing the NVR programme, the new ideas, practices, learning and research will continue to assist parents, families and practitioners in dealing effectively with CPV and enhancing safety and wellbeing throughout Europe.

Information on the Responding to Child to Parent Violence Project is available at www.rcpv.eu.

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Practice Teaching in the Probation Service – A Shared Learning Experience

Susan Campbell Ryan*

Summary: Practice placements as part of Social Work programmes are intrinsic to the student's education and training, as without the practice placement students cannot qualify as social workers. Practice teachers, therefore, play a key role in assisting students as they embark on the practice element of their journey to becoming qualified social workers. Social workers operating within the criminal justice system have been guiding social work students for many years on their voyage. As well as meeting the needs of universities' practice, placements afford Probation Officers an opportunity to support students' growth and learning. This paper defines and examines the multiple roles of the practice teacher and explores how an understanding of students' learning styles as well as their own can assist with those roles. It looks at the challenges that practice teachers and students may face on placement and how supervision can be used to help address those challenges. The paper considers the relating of theory to practice and the significance of reflective practice within students' learning.

Keywords: Social work training, CORU, Probation Service, probation officers, probation, placements, supervision, practice teaching, skills development, training, learning.

Introduction

The quality of our learning is intrinsically linked to our capacity and wiliness to learn together. Valuable learning is a shared learning experience. (Horder and Gossman, 2010; cited in Haslett and Rowlands, 2010).

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Social work courses in Irish universities, which include the Master's degree in Social Work (MSW) and the Bachelor's degree in Social Work (BSW), are full-time courses that combine academic study with fieldwork placements. These courses are monitored for suitability and approved by the Social Workers Registration Board on behalf of The Health and Social Care Professional Council (CORU).¹ Registration Board approval means that a programme has met the required standards in education, training, assessment, examinations and practice education.

According to The Code of Professional Conduct and Ethics for Social Workers (2011), 'if you (the practice teacher) are responsible for teaching and assessing social work students you must do so fairly and respectfully and on the basis of agreed criteria'. The practice teacher has the responsibility of teaching students about social work practice and plays a leading role in overseeing and assessing that students are competent to practise in accordance with this code.

Students in years one and two of the MSW and in years three and four of the BSW complete two placements. The Probation Service has a well-established record in the provision of practice placements, with up to 50 placements provided on an annual basis.

In the author's experience, some students have had little or no experience of working with a client group in the criminal justice system and some are unclear about the role and function of a Probation Officer. The Probation of Offenders Act 1907 provides for the statutory supervision of offenders in the community and is the underpinning legislation for probation work in Ireland.

The Probation Service's role is to contribute to public safety by:

- the management of community sanctions and measures
- the effective assessment and management of offenders
- facilitating the integration of ex-offenders (Probation Service Strategy Statement 2012–2014).

England (1998; cited in Lawson, 1998) states that the practice teacher must define and mediate social work for their students. 'Their position is a measure of the worth of practices in social work and their reflections a

¹ The Health and Social Care Professionals Council is the regulatory authority established in 2007 with responsibility for 12 named health and social care professions. Each profession is regulated by a Registration Board. Visit www.coru.ie for more information.

unique channel for social work to describe and understand its practice' (p. 9). Clarity of role definition and the practice teacher's guidance with interventions enables students to work as effective change agents in contributing to the goal of reduced recidivism.

Roles of the practice teacher

Practice teachers have various roles: as teacher, practitioner, supervisor, mentor and evaluator. While these roles often combine, their management and consolidation can be something of a juggling act.

Regarding the role of *teacher*, Thompson *et al.* (1990) say that the title of practice teacher implies 'teacher' in the work place rather than in the educational setting. They further state that social work education is not just about learning technical skills; it involves developing values, beliefs, ideologies and anti-discriminatory practice. Students need to learn what social work practice is. They can arrive on placement in the Probation Service unfamiliar with the work done with clients on probation. Role clarification, therefore, is essential at the beginning of the student's placement and throughout.

In the first two weeks of the placement a formal induction should take place introducing the student to the agency, the courts and other relevant stakeholders. This will enable the student to observe the practice teacher and their colleagues at work. It is an opportunity for the student to become familiar with the specific functions of the team and to understand how those functions fit with the overall goals of the organisation. It is useful for the student to have an induction information pack providing information on the ethos of the organisation and the strategies and policies that will guide the student's practice.

The practice teacher within the Probation Service is a *practitioner* with a case load. Students can arrive on placement armed with theory that they have to integrate into their practice to develop the necessary skills. Learning how to effectively practise can be a huge task for students, who rely on the practice teacher to support them in application of theory to practice.

Trevithick (2005) says that 'the social work profession promotes social change, problem solving in human relationships and the empowerment and liberation of people to enhance well being' (p. 1). In the Probation Service we are intervening with clients to promote and support desistance from crime. This is a challenging task and can be overwhelming for students as they translate theory to practice.

The practice teacher, as *supervisor*, monitors and supports the student's learning and progress. The practice placement provides a forum for students to grow and to show their capabilities as well as identifying skills, knowledge and values that need to be developed. This can be achieved through the practice teacher setting tasks requiring clear deliverables for students. Placements within the Probation Service are usually well structured, with defined pieces of work to be completed within specific time frames. This includes the completion of court-mandated Pre-sentence Reports. Constructive feedback on the student's performance should be encouraged, with clear direction on how the student can improve their work.

A practice teacher is also a *mentor*. This involves offering the student advice and support and having a special interest in helping the student's professional development. The mentoring relationship is based on mutual respect, trust, understanding and empathy. The practice teacher needs to consider that the student may be nervous or lacking in confidence. In the author's experience students have opinions, prejudices and fears and they should be encouraged to 'name' these issues so that they can be addressed. For example, a student may have negative views about people who use drugs. They may need mentoring to develop the confidence and competence to work effectively with a client who has an addiction to heroin.

The practice teacher should be mindful that students can be reticent in asking questions of the practice teacher or other team members in the early stages of placement. The established history of engagement with students has led to the growth of a strong student-focused culture within Probation Service teams. Careful listening to the student will lead to increased understanding, convey empathy and promote trust in the working relationship.

A practice teacher is also an *evaluator*. Lawson (1998) says that the practice teacher holds the authority to assess if the student has reached a level of competence with regard to knowledge, values and skills. All students review learning incidents (Chambers *et al.*, 2003) throughout their placement.

In line with the standards developed by the Social Workers Registration Board, students are required to be competent in the following six proficiencies: professional autonomy and accountability; interpersonal and professional relationships; effective communication; personal and professional development; provision of quality services; and

knowledge, understanding and skills. 'The standards of proficiency are the threshold standards required for the safe and appropriate practice of the profession in Ireland. They are the knowledge, skills, competencies and professional attributes for the safe practising of the profession' (www.coru.ie).

Knott and Scragg (2007) comment that, in evaluating a student's work, the practice teacher needs to have evidence that supports their evaluation. The student needs to demonstrate what they have learned, how this is evidence of their learning process and how they apply core skills and knowledge in practice.

Students are required to review learning incidents (Chambers *et al.*, 2003) highlighting knowledge, skills, values and theory. The practice teacher provides feedback on the learning incidents. It is important for the student's learning that the practice teacher achieves a balance between affirmation and being a critical friend. In the author's experience as a practice teacher, this can be difficult at times. An excessive focus on affirmation and encouragement with the student, without clarification on how to improve practice, can hinder the learning process. Constructive criticism is essential in order for the student's learning to progress.

Understanding students' learning styles

When supervising students, it can be of benefit that the practice teacher understands their own learning process and learning style as well as that of the students. Hanley (1982; cited in Munson, 2002) comments that the practice teacher and student must be aware of their individual learning styles. Munson (2002) says that social work practice can be viewed as an art that combines professionally mastered knowledge and chosen values with the individual attributes and styles of the practitioner. Barriers to learning can be removed by understanding the principles of how adults learn.

According to Kolb's (1984) learning process, there are four stages in the cycle of learning: concrete experience, abstract conceptualism, active experimentation and reflective observation.

