

Irish Probation Journal

Providing a forum for sharing theory and practice, increasing co-operation and learning between the two jurisdictions and developing debate about work with offenders.

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THE
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 **PBNI**
Probation Board For Northern Ireland

Irish Probation Journal

Providing a forum for sharing theory and practice, increasing co-operation and learning between the two jurisdictions and developing debate about work with offenders.

Irish Probation Journal (IPJ) is a joint initiative of the Probation Service (PS) and the Probation Board for Northern Ireland (PBNI).

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Editorial

Over the past eight years, *Irish Probation Journal* has published many articles on developments in probation practice and the search for innovative and more effective ways to reduce reoffending. Research shows that probation is effective and has an important contribution to make in reducing crime. How and where we apply that research and innovation in practice can make a real difference for the people we work with and the communities in which they live.

This edition explores the theme of positive change, which is a central concept of the work of probation staff in making communities safer. An essential first step in change management is an assessment of the current context and practice.

Vivian Geiran's article reviews the origins and understanding of what supervision means in probation. He challenges us to explain to an eight-year-old what we do in our supervision of offenders. Guy Bourgon, Leticia Gutierrez and Jennifer Ashton take the learning from 'what works' research a step further, asking how we translate it into effective everyday practice. Recognising the implementation and evaluation issues found in the real world, they describe a service delivery model and training approach (STICS) to incorporate that learning consistently into the routine practice of Probation Officers.

Shane Kilcommins, in his paper delivered as the Martin Tansey Memorial Lecture, reviews the application of David Garland's analytical framework in considering the changes that are taking place in our criminal justice system and the determinants that are driving and shaping this change at policy and practice levels. It provides a pragmatic understanding and context for the work of the criminal justice system and the roles of the players within it.

The study of how and why ex-offenders desist from criminal behaviour is a key topic in criminological literature. The contribution of

welfare-oriented approaches to assisting offenders to move away from crime is explored by Brendan Marsh. He examines the application of the 12-step recovery programme with former persistent and drug-addicted offenders and looks at the parallels with desistance literature.

Understanding the context and environment is a central theme in Paul McIlwaine's paper. His equality research outlines the diversity of offender groups, considers their different requirements and suggests areas for consideration in promoting equality of opportunity. One of the areas highlighted in his paper is gender, and this theme is further explored in a number of articles in this edition.

Women offenders and their particular needs and challenges are an area that has not had the attention in research and practice that it deserves. Jean O'Neill's article introduces us to the Inspire Project within PBNI, which seeks to provide a joined-up multi-agency service to women offenders, with promising initial results. Dr Azrini Wahidin examines the needs of older women within the prison system, and Emma Hawthorne describes research undertaken by the Department of Justice on women involved in prostitution in Northern Ireland.

Since the 1980s, a network of perpetrator programmes aimed at changing the abusive behaviours of male perpetrators of such violence has been developed by voluntary bodies supported by a combination of charitable and voluntary contributions and State funding. Éimear Fisher discusses programme effectiveness, perpetrator engagement with current programmes and enhanced co-operation and co-ordination as a way forward.

Interest in restorative justice and its possible benefits in the criminal justice system continues to develop within Ireland following the publication of the report of the National Commission on Restorative Justice. David O'Donovan's paper provides a comprehensive background and description of the establishment, key issues and recommendations of the National Commission. Shane McCarthy in his article discusses his survey on the understanding of restorative justice among legal practitioners, and the lessons this has for the development of restorative justice in Ireland.

Increasingly outcomes and results form the basis for funding decisions. Paul Delaney and Michele Weir describe their experience in the application of an evaluation and outcome measurement instrument in a community project working with offenders in Wexford.

This is the eighth edition of *Irish Probation Journal*. The editorial committee acknowledges the importance of articles outlining the academic debates on criminal justice issues and the practice pieces reflecting work on the ground. The engagement of researchers, academics and practitioners is invaluable in having a vibrant, relevant and substantial journal. To continue the development of *Irish Probation Journal*, the editorial committee has decided that all research and academic articles will be subject to peer review and managed accordingly. Practice articles will continue to be considered by the editorial committee.

The editorial committee is grateful to PBNI and the Probation Service for their ongoing support, and to all who contributed to this edition, including the advisory panel and publishers.

Irish Probation Journal wishes to maintain its role and standing in the publication of quality criminal justice research and academic papers, and to continue to contribute to the expanding discussion particularly on the use of community sanctions. Practice articles provide an important opportunity to share and develop best practice.

As well as contributions to the journal, we recognise that expanding access and readership is essential to ensure that *Irish Journal Probation* remains relevant. EBSCO Publishing, one of the leading database aggregators, has agreed to include *Irish Probation Journal* in the EBSCOhost electronic database service. This will ensure greater exposure and readership, and is an exciting development for the journal.

Jean O'Neill
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October 2011

Defining What We Do: The Meaning of ‘Supervision’ in Probation

Vivian Geiran*

Summary: The concept and practice of ‘probation supervision’ has been in place in this jurisdiction for over 100 years, and formally at least since the enactment of the 1907 Probation of Offenders Act. However, given the changes in expectations and practice both here and abroad over that 100+ years, it is timely to review what may be meant by probation ‘supervision’. This article considers the origins and history of the concept of probation supervision and the impact of developments since probation as a practice was first introduced. It charts the journey from then to the present, with particular emphasis on recent and current meanings and constructions of ‘supervision’ of offenders on probation, and the implications of such definitions for practice. It also considers how probation work is perceived, as a result, by various stakeholders, as well as discussing some of the tensions between professional autonomy and organizational consistency and accountability. Evidence for the discussion is gleaned from relevant academic and research literature, and other documentary sources, within the context of the author’s perspective based on 24 years’ experience in probation work.

Keywords: Probation, supervision, offender, Courts, sanctions, social work, rehabilitation, reparation, effectiveness.

Introduction

Dr. Hoenikker used to say that any scientist who couldn’t explain to an eight-year-old what he was doing was a charlatan.¹ (Vonnegut, 1963, p. 27)

When probation officers are asked – by anyone, let alone an eight-year-old – what they ‘do’, how do they respond? Those involved in probation

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¹ Said by Dr. Breed to Miss Pefko.

work may have their mission, goals, targets, services, interventions and programmes outlined in official documents such as organizational strategy statements (e.g. Probation Service, 2008) and reports. However, how can one describe to an eight-year-old, or even to other professionals, partner agencies, or the wider public, what probation officers actually *do*, particularly in their daily interactions with offenders under their supervision?

In the preface to his book on probation in Europe in the first quarter of the twentieth century, Trought (1927, p. 11) wrote that:

President Coolidge told me last year that probation is not well understood by the people. I suggest that probation officers all over the world should take the President's timely hint and endeavor to transfer some of the "faith and fire" within them to the rest of the public.

The attitudes of the general public and individual stakeholders in the justice system are important to how probation thinks – let alone speaks – about what it does. As Maruna and King (2008, p. 347) state, 'justice is, at its heart, an emotional, symbolic process, not simply a matter of effectiveness and efficiency'. Within that context, the present article explores the day-to-day work of the probation officer from a number of perspectives, and in particular, how officers' routine interactions with offenders on supervision can be described.

Defining community-based supervision of offenders

This article will deal with what has traditionally been known as *probation supervision*. That term has broadened out over many decades in many jurisdictions, to include a variety of newer measures and interventions. These include, *inter alia*, community service, electronic monitoring, and victim-offender mediation. Interventions with offenders, which are aimed at reducing reoffending, may be delivered directly by probation staff, or through multidisciplinary teams, to individuals or to groups of offenders. Some or all of these interventions can, with certain offenders, be delivered by partner agencies, voluntary bodies, etc., as well as being mediated through a range of formats and modes of delivery as referred to above, one of which may be described as 'traditional' probation, one-to-one supervision or 'casework'.