Concrete experience: In this stage the learner relies on learning from feelings and from specific experiences. Students with this learning style are open minded and adaptable to change. While they may have little knowledge of working with clients on probation, they will use their skills

from past experiences of working with people to assist them. In the author's experience, students with this learning style also need to balance their experiential learning with strategic planning to help keep them focused on the tasks at hand.

Reflective observation: In this stage the learner likes to understand things before they act. They learn by watching and listening before making judgements. In the author's experience, students with this learning style like to observe how the practice teacher works but they need to develop their own style of working, which will only emerge through supervised practice.

Abstract conceptualisation: This stage of learning involves learning by thinking, using systemic planning and logic rather than feelings to understand problems or situations. In the author's experience, students with this learning style like to collect as much information as possible on the client before meeting them, and strategically plan their interviews. Students may need encouragement to enact the plan and, once the pace of the placement increases, support will be required in managing the planning within particular time constraints.

Active experimentation: In this stage the learner likes to learn by doing and experimenting with different ways of carrying out work. Students with this learning style are active learners and are eager to complete the task. Students can act precipitously without fully processing a situation, and therefore need to slow down and conceptualise situations before acting.

Kolb (1984) says that there are four styles of learning that individuals can be divided into: converger, diverger, assimilator, accommodator.

The *converger* style of learner displays learning characteristics of abstract conceptualism combined with active experimentation (doing and thinking). They are strong in applying practical ideas and they like to understand how things work in practice. However, their thinking can be narrow and their careful thinking may make them slower to act in situations.

Divergers display learning characteristics of concrete experience and reflective observation (feeling and watching). They have good imaginative ability. They are good at generating ideas and seeing things from different perspectives. However, at times they need to step back and think things through before acting.

Assimilators display learning characteristics of abstract conceptualisation and reflective observation (watching and thinking). These learners

have a strong ability to create theoretical models. They are concerned with abstract concepts rather than people. This type of learner requires good clear explanations and they like to have the time to think things through.

Accommodators' learning is characterised by concrete experience and active experimentation (doing and feeling). Their greatest strength is getting things done and they like new challenges and experiences. However, they can be more of a risk-taker. This type of learner likes to solve problems intuitively and prefers to work in teams to complete tasks.

It may be helpful to practice teachers if they examine their own learning inventory and get the student to do the same. Kolb states that the inventory will help people understand how they solve problems, how they set goals, how they manage others and how they deal with new situations. If the practice teacher and the student know what type of learners they are it can make the working relationship more understandable.

Student supervision

Supervisors should give students space to voice their concerns regarding their progress. Structured supervision sessions can provide a safe environment to do this. Hawkins and Shohet (2000) say that supervision provides a chance to stand back and reflect; it is an opportunity to engage in the search for new options, to discover the learning that often emerges from the most difficult situations. Supervision with the student is, therefore, an essential part of practice teaching.

In the author's experience, some students may be unclear about the role of supervision. The reasons and functions should be explained. Butler and Elliot (1985), as cited in Thompson *et al.* (1990), state that the key principles of supervision with the student are to assess and evaluate the students' learning needs and their ability to practise. Supervision also informs the students' practice and stretches their creative and critical abilities. It consciously integrates the students' theoretical learning with social work practice and enhances their knowledge and understanding of wider social work issues and values.

Students should have an opportunity to ask questions throughout their placement. Supervision sessions should allow time for issues to be explored in detail. It can be helpful for the student, in the first supervision, to write down their hopes and concerns and discuss them.

At the end of the placement the students can revisit these. Students have commented that they found it a very helpful way of clarifying their concerns. They also described how the exercise helped them recognise how far they had progressed in fulfilling their goals and dealing with their concerns.

Page and Wosket (1994) say that a model of supervision needs to be humanised in order for it to be applied with care, flexibility and sensitivity. If this does not happen the practitioner operates as a technician and the student may feel devalued; they may feel like an object.

Page and Wosket (1994) identify five stages in supervision: contract, focus, space, bridge and review. The *contract* should be a framework for beginning the supervision relationship. It does not have to be written down. A contract should have ground rules such as agenda, time, location, frequency, a code of ethics. The time and meeting place for supervision should be arranged in advance.

The second stage of supervision is *focus*. The practice teacher may have set the student a task for the session, such as to read an article for discussion. Page and Wosket (1994) say this helps to create a balance between the practice teacher and the student, as both can contribute to the task. Focus encourages the practice teacher and the student to prepare for the session in advance. The student will have to complete supervision logs. Both the student and the practice teacher need to identify what they have to do for the next session, thereby setting the focus for that session.

The third stage is *space*. The student should be helped, supported, challenged and affirmed. The practice teacher is a role model for the student. Sennett (cited in Munson, 2002) states that when the practice teacher embarks on the supervisory process, they should never attempt to direct the work of others when they are not good at doing that work themselves. The practice teacher has expertise that they share with the student. The student will need to be given the space and the support to make sense of the practice environment.

Stage four is *bridge*. This is the linkage between the work in supervision and its application in the task context. Part of this process is information-giving. For example, the practice teacher may give the student information on a Probation Service policy. In this stage the practice teacher is exploring with the student the information they have received and how they apply it in practice. It is an opportunity to explore

suggestions for how the student can evolve and progress their practice. Supervision is a chance to explore goals and workloads, to see if the goals are realistic and how the student is managing their workload.

Stage five is *review*. Feedback is important in order to improve the usefulness of supervision. Page and Wosket (1994) say that feedback should be a two-way process. The supervisor gives a response and feedback on the student's work. Feedback is also a chance for the student to look at their strengths and weakness in a constructive way. The student should also have an opportunity to give feedback to the practice teacher.

Relating theory to practice

In the author's experience, students enter into the practice environment armed with theory. One of the challenges they face on placement is relating that theory to practice. Dempsey *et al.* (2001) state that when students are taught confidence and competence they also need to have flexibility to grow, change and learn as their roles are being redefined. It is a challenge for students to integrate theory with practical experience, as some students may not have as much work experience as others.

Brown and Rutter (2008) state that it is important that the practice teacher show students how to apply knowledge in practice, in specific situations: for example, how motivational interviewing can be used to encourage a shift in thinking towards a prosocial lifestyle, or how a task-centred approach can be used to set specific goals such as completing an offending behaviour programme or finding a course or a job.

Dempsey *et al.* (2001) say that at college, students participate in skills laboratories. The skills laboratory experience aims to equip students to develop an understanding of professional knowledge, which is primarily developed through practice, and to analyse their experiences in a safe environment. The skills laboratory enables students' prior life experiences to be incorporated in the new learning situation in the classroom and placement.

Relating theory to practice can also cause anxiety to the practice teacher, particularly if it has been some time since they have studied social work theory. Walker *et al.* (1995; cited in Lawson, 1998) state that the practice teacher will be at a high level of learning and 'unconsciously competent'. The theories and methods that were once consciously applied are now an integral part of their knowledge base and are used intuitively, based on their wisdom of practice.

In a busy work environment, reviewing theoretical frameworks may become less of a priority. Supervising a student provides the practice teacher with an opportunity to revisit the theories and methods informing their interventions, and to stay abreast of developments in research and evidence-based practice.

Reflective practice

Reflective practice has become more widely used in social work training over recent years. In the author's experience, the concept of reflective practice can be difficult for students to understand. Beddoe (2000; cited in Cleak and Wilson, 2007, p. 49) states that 'initiatives in field education have encouraged a shift away from both apprenticeship and therapeutic approaches towards reflective and facultative teaching'.

Knott and Scragg (2007, p. 104) advise that 'reflective practice on placement is a critical and analytic tool. It can be used in helping to integrate theoretical learning, gain insight, transfer knowledge and promote learning in depth.' They say that practice teachers should not initially question the student about their abilities as a reflective practitioner. The student may be hesitant and apprehensive when asked to relate theory to practice on placement. Practice teachers need to look at how they can effectively work with the students to encourage and develop reflective practice.

According to Schön (1983), people reflect on their work when there is something puzzling, annoying or interesting that they wish to understand. This process is significant for students during placements when they handle situations characterised by uncertainty, instability and value conflicts. Schön states that there are two important aspects of the reflection process: *reflection-on-action* and *reflection-in-action*. *Reflection-on-action* occurs when the student reflects on their practice after an event; for example, an interview with a client. *Reflection-in-action* refers to thinking on your feet, adopting a creative approach to practice by thinking about your practice while the event is happening; for example, analysis of a client interview while it is happening and steering it.