This wider cluster of programmes managed by probation services, and which still includes traditional probation supervision, has become known as ‘community sanctions and measures’ in Europe generally, ‘community penalties’ in the UK and ‘community corrections’ in North America and elsewhere. ‘Community corrections’ has been defined (Barton-Bellessa and Hanser, 2011, p. 598) as ‘all non-incarcerating correctional sanctions imposed upon an offender for the purposes of reintegrating that offender into the community’. The term ‘community penalties’ ‘has been applied in England since 1990’ according to Nellis (2001, p. 17), who defines the term as ‘sentences other than fines for dealing with convicted offenders outside prison’. Community sanctions and measures are defined (Council of Europe, 2010, p. 2) as ‘sanctions and measures which maintain offenders in the community and involve some restrictions on their liberty through the imposition of conditions and/or obligations’.

The present article will deal solely with what has been described above as ‘traditional’ probation-type *supervision*. This includes measures incorporating and comprehended in Ireland by probation orders, probation supervision during deferment of penalty, supervision on full or part-suspended custodial sentences, and other forms of post-release supervision, as applied to adults and young people, and managed by probation officers. It also refers broadly to work done in the main by probation officers themselves, on a spectrum from being case managers (brokering or referring on to other agencies where possible) to acting as criminal justice social workers – providing both direct supervision of the offender and a critical mass of the interventions to address criminogenic issues (Bonta and Andrews, 2010, pp. 26–29). The critical element of what is included in the present discussion is the direct interpersonal interventions by probation officers with offenders.

Defining ‘probation’

‘Probation’ can have an organizational meaning (related to probation services or agencies), as well as one related to individuals. Hamai *et al.* (1995, p. xviii) acknowledged that ‘the concept of probation has wide currency’ within a definition based on five organizational criteria that set it apart in the justice system. These distinct criteria are:

1. *distinct organization* (i.e. administered separately within the criminal justice system)

2. *judicial function* (supervision 'should be the result of a judicial decision')
3. *legal mandate*
4. *supervision* of the offender (i.e. 'conditional release of an offender, without supervision, is not considered probation')
5. *in the community* (probation should not just control offenders but should also help them to readjust in the community).

'Probation', in its interpersonal meaning relevant to the present article (rather than the organisational context described above), implies a *testing* or *proving* of someone or something. Canton and Hancock (2007, p. 220) have defined probation as a working concept in corrections as:

derived from the Latin noun *probatio*, meaning a period of proving or testing ... Offenders who are placed on probation are given an alternative to harsher sentences, allowing them to remain in the community under supervision, subject to specified conditions.

The Council of Europe (2010, p. 2) Probation Rules define probation, within the wider framework of community sanctions and measures, as:

the implementation in the community of sanctions and measures, defined by law and imposed on an offender. It includes a range of activities and interventions, which involve supervision, guidance and assistance aiming at the social inclusion of an offender, as well as at contributing to community safety.

Defining 'supervision'

Probation services and probation officers frequently describe what they do as *supervision* of offenders. This description is generally supported by relevant legal definitions and realised in court orders. 'Supervision' is a problematic term, given its possible interpretation as activity on a range from simple oversight of a person and their behaviour to active intervention with the person to initiate, encourage and generalize behavioural, attitudinal and other lifestyle changes. Defining 'supervision' is further complicated by the use of the term to describe

professional oversight of various human service professionals including social workers, psychologists and counsellors by their managers.²

Supervision of offenders has been defined by Canton and Hancock (2007, p. 304) as:

oversight, holding to account, maintaining order, a process of assurance (from the Latin *super* ['above'] and *videre* ['to see']) ... [and] both the description of the relationship which develops and the process within which it takes place.

Canton and Hancock (2007, p. 304) define the supervisor (for present purposes, the probation officer) as the 'Person who manages or supervises'. Over time, probation supervision came to be seen as something that the probation agent (the probation officer) does *to* the offender/supervisee. This was probably true in the context of the development over the past two or three decades of more punitive approaches to offender and risk management, as evidenced by the description of the probation role as being to punish, change, help and control offenders (Bridges, 2010). More recent desistance literature and research has shifted that perception, incorporating the value of the supervisee as their own primary change agent, through their exercise of 'agency' (e.g. see Farrall, 2002; Healy, 2010; McNeill *et al.*, 2010a, pp. 451–467), while others, including probation workers, can encourage and facilitate such change.