Some students may not be aware that they use *reflection-in-action* until it is pointed out. For example, a student phones a client to make an appointment for the client to meet and the client discloses that he has

reoffended. What is intended to be a straightforward phone call transpires to be a challenging call where the student has to think on their feet, use crisis intervention and reflect on what they are saying, while the conversation is in action. Dewey (1933) described reflective learning as something that is active and persistent. He states that it is also the careful consideration of any belief or form of knowledge in the light of the grounds that support it.

Bloom (2007) carried out a study on Swedish social work students' use of knowledge during their placements. Students were asked to write a brief account about a situation that happened on placement that was critical or problematic. These reflections were analysed. The results showed that students on placement used several forms of knowledge, including fact-based. The study also showed that students can adapt their knowledge to varying critical situations. Bloom stated that less than half the knowledge (personal experiences and theory) that social work students used in a critical situation was acquired before the placement started. This implies that more than half the knowledge is acquired during the placement. For Bloom this is an indication of how important field work practice is for students.

Reflective practice allows us to tap into our prejudices. Students can, for example, have preconceived ideas about what Probation Service clients look like. Working with clients in the Probation Service has its challenges, as they may be from marginalised communities and have committed crimes involving victims and the community. This may challenge students' preconceived ideas and prejudices. Therefore, understanding the ethos of anti-oppressive practice is essential to working with the Probation Service client group. Ward *et al.* (2002) state that the Human Rights Act 1998 (UK) has many potential implications for probation training. Students on placement may be more sensitive to human rights as they have had more space and opportunity to debate issues in college than colleagues in the workplace.

To assist the student with reflection, Knott and Scragg (2007) say that the student should use the simile of a mirror. A mirror can reflect back to us what is going on in difficult situations. It is possible, in their view, to extend the simile to incorporate anti-oppressive perspective in practice by tilting the mirror at an angle, so that things can be seen from a different perspective. This technique can assist the student to explore and gain insight into service users' circumstances and lives.

Meeting challenges on probation placements

Common themes have emerged regarding the challenges the students face in a social work training placement in the Probation Service. These include working in a structured environment; coping with authority, particularly in the courts; managing authority and responsibility; and balancing care and control in the breaching and enforcing of Court Orders.

Work in the Probation Service is structured and systematic. It requires good work planning and meeting of deadlines, for example for court reports. The work can be task-oriented as in completing reports, record keeping, diary planning and prioritising work. Students may find this difficult and feel a lack of freedom to experiment with the role.

In the author's experience, students have commented on the power imbalance between clients and the courts. Some have described this distinction in roles as difficult to comprehend. Students can feel disempowered, viewing the authority of judges in practice in sentencing as in conflict with their personal views.

Students have commented that there is also a power imbalance between the client and the Probation Officer. Probation Officers have a caring role, but they also have to challenge clients' actions and behaviour. Students can find the balancing of care and control difficult to manage. This makes role clarification very important. Trotter (2006) states that the client, at the beginning of the working relationship, should be made aware of the worker's role, and that role clarification should continue throughout the work. The client should be made aware that the worker is there to support them and work with them to achieve their goals while on probation.

Clients also need to be made aware that probation supervision is a Court Order and that they are expected to fulfil the conditions of their Order; for example, not to offend, to attend for appointment, to engage in and co-operate with treatment, to engage in training and to seek employment. When a client misses an appointment the student should be advised by the practice teacher to challenge the client's behaviour. Students can be very nervous about challenging a client's behaviour and taking a more controlling role. It can be difficult to balance responsibilities, as their personal ethos and intent can be primarily care-focused.

In addressing the care versus control dilemma, students can find the concept and practice of breaching of Orders and return to court process

hard to manage. A Probation Order is a Court Order. If the client hasn't adhered to a condition they have broken the Court Order and are accountable to the Court. Ward *et al.* (2002) say that breaching conveys important information to clients and judges; that the Probation Service is reliable in supervising clients effectively and enforcing the law. Compliance policies and practice and breach proceedings should be clearly explained to the student. It is helpful for the student's learning to observe Probation Officers carrying out breach proceedings in court.

All these challenges can be difficult for the student to manage and can cause anxiety. Grossbard (1954) encourages practice teachers to assist students to manage their anxiety. Frantz (1992, p. 29) states that tension is managed well when 'a person consciously experiences and reflects upon it, discerns its location and parameters, welcomes it as a message and gleans from it information useful in choosing a response to the anxiety arousing circumstances'.

As practice teachers it can be difficult to watch a student experience anxiety. Moffat and Miehl (1999) state that it is necessary for the student to experience anxiety in order for them to develop an identity that is sensitive to the experiences of the others. The student is gaining knowledge of the influence they have on others through their interpersonal relations.

Conclusion

Students bring theories and skills learned in university to the practice environment, where, with the assistance of the practice teacher, they develop and apply their practical social work skills. Practice teachers are learning from students, as it is an opportunity for them to be updated on theories and to review and reflect on their own practice.

Students are enthusiastic about leaning in the practice environment. While the placement in the Probation Service may be challenging, the opportunity for learning is huge. As well as developing practical skills such as report writing, assessment and case management, students are honing their communication and engagement skills and learning to manage authority.

Practice teachers have an important role in training and educating future social workers. Understanding how students learn gives the practice teacher an insight into how the student develops practice. The practice teacher has many roles. When this juggling act is well balanced

and managed, the experience can be empowering, rewarding, fruitful, insightful and valuable to the student and the practice teacher.

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Probation Working in Local Communities

Eithne McIlroy*

Summary: This paper examines the Probation Board for Northern Ireland's work within a community setting, specifically as a designated partner in the Policing and Community Safety Partnerships (PCSPs) as created by the Justice Act (NI) 2011. It also looks at how PCSPs work to tackle local issues in order to reduce the levels of crime and improve community safety.

Keywords: Policing and Community Safety Partnership, crime, community involvement, Probation Board for Northern Ireland, community safety, partnership.

Introduction

The Probation Board for Northern Ireland attaches immense value to its working relationship with local communities. In the decades often referred to as 'the Troubles' in Northern Ireland, probation was one of the few criminal justice organisations that had a presence in every local community and attracted the confidence of local communities.

In recent years it has continued to hold dear the importance of community involvement. It provides over £1 million of its annual budget to community grants, has over 240 community partners and provides over 185,000 hours of unpaid work to communities through community service. Alongside this, innovative projects such as the Inspire Women's Project and Reducing Offending in Partnership draw on community partners and community facilities to provide interventions and programmes to specific offenders.

Recognising the importance of community involvement to preventing reoffending, and PBNI's long experience of working in local areas, the

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Probation Board firmly advocated that it should have a role in new community partnerships that were being legislated for in the Northern Ireland Assembly and Executive through the Justice Act (Northern Ireland) 2011.

This paper looks at how PBNI came to have a key role in the new statutory community partnerships – Policing and Community Safety Partnerships (PCSPs) – and what impact this involvement has had on developing probation practice and enhancing community safety in Northern Ireland.

Background to PCSPs

Following the devolution of policing and justice powers to Northern Ireland in 2010, Justice Minister David Ford MLA made clear that one of his priorities as minister was to make provision for the establishment of new PCSPs to help build confidence in the justice system, and ensure that members of the community were empowered to help develop solutions to tackle crime, the fear of crime and antisocial behaviour. ‘The new Policing and Community Safety Partnerships ... are central to delivering community safety locally, and will work with communities to deliver local solutions, to make people feel safer and ensure that the voices of local people on community safety are heard’ (Department of Justice, 2012) The partnerships were aimed at bringing together and building on the work of the previous district policing partnerships (DPPs) and community safety partnerships.

There was a clear expectation that these partnerships, made up of elected representatives, independent representatives and statutory bodies, would contribute at a local level to the achievement of Northern Ireland-wide targets set in the Executive’s Programme for Government 2011–15, which included the following priorities: ‘protecting our people, the environment and creating safer communities’. The community safety strategy set out the strategic direction for the PCSPs, alongside the Policing Plan and the Police Service of Northern Ireland’s (PSNI) ‘Policing with the Community 2020 Strategy’. The minister made it clear that PCSPs were to ensure a joined-up approach to policing and community safety issues, developing holistic solutions to issues identified by local people and making a real difference on the ground.

PBNI had been a member of the previous community safety partnerships, but had no involvement with DPPs. Recognising the opportunities

for closer collaboration with criminal justice partners and the community, PBNI's board and senior management endorsed the view that PBNI should be a part of the new arrangements and made this case when giving evidence to the NI Assembly Justice Committee in 2011 and in representations to the Department of Justice.

One of the new features of PCSPs that aimed to enhance the effectiveness of joint working was the area of 'designation'. That feature was designed to formally recognise the contribution that statutory organisations and voluntary and community organisations can make to enhancing community safety. In practice, it means that the bodies that were designated would be fully immersed in the work of the partnerships, delivering with other partners to improve community safety. The representative of each designated organisation is given full membership of the PCSP or district PCSP (DPCSP) to which they are appointed. They would, as part of the PCSP, work to engage with the community to identify issues of local concern, develop plans and take action as needed.

The Justice Act (Northern Ireland) 2011 included two types of designation. The first was local designation, where each PCSP can select bodies that might potentially assist them in meeting their local objectives. Those bodies can hold membership of the PCSP and contribute to the partnership's planning and delivery.

The second type of designation came about as a result of an NI Assembly Justice Committee amendment during the passage of the Justice Bill. It enabled the Department of Justice to list, in an order, a number of organisations that would be obliged to provide representation on all PCSPs across Northern Ireland.

A wide-ranging consultation exercise on the Implementation of Policing and Community Safety Partnerships was undertaken by the Department of Justice, with support from the Policing Board to determine which organisations should be listed as designated.

Paul Givan, MLA and Chair of the NI Assembly Justice Committee, commented on the consultation exercise: 'It was the Committee's clear view, strongly supported during the oral evidence event, that there was merit in designating a small number of named organisations, such as the Probation Board, to be represented on all PCSPs to ensure a consistent level of skills and expertise across the partnerships, rather than leaving it entirely to each PCSP to decide for itself which organisations should be represented on it' (Northern Ireland Assembly, 2013b).

Therefore the Justice Act (Northern Ireland) 2011 made provision for the designation of organisations onto PCSPs, both formally by the Department of Justice and locally by PCSPs. The bodies that were formally designated by the department onto all PCSPs in February 2013 were: the Police Service of Northern Ireland; the Northern Ireland Housing Executive; the Probation Board for Northern Ireland; the Youth Justice Agency of Northern Ireland; the Northern Ireland Fire and Rescue Service; Education and Library Boards; and Health and Social Care Trusts (excluding the Northern Ireland Ambulance Service). All of these bodies are listed in the Policing and Community Safety Partnerships (Designated Organisations) Order (Northern Ireland) 2013.

For the first time in Northern Ireland, the Probation Board's role in working in local communities and delivering local solutions to local problems in partnership with communities was put on a statutory footing.

PCSPs in practice

Since formal designation in 2013 the Probation Board has allocated an area manager to sit on every PCSP in Northern Ireland. There are 26 PCSPs in total – one established by each of the Councils in Northern Ireland. Belfast has one overarching PCSP and four DPCSPs – one for North, South, East and West Belfast.

The functions of the partnerships are as follows:

- consultation and engagement with local communities, the statutory and voluntary sectors and other relevant organisations on the issues of concern in relation to policing and community safety
- identification and prioritisation of the particular issues of concern and preparation of plans for how these can be tackled
- monitoring performance to ensure delivery against the Partnership Plan – this will set out the issues for the local area and how they will be addressed; the Policing Committee, comprising political and independent members, will monitor the performance of the police to ensure that local policing services are delivering for local communities
- delivering a positive difference to communities, contributing to a reduction in crime and enhancing community safety in their districts.

Guidance on the role and responsibilities of designated bodies has been issued by the Department of Justice and Northern Ireland Policing

Board. The guidance states that the role of designated bodies including PBNI on the partnerships is to: contribute to enhancing community safety in the PCSP's area through their participation; work with the PCSP on achieving shared objectives; provide appropriate representation; and be accountable for the achievement of the Partnership Plan.

At the end of 2013 an internal survey of PBNI staff involved with PCSPs was carried out. It found that in the main, PBNI managers felt that the partnerships were working well. Some described 'rocky beginnings' where agencies and members were unsure of roles and responsibilities, but in the main the feedback was positive. One manager commented: 'There has been some good examples of action plans in local areas that have had a positive impact on the level of crime and visibility of the agencies. From PBNI's perspective I think it is a very useful forum to raise awareness of our practice and success.' Another said: 'Meetings are well organised and the co-ordinator/chair has sought to include all representatives in discussion. Acknowledgement that all representatives, elected, independent and statutory have an input.'

A manager in a Belfast Probation team said: 'The partnership was very active but the principal issues being raised are antisocial behaviour and preventative strategies around interface areas of the city.' Some less positive feedback was received from a small number of managers who had concerns about structure of meetings and the number of meetings.

A significant role for PBNI has been to make partners and members of PCSPs aware of what it is that PBNI can and cannot do. It has been important to manage public expectations about our role in working with offenders and making communities safer.

In terms of profiling of PBNI, as measured by the 2014 communications audit, media coverage of PBNI locally has increased due to participation in local events through PCSPs. There have been more opportunities locally to explain the work of probation and showcase successful practice.

In some areas probation has been able to provide a quick and effective solution to local problems in a co-ordinated manner with other criminal justice organisations and communities. One notable example is from Omagh PCSP. Following the tragic death of Jason McGovern, a 19-year-old who was assaulted twice on a night out in Omagh and was subsequently found dead in his home, there was local outcry about assaults relating to the night-time economy. Omagh PCSP took forward a range of targeted initiatives to improve town centre safety, co-

ordinating with a range of bodies to develop a holistic response to those local issues. This included securing funding to set up the volunteer or 'street angels' programme to assist vulnerable people and make Omagh feel like a safer place to be at weekends. PBNI has a key role in providing interventions for adults and young people around anger management and alcohol and substance misuse, and was part of the multi-agency approach to tackling local problems in the Omagh area.

PBNI has also played a key role within Newtownabbey PCSP, having been asked to help set up a consultancy group to determine where best to allocate resources/how to deal with offending by facilitating a meeting with offenders.

While it is early days for the operation of PCSPs, it is clear that PBNI is embracing its role within the partnerships and working hard to resolve local community issues. However, it is evident that members of the public need more information about PCSPs and the role they play. The 2013 Omnibus Survey asked the public if they had 'heard of Policing and Community Safety Partnerships (PCSPs)?'. Just half of respondents (51%) had heard of PCSPs. Only one out of five respondents (18%) who had heard of PCSPs knew who their local members were. Therefore the partnerships need to continue to raise awareness about the role played in addressing community safety issues.

The future of PCSPs

The Review of Public Administration, which will significantly alter local governance in Northern Ireland, including the number of local councils, will impact on the operation and formation of the PCSPs. The number of councils in Northern Ireland will reduce from 26 to 11 in April 2015, and therefore the number of PCSPs will ultimately decrease. PBNI supports the reduction of the current number of councils and believes that a reduced number of PCSPs will help focus finite resources across the public sector where they are most needed. It is important, however, that the 'local touch' and local engagement are not lost in this process.

In 2014 Criminal Justice Inspection Northern Ireland is carrying out an inspection and examination of the work of PCSPs. The inspector has described PBNI as 'a perfect partner',¹ committed to collaborative

¹ A speech at the Public Protection Arrangements Northern Ireland corporate plan launch event in 2013.

working and able to take the lead when necessary. This inspection will undoubtedly signpost agencies to improve and build on what has been achieved to date.

PBNI's corporate plan 2014–17 has a theme called 'rehabilitation through collaborative working and partnership'. It makes clear that PBNI's involvement and membership of PCSPs will enhance community safety and remains a future priority for PBNI. Indeed, it is hoped that partnership working will enable us to develop more innovative ways of using the community and voluntary sector to reduce offending and make communities safer.

Conclusion

PCSPs are one of the main strategic forums for delivering community safety across Northern Ireland, and they are here to stay. PBNI, as a key player in the criminal justice system, rightly has a place on those partnerships. To date membership of these arrangements has enabled PBNI to influence and debate decisions on issues relating to the prevention of crime in local areas. PBNI also brings vast knowledge and experience about effective intervention with offenders, and this is contributing to the reduction in crime in local areas. The PBNI Corporate Plan 2014–17 has a strategic theme around collaborative working, and PCSPs will form a key element of that work, therefore probation involvement will develop and continue at a local level.

While PBNI staff experienced some difficulties at partnership meetings in the early days, in the main the response from managers has been positive, indicating that they feel they are making a difference through participation. We look forward to the Inspection of the arrangements and hope that it will enable greater and more meaningful participation and increase awareness about the important role PCSPs play in reducing crime in local areas.

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Restorative Justice in Practice: A Case Study

Dermot Lavin and Claire Carroll*

Summary: This brief paper describes the authors' experience of co-ordinating a Restorative Justice response to an episode of offending in a small village involving multiple victims. It includes reflections on the entire process and the perceived benefits of utilising a Restorative Justice approach in practice.

Keywords: Courts, sentencing, Restorative Justice, victims, community, partnership, reparation.

Introduction

In late 2012, a number of residents in a midlands village awoke to find damage to property at their homes. Tyres on cars had been slashed, wheelie bins were burned, flower pots were broken and there was damage to car windscreens and bonnets. For all, this was a severe inconvenience. For some, it was a traumatic and frightening experience. The impact was amplified when it became known that so many neighbours within a small community were affected by this crime, a total of 30 victims.

In early 2013 two young men, both aged 20 years, pleaded guilty to offences of criminal damage. The cost of the damage caused was over €5,000. Neither man had been before the court before or had been known to An Garda Síochána (the Police Service in Ireland) prior to this incident.

An assessment by the Probation Service found that this matter was one in which a Restorative Justice approach could be effective. Initial

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contact with the local Garda Síochána confirmed that there was potential for such an approach to be successful, given that the young men had already written letters of apology to the victims. The Garda Síochána believed that the victims/community would respond well to a Restorative Justice intervention. The Probation Service presented a pre-sanction report to court with a proposal that a Restorative Justice Conference be convened and that the victims and community be included in this process. The judge agreed that this was an appropriate intervention and adjourned matters to allow the process to take place.

The Probation Service liaised with An Garda Síochána, Le Chéile's Restorative Justice Project,¹ and the local community in the weeks and months thereafter in order to build the foundations for the Restorative Justice Conference. Each of the victims was written to and invited to an information evening. In addition each of the victims was spoken to personally in their own home by either a Probation Officer or the local Garda Síochána sergeant. These meetings gave time and space to victims to explain what was involved, the potential benefits of participation and what they could expect from a Restorative Justice Conference. The information evening and individual meetings were very successful, and it was noted that there was an appetite within the community to engage actively in the process.

After our initial meetings, each victim was contacted to check if they wanted to go ahead with the Restorative Justice Conference and to discuss any individual worries they had about it. As a result, six people decided to participate in the conference. Those who chose not to participate cited fear, anger and lack of interest as their reasons. None of the victims were hostile to the concept. Those who took part had very different responses to the experience.

As organisers, the authors were conscious of the possibility that some victims might minimise the significance or seriousness of the impact, given the hurt expressed by others about what happened. We made sure to offer reassurance and validation to all involved. We also ensured that information on services that support victims was available, and found that the levels of support needed varied from person to person.

¹ Le Chéile is a child-centred, non-judgemental, non-governmental organisation funded by the Irish Youth Justice Service through the Probation Service. Le Chéile provides mentoring and Restorative Justice services. It recruits and trains volunteers from local communities to work with young people and families. For further information visit www.lecheile.ie

In the summer of 2013, a group of six victims attended the Restorative Justice Conference with both offenders present. One of the offenders chose to bring his girlfriend to the meeting also. The Restorative Justice Conference was co-facilitated by a Probation Officer and a Le Chéile staff member with specific expertise in the area. The Garda Siochána sergeant also participated fully in the conference. At this meeting the offenders were given an opportunity to explain what occurred on the night of the offences. They also expressed their deep regret and remorse at what they had done. Following this, each of the victims was given an opportunity to speak about how this incident had affected them.

It was very clear that their powerful stories had a profound effect on the two young men, who were visibly shaken and upset during the process. One of them remarked that up to that point he had understood that he had damaged property, but had no insight into how he had damaged these people's lives through his actions.

At the Restorative Justice Conference an Action Plan was agreed by all present. This plan aimed to repair the harm caused to the community through the offending. The offenders acknowledged a need to do this, and made a number of suggestions as to how they felt it could be achieved. In turn the victim representatives outlined how they felt their harm should be repaired. With assistance from the facilitators, a mutually acceptable plan was agreed.

Within this plan, the two offenders agreed to compensate every person fully for their loss. It was agreed that the total sum of the damage, over €5,000, would be repaid without delay and that each of the men would make an additional contribution to the fund to make it a sum of €7,000 in total. The additional money would be offered to a local charity. The two offenders also committed to providing 30 days' unpaid voluntary work in the community, i.e. one day for each victim. The court approved the plan and adjourned matters for some months to allow it to be completed.

Over subsequent months the two men, supervised by a local community volunteer from the Tidy Towns Project and the Residents Association where the offences occurred, undertook a number of projects aimed at restoring the harm they had caused. Examples of the work undertaken included the reclamation of up to three acres of waste ground in the estate where the offences occurred and also the removal of graffiti in the village. Following the work by the two young men, residents gained access to a larger and more aesthetically pleasing amenity area.

Feedback from the community and the victims of the offence was universally positive, in relation to both the Restorative Justice Conference itself and the benefits achieved through the voluntary work undertaken.

In late 2013, following the completion of the agreed Action Plan, both men once again appeared before the court. A report on the entire process was presented. This included correspondence and feedback from victims and community representatives detailing their satisfaction at the outcome of the process. The judge decided to dismiss matters under Section 1.1 of the Probation of Offenders Act 1907, which meant that while the facts of the case had been proved, no conviction has been recorded against the defendants.

Engaging with victims of crime

The approach outlined engages victims in a different way from the more traditional criminal justice approach. Despite growing interest and many advocates, Restorative Justice is not to the fore in public perceptions on crime and how it is dealt with. Many people in Ireland are unaware of Restorative Justice, its impact and what it has to offer. The European Forum for Restorative Justice (2007) in its vision and goals states that ‘Restorative Justice aims to involve communities in dealing with crime and conflict. Therefore it is important to inform the general public and to stimulate their active participation.’ A strategic approach to increasing public awareness in Ireland could help stimulate victim participation.

The current situation, whereby many people first hear of Restorative Justice as victims of crime, is not always conducive to their effective engagement with Restorative Justice. After being the victim of a crime many people experience heightened emotions and feelings of uncertainty about what has happened and what will happen next. Victims are unexpectedly confronted with a complicated jigsaw puzzle. Trying to put all the pieces together and deal with An Garda Síochána, the courts, the Director of Public Prosecutions (DPP), the victim supports and other services can be immensely stressful and difficult. Introducing Restorative Justice at this point can be like adding another new and unknown piece to the jigsaw puzzle.

When Restorative Justice is introduced properly, with clear explanations and support, it can work well, but it is not always easily done in fraught circumstances. A commitment and budget to increase public awareness in Ireland of Restorative Justice would enable people to have a

better basic understanding and awareness, to objectively assess possibilities for a Restorative Justice approach in their case and to decide whether they see it as worthwhile.

Benefits to victims of a restorative approach

To understand the benefits offered to victims by a restorative approach, it is useful to consider briefly the position of victims today. The current focus on court proceedings, establishing guilt and appropriate sanction, can contribute to the 'marginalization of the victim' (Spalek, 2006, p. 15). The victim's participation in court is often limited to giving evidence or reading a victim impact statement (assuming that the matter has proceeded to court and that the victim was informed and is present).

Unfortunately, many issues that greatly affect victims never get beyond the Garda Síochána investigation stage, and their role is thus further limited to reporting the offence. This situation can leave many victims feeling that even though they are the most affected by what happened, they are the least involved.

In a Restorative Justice Conference, all victims are offered an opportunity to individually debrief afterwards. Five out of six participated, and all five indicated that they felt their voice was heard.

This differs from the current system, which is 'particularly good at stealing conflicts' (Christie, 1977, p. 4) and does not recognise the importance of these conflicts to those most involved. A restorative approach recognises this and gives ownership back to the participants, particularly victims. It is the victim's voice, their story, their harm that is at the centre of a restorative approach. Because of this, and because Restorative Justice is unrestricted by precedent and seeks only the restoration of those involved, it has scope to really meet the needs of the harmed person, the wrongdoer, their families and the community generally.

In this Restorative Justice Conference, like others of its kind, everyone who participated was given a chance to tell their story, gain an understanding of why the offence/event happened and see the remorse of those involved. As there were multiple victims, it provided those involved with a chance to share what happened with others who had a similar experience, building a sense of community and group support. The facilitators were committed to the timely and appropriate provision of all relevant information and support to victims throughout the process.

Under Irish law victims have limited rights to information about their case or the support available. However, this will change with the implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 (European Union, 2012). The new directive establishes minimum standards for the rights, support and protection of victims of crime and is expected to be transposed into Irish law by 15 November 2015.

The directive aims to ensure, as detailed in Article 1, ‘that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings’ (European Union, 2012). This timely piece of legislation, appropriately implemented, will improve the position of victims of crime in Ireland and across Europe.

Benefits to communities

The court, by approving the plan formulated at the Restorative Justice Conference, validated the views of the community and empowered them to resolve the issues locally. After the Restorative Justice Conference, there were visible signs of reintegration and reconciliation, with people shaking hands, congratulating the two young men on coming to the conference and acknowledging that it couldn’t have been easy for them. There was also a tangible local benefit from the 30 days of unpaid community work completed by the young men. This work ensured that reparation was local, visible and meaningful.

Benefits to offender

In order for the Restorative Justice Conference to be successful, there had to be full co-operation from the offenders involved. In this matter the judge gave no indication or commitment regarding how he would ultimately dispose of the case, but the court’s endorsement of and support for the Restorative Justice Conference was clear.

There were benefits to the offenders both through the Restorative Justice Conference and through the court outcome. Through an examination of their own attitudes and behaviour, both offenders made positive changes in their lifestyles and behaviour. Each made alterations they recognised as necessary to avoid a recurrence of their offending behaviour.

Both men had spoken of the shame felt following their offending. One of them remarked how he had avoided walking along that street because of the shame. One of the outcomes of this process for the two young men was a release of these negative feelings and a renewed sense of belonging to the community. Prior to that point they had feelings of isolation and ostracisation from their own community. The Restorative Justice process had a healing effect for both young men.

The outcome of the court process was significantly more favourable for both offenders than it might have been had a Restorative Justice process not been adopted. The judge indicated to both men on numerous occasions throughout the court process that their behaviour warranted a custodial sanction. However, he stated that he had been influenced by the views of the community/victims on the matter in deciding on a non-custodial sanction.

Benefits for the Probation Service

Embracing the principle outlined in the Probation Service Restorative Justice Strategy (2013) that ‘interventions are best delivered in partnership with other agencies in the community’, the Probation Officers worked closely with Le Chéile Mentoring and Youth Justice Services and An Garda Síochána. By collaborating in this way, different skill sets were harnessed, workloads were shared and all increased their knowledge and skills.

This case illustrates the important role of the Probation Service in the promotion and effective implementation of Restorative Justice in practice. The Probation Service has invested in training of staff in Restorative Justice skills and practices and continues to do so. Probation Officers are equipped with the knowledge and skills to implement a restorative approach in their work. By including restorative approaches within its proposals to court in pre-sanction reports, the Probation Service can take a leading role in introducing and validating the use of Restorative Justice in the criminal justice system.

Development of restorative justice approaches and interventions needs ongoing engagement and co-working with An Garda Síochána. In the case study, the Garda Síochána sergeant had engaged directly with all the victims, supporting ‘buy-in’ from the community. This visible collaboration between the two services gave the Restorative Justice process greater legitimacy and credibility.

Although the Probation Service has always liaised with An Garda Síochána during the course of its work, experience in this case brought this collaborative relationship to a new level of co-operation that is of benefit to both partners. Working in partnership also ensured that we had the time and human resources necessary to deliver a quality intervention. The understanding from the outset of the level of work involved and the commitment to working together was integral to the success of the conference. There is much potential for further co-operation and co-working.

Probation Officers are very proficient at working with offenders, but do not frequently encounter the victims of offending. Through the Restorative Justice Conference and in liaising with victims, it was possible to develop increased knowledge and understanding of issues affecting victims. Through this work, therefore, the skill set and knowledge of the Probation Officer involved has been significantly enhanced. This can serve to increase that person's level of proficiency in working with these and other offenders.

The Probation Service, in working with offenders, seeks to challenge the attitudes and beliefs associated with their offending. The development of victim empathy and the emergence of genuine remorse are seen as key goals or aims in Probation Officers' case management plans. Much of this work can be done on a one-to-one basis between Probation Officer and offender. In a Restorative Justice model, however – particularly the model chosen in this case – the development of victim empathy is significantly accelerated.

In this case, both offenders were placed in a scenario where firstly they had to reflect on their actions and also on the impact their behaviour had on others. Secondly, through coming face to face with the victims and listening to their stories, the offenders were exposed to the hurt and trauma caused by their offending behaviour. The powerful experience had the desired effect in this case of developing victim empathy, which should serve to positively alter offender attitudes and beliefs and reduce the risk of reoffending.

Conclusion

The Probation Service, in its Restorative Justice Strategy (Probation Service, 2013) outlines its vision as follows:

The Probation Service, through a framework of specific, targeted actions will maximize the use of Restorative Justice across all areas of our work, to complement and support existing strategies and interventions to reduce reoffending and further possible victimisation, and promote and support meaningful engagement with victims and communities.

The experience described in this paper shows how a model of Restorative Justice can complement the existing structures and objectives of the criminal justice system. The Restorative Justice Conference added an extra dimension to the case. The Restorative Justice approach does not undermine or disempower the criminal justice system but had the effect of enhancing the process for all concerned.

Throughout the Restorative Justice Conference described, the needs and views of victims and communities were to the fore. From the outset there was meaningful engagement with victims in discussing and devising a process that would meet their needs. The community and victims were listened to and included throughout all key decision making. In his final deliberation, the judge referenced the victims' views in his sentencing. This not only has reduced further victimisation but has added to the 'healing process' for those concerned, who have felt empowered through the Restorative Justice Conference.

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Book Reviews

The Irish District Court: A Social Portrait*

Caroline O’Nolan

Cork: Cork University Press, 2013

ISBN: 978-1-78205-048-3, 244 pages, hardback, €39.00

The Irish District Court: A Social Portrait starts its prologue by capturing the court room while the court is sitting. It portrays the defendant before the court, the atmosphere in the court room and the somewhat jaded mood of the judge. The author gives an accurate picture of the ordinary work conducted in the District Court on any given day and, more importantly, a real flavour of how it is conducted.

The dynamic may well appear foreign to an outsider who has never experienced the workings of the District Court: the language spoken sounds like code, and the conduct of its actors seems to follow a secret script. The author has encapsulated this in her description. She describes the various actors on the stage that is the Irish judicial system in the lowest level of court in the country. The first chapter is aptly named ‘Anatomy of a workhorse: The Irish District Court’, and the rhythmic, constant motion of the cogs in the criminal justice wheel is almost audible.

Caroline O’Nolan aims at highlighting the experience of the non-nationals/non-UK citizens in the Irish District Court system and to examine their involvement. A number of highly interesting findings are presented, such as family cohesion in migrant communities, examples of stagnant neighbourhoods receiving a boost when migrant communities move in, and emigration back to countries of origin in the recession: these in fact act as prosocial components.

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The author debunks the myth that non-nationals are more criminalised than Irish citizens and puts forward the argument that socioeconomic status is more relevant than nationality. The proportion of non-nationals in Irish prisons is higher than in our communities, but a number of non-nationals are in prison for immigration offences that are not applicable to Irish citizens.

Are non-nationals treated with equality in the Irish court system? There is a point in Irish District Court culture where the demand for efficiency meets the demand for fairness and justice. It is in this vortex that non-nationals are often caught, to their disadvantage. The need to process the court list promptly appears to be greater than ensuring total fairness. The author has observed that through the non-provision of interpreters in certain types of hearing, non-nationals are not afforded the correct attention. Unspoken xenophobia in society does not help to reduce prejudice about perceived rates of criminality.

Following the colourful description of the District Court, the author examines the typical defendant before the court in Chapter 2. The observation is made that young men from lower socioeconomic areas appear to be over-represented. Factors behind offending behaviour are scrutinised before the author takes a closer look at non-nationals in the legal system and the prevalence of non-nationals in Irish prisons. Some background information regarding Ireland in a European perspective is included, as well as patterns following the accession of 10 new member states in May 2004.

Sentencing, how sentences are monitored and sanctions are dealt with in Chapter 3. Which principles guide sentencing in criminal matters in the District Court? How is recidivism viewed? We learn that Irish judges have a high degree of autonomy in comparison to their counterparts elsewhere in Europe. The pros and cons of this autonomy are discussed. A backdrop to this is the question of how we view people who break the law. Do we look at their rehabilitation as essential to setting right the offence committed? That school of thought is called the principle of individual prevention, a term used in the Nordic countries when debating crime and punishment. The other end of the spectrum is to look at the incapacitation of people who break the law, to protect society from their ill deeds, hence custodial sentences are more often held up by its proponents. This principle is referred to as 'general prevention' in the criminological discourse.

It is obviously difficult, if not impossible, to cover comprehensively in one book such a wide legal area as the District Court spans. The purpose of this book is to place the District Court in a social context regarding the treatment and prevalence of non-nationals, and that is exactly what it does. The above discussion lies at the heart of crime and punishment.

The author has used field observations, interviews with solicitors, interpreters, barristers, one retired judge and one sitting judge as well as research and literature for her research. The field observations are captured in short segments interspersed throughout the six chapters. Observations are informally depicted, and sometimes brief conversations in or outside the courtroom are given verbatim. A number of acronyms are used widely throughout the book, and explained in the glossary. LEP, for example, stands for 'limited English proficiency' and is used extensively.

The author describes her methodology with regard to her field research as 'quasi-ethnographic', a method used by various researchers to penetrate 'hard-to-reach subcultures'. I feel that the observational element is a key ingredient in this book.

As a Probation Officer I found *The Irish District Court: A Social Portrait* well worth reading. Its strength lies in its mix of hard facts and the author's field notes and observations. It holds the reader's interest. It enhanced my own knowledge, particularly with regard to sentencing and sentencing principles in Ireland.

The author has captured the role of the Probation Officer in court, pointing out that he or she cuts an often 'somewhat isolated figure who has no direct colleagues to confer with', something most practising Probation Officers can identify with.

The book is informative and shines a light on areas of interest not only for practitioners in the legal and social fields but also for citizens in general.

Who is the ideal reader of *The Irish District Court: A Social Portrait*? Anyone who is involved or interested in the criminal justice system is the obvious answer. However, the book has a broader appeal in my view, and should be read much more widely, by anyone who has an interest in the Ireland of the present and the future.

Offender Supervision in Europe*

Edited by Fergus McNeill and Kristel Beyens

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Offender Supervision in Europe reports the findings from a survey of European research on this topic, undertaken as part of a European research network project encompassing 20 countries. The editors have assembled key papers by highly reputable experts on themes from the COST 1106 research project.

The population of offenders under supervision in the community in most European countries has grown over recent decades and now significantly exceeds the population in custody. Despite this, community supervision of offenders continues to be the Cinderella of criminological research and significantly under-researched. The authors identify four important research questions, related to core functions of offender supervision, which are inadequately addressed within the literature:

1. When and how is supervision justified? (Normative function)
2. What is supervision intended to achieve? (Primary function)
3. How does supervision contribute to administration of justice? (Ancillary function)
4. Whose interests are served or damaged by supervision? (Latent function)

The authors argue that most of the available research, much originating in the UK, relates to the *ancillary function* of supervision – the administration of justice, specifically the evaluation of supervision programmes in terms of ‘what works’. This, they suggest, is in itself problematic as only about 10% of offenders under supervision undergo such programmes. When and how supervision is justified and what it is intended to achieve, they argue, should be discussed before the success or failure of its different formats is evaluated.

Practitioners, policy-makers and members of the public, on the other hand, may argue that the evaluation of ‘what works’ relates to the *primary*

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function of supervision – what it's intended to achieve, specifically the rehabilitation of the offender and reduction in recidivism.

Within the 'what works' approach, the research underpinning the Risk/Needs/Responsivity (RNR) development and practice was conducted primarily in the US or Canada. The resulting practices have had significant influence on practice in Europe and follow-up research has been conducted, including studies in Ireland. Canadian-based research has also been conducted as part of the Strategic Training Initiative in Community Supervision (STICS) project, specifically focusing on practices in general rather than programme-based offender supervision.

Chapter 3 sums up the most significant finding of the study, replicated across all areas of the research review, as follows: 'The literature is rather limited: there are very few research studies on the release decision making process itself: they come from a limited number of countries, they are embedded in the context of their jurisdiction and make comparison or the drawing of general conclusions difficult if not impossible.'

While research should focus first and foremost on the primary functions of supervision, it is argued that research should also consider the social and cultural context in which supervision takes place and the experiences of the individuals and communities affected.

Given the diversity in history, culture, language and legal systems across Europe, it is reasonable to assume that any comparative approach should analyse the nature and implications of this diversity. In the field of social policy, it is recognised that comparing policies across different national contexts can be unhelpful unless accompanied by an evaluation of the contextual issues and their impacts. Similarly, the dangers of transplanting any regime of supervision from one jurisdiction to another without due regard for contextual differences are acknowledged here.

The available research literature is considered from three perspectives: the supervisees and other affected individuals, the decision makers and the supervisors. Chapter 5 discusses recommendations and other provisions emanating from the Council of Europe and the European Union.

Supervisees

Across Europe the purpose of supervision ranges from rehabilitation to public safety; how this is implemented is increasingly complex and its meaning for individuals can include restrictive, rehabilitative and

reparative measures. Supervisees across Europe are mainly young, male and disadvantaged. The bulk of their crimes are against property and an increase in numbers is partly attributable to the referral by courts for supervision of more persistent offenders and more serious offences. The available research suggests that supervisees' experience of supervision is generally positive, but with mixed responses for more demanding formats such as community service and tagging. Revocation of orders can result in animosity to the supervisors concerned. Little if any research is available on how other concerned individuals, including victims, perceive the process.

Decision-makers

The account of the criminal justice decision-making processes across Europe in Chapter 3 is helpful in its clarity. It highlights areas of commonality and contrast. The chapter points out how differences in judicial authority between common law and written law (statutory code) systems have been eroded in recent decades. It identifies cross-European developments such as the amalgamation of prison and probation bodies and the impact on cultures, responses to prison overcrowding, the use of evidence-based practice and privatisation as areas requiring more research and evaluation. Comparative research is required on specific issues such as how and by whom supervision decisions are taken, how these processes impact on outcomes, what the goals of supervision are, how human rights are respected and the influences of legal tradition, context and culture.

The discussion on the use of pre-trial supervision, the availability and influence of pre-sanction reports, judicial involvement in supervision, the implications of problem-solving courts and other measures that delegate judicial authority is informative and thought-provoking.

Practitioners

Research findings on the practice of supervision in Ireland are referenced extensively. Available research on how supervision is delivered addresses the role of practitioners (supervisors), the practice of supervision and the tools and technologies used. Within this, risk–need–responsivity (RNR) and the change processes associated with new methods of practice are the

main themes. Research on interactions with other professionals, governance of practice, the impact of different educational backgrounds and the role of volunteers is recognised as limited and in need of attention.

The European norms and policy

EU and Council of Europe recommendations and documents including the COE (No. R (92) 16) Recommendation on Community Sanctions and Measures and on Probation Rules (2010) are discussed in Chapter 5. While they have the authority of the Council of Europe, they are not binding in law. Two Framework Decisions (FD 947 and FD 829) of the European Union, however, will, at least in principle, be binding. The challenges in implementing such decisions, rules and recommendations across many different legal jurisdictions and systems are anticipated. How significant they may be and how they might best be overcome are discussed.

Conclusion

Framework Decision 947 will soon facilitate the transfer of community supervision across European jurisdiction in the interests of rehabilitation and settlement in home jurisdictions. The transfer and exchange of supervision practices does not necessarily mean that all will work out the same everywhere. To answer the question ‘can it work in another time and place?’ one must ask when, where and how has it worked, and what caused it to work there.

Having concluded that the currently available research is less than adequate, the authors (and the editors) recommend a new, more developed research methodology for effective comparative analysis. The format of this methodology is of significant interest: what it might look like, how it might begin or progress and how it might be expected to work.

While the discussion of the proposed methodology clearly identifies the need to examine the cultural context, it is less clear in defining how factual and empirical data across Europe can be effectively researched and compared. While there are in-depth questions about different contexts, there are also questions about cross-national and global trends that need to be empirically examined. Research without this empirical under-

pinning is likely to be seen as subjective, culturally embedded or simply reflecting the views of those who practise the art.

Offender Supervision in Europe is a stimulating and thought-provoking read. It is an important statement of where we currently are, including gaps and opportunities, in evaluating and studying community supervision in Europe, and it provides a challenge to develop the evidence and assessment to better understand and improve offender supervision in Europe.

Probation and Social Work on Trial: Violent Offenders and Child Abusers*

Wendy Fitzgibbon

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There is not enough room in one review to outline how informative, perhaps even provocative, this book is to any social work practitioner currently working in child protection or criminal justice on this island. Fitzgibbon has successfully defined the processes that permeate and influence the environment that staff work within and, increasingly, against. Through careful comparison with case studies from the 1970s and those of Peter Connolly (Baby P) and Daniel Sonnex, Fitzgibbon accurately illustrates the changes in media coverage, political responses and social identity that have evolved and combined to present staff with a burden of 'Impossible expectations for the ability of the state to protect citizens and promote justice' (Maruna, Foreword, p. x).

The tragic death of a 15-month-old child already on a Child Protection Register and the brutal torture and murder of two French students at the hands of a young man who was under probation supervision at the time of the killing make for sober and reflective reading. Where the perpetrator is known in such cases, the author is able to articulate the frustration society expresses that somehow such crimes were preventable if 'everyone concerned was doing their job properly'. The fact that Baby Peter's death occurred against a 69% drop in child abuse related deaths since the

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1970s, and that serious further offences in England and Wales have never exceeded 0.5% of national caseloads, is not allowed to diminish the tragedy of each death. The author is clear that there is a need for serious consideration to prevent recurrence. The difference is the context in which each agency is now operating.

In the following chapters, beginning with the media she outlines through historical comparison how much has changed in the reporting of such tragedies, not least the evolution of the media as the 'virtual community' whose opinion has been one of 'permanent moral panic' as actual communities have continued to decline and fragment over the past three decades. She is precise in examining the thinking and processes behind the headlines, such as how the poor are viewed as a threat to society, and how a 'feral underclass' has emerged whose behaviours are the responsibility of those statutory agencies tasked with managing them at a time when society has abandoned responsibility for its most vulnerable members. The author is not adopting a tabloid style of writing, but it is almost impossible to comment on the media without echoing the tone of their *faux* outrage. Perhaps the most striking point in this chapter is the analysis of the right-wing commentators who use 'child death as a vehicle for a frontal attack on the welfare state' (p. 23). In many ways this chapter is easy to read. It confirms assumptions akin to our own experiences and articulates the dissatisfaction many feel as to how we and our clients are portrayed. However, the subsequent chapters make for uneasy reading.

In Chapter 3 Fitzgibbon reminds us of how the community was taken for granted as a backdrop to every social worker or Probation Officer's engagement with clients. It was the workers' cultivated knowledge of extended families, employers, local resources and recent history that enabled them to interact and draw their clients back into the mainstream. It was this sense of community that alerted staff to the treatment of Maria Colwell in 1973, and the same community's outrage that led to an inquiry after her death. That concept of community was altogether absent for Baby Peter. The author depicts the erosion of community ties leading to greater isolation, transient families and increasing unfamiliarity between neighbours. Whether this decline was a consequence of affluence or economic decline, she makes it clear that the implications for social workers were profound.

As communities become more wary and people less knowledgeable of each other, they become more dependent on the authorities to 'do

something about it'. At the same time this decline in trust extends to agencies. Practitioners are losing the connection to the community they are increasingly tasked to protect, and Fitzgibbon employs the opinions of actual staff to illustrate these concerns. There are quotes from experienced staff expressing disquiet at new staff not trained to look for clues when conducting home visits, and the increasing criticism of too many staff pulled away from clients and towards the computer screen and risk assessment form. Fitzgibbon identifies the growing practice of recording 'informational data' on clients as opposed to 'social data', i.e. they are losing the context of the offender within their community. She revisits this statement a number of times in the book.

After a relatively brief chapter on political responses and inquiries, where political hysteria has replaced measured inquiries and the drive to meet increasingly unrealistic expectations of public protection now ensures that no matter how effective the best social workers are in protecting children, 'the more bitter the public and political outcry has become when these rare events happen!' (p. 84), Fitzgibbon gets to the nub of the issue in a chapter ominously titled 'The demise of probation and social services practice'.

A number of organisational myths are immediately discounted: IT has not streamlined practice but has reduced actual face-to-face time with clients. MAPPA arrangements and inter-agency communication suffer when host agencies have insufficient time to share, and that information becomes devalued. Resources, or the lack of them, are central to every issue. The culture of risk assessment (RA) is particularly scrutinised and found wanting for many reasons. Fitzgibbon argues that the process of RA has changed the way staff perceive and work with clients, and they reduce the person to a 'tick box' of individual risk factors instead of seeing the person in a holistic sense. RA changes the dynamic between client and worker, notably in reducing the level of trust, and ultimately risk management becomes 'risk aversion'. Fitzgibbon points out that staff have become concerned about the deskilling of their profession, the fragmentation of their values and a devaluation of their role, and that individual confidence is increasingly undermined in a culture where every risk score is now challenged at the behest of the client's solicitor.

The book argues for greater emphasis on desistance theory and prosocial modelling as being more effective in achieving positive outcomes. Personal affirmation, supporting efforts to gain employment, and respectful and legitimate relationships are what is needed to reduce

risk. The author quotes a wide range of supporting research endorsing a return to traditional roles and interventions, and does indeed quote the old mantra, 'Advise, assist and befriend', before concluding that 'we have indeed come back to where we have started, but unfortunately under totally different social, economic and political conditions'.

The book finishes with a number of conclusions, not least the sobering statistics in regard to the explosion in child protection and care admissions after Peter Connolly's death. The author is scornful of 'payment by results' and describes the proposed 'Dad's Army' model of ex-servicemen employed to work with individuals with complex circumstances and problems as 'fanciful'. Yet she does not doubt that probation and social work practice now operates in a cold climate. She revisits the Baby Peter and Daniel Sonnex cases and argues that both diverted so much attention from the actual systems and onto individual staff and managers that the outcome was a perception of people not doing their job, and the need for a 'tightening up' of procedures meant the opportunity to look seriously at how society is failing the most vulnerable was lost.

Fitzgibbon provides comparison with other serious incidents in Europe before widening the argument to include consideration of the gulf between the poor and politicians. Written largely in 2010, the book ends with the assumption that conflict between professionals and politicians pursuing privatisation of public safety is inevitable.

The obvious appeal of this book is that while it focuses entirely on practice in England and Wales, the comparisons it enables with our services are multiple. It is easy to empathise with staff struggling with increasing workloads, diminishing resources and without the innate wisdom afforded the media by hindsight. It will confirm a few prejudices of our own and vindicate a number of opinions we share, but the challenge of Fitzgibbons' book is to ask, 'What are we doing so differently that we are confident it wouldn't happen here?'