The Council of Europe (2010, p. 10) definition of offender *supervision* (also given in van Kalmthout and Durnescu, 2008, p. 1166) includes:

assistance activities conducted by or on behalf of an implementing authority [probation agency] which are intended to maintain the offender in the community and ... actions taken to ensure that the offender fulfils any conditions or obligations imposed, including control where necessary. Supervision may be mandatory or voluntary (upon the offender's request).

² This 'professional supervision' has been defined as 'a quintessential interpersonal interaction with the general goal that one person, the supervisor, meets with another, the supervisee, in an effort to make the latter more effective in helping people' (Hess, 1980, p. 25, cited in Hawkins and Shohet, 2000, p. 50). While the two meanings of 'supervision' are very different, one should not underestimate the impact of one narrative on the other in probation work, given that probation officers are involved in both activities. However, any further exploration of such a connection is for another day.

Such definitions state or imply both an oversight and an assistance role, within the framework of a helping relationship, which also holds the supervisee to account. In this regard, what probation officers do fits with the International Federation of Social Work's (IFSW) definition of social work:

The social work profession promotes social change, problem solving in human relationships and the empowerment and liberation of people to enhance well-being ... social work intervenes at the points where people interact with their environments ... [and] addresses the multiple, complex transactions between people and their environments. Its mission is to enable all people to develop their full potential, enrich their lives, and prevent dysfunction. Professional social work is focused on problem solving and change. As such, social workers are change agents in society and in the lives of the individuals, families and communities they serve.³

Although this author (Geiran, 2005) would argue, as others have (e.g. Smith, 2005) that social work is an appropriate professional basis for probation work, Trotter (2001) has warned against the uncritical adoption by probation officers of core social work methods (e.g. reflective listening and empathy) in isolation, and without appropriate integration within the essential probation ('care and control') functions.

What history tells us

It is not proposed to restate here the history of probation in these islands, in terms of its conceptual foundations and organisational evolution. That has been covered extensively elsewhere (e.g. Geiran, 2005; McNally, 2007, 2009; Vanstone, 2004a, 2004b, 2008). Since its origins, probation work has evolved (see McWilliams, 1983, 1985, 1986, 1987) through phases of evangelism and reform, through diagnosis and treatment, to punishment and control and back to rehabilitation (Ward and Maruna, 2007). However, it is suggested that in spite of the challenges to the founding rationale and goal of probation work over the many years since its inception, a core focus on helping the offender as client has endured,

³ Adopted by the IFSW General meeting in Montreal, Canada, July 2000.

albeit in an evolving agenda of working in partnership to foster community safety. Just some examples of the language and descriptors of what probation supervision has been perceived as incorporating are included in the Appendix to this article. It is hoped that the sequence of key terms over the past century or so will help to illustrate both the clear changes in perceptions of probation supervision and, at the same time, a certain thread of continuity of purpose and meaning.

Probation supervision: What the legislation says

When the legislation that established probation in this jurisdiction was enacted in 1907 (Probation of Offenders Act, 1907), the role and task of the probation officer were clearly stated as including ‘to see that he [*sic*: the person under supervision] observes the conditions of his recognizance; report to the court as to his behaviour; [and] to advise, assist and befriend’ the offender/supervisee. Section 2(3) of the Act requires that ‘The Court by which a probation order is made shall furnish to the offender a notice in writing stating in simple terms the conditions he is required to observe’. The Memorandum to the Act further proposes the ‘use of the Probation Officer’ as being ‘of immense value in befriending the offender and bringing him to an honest and orderly mode of life’. It goes on to set out the duties of the probation officer as including to ‘ascertain that the offender understands the conditions of his recognizance, and shall, by warning and persuasion endeavour to ensure his observance of them’. In this focus on the probation officer’s role, it is important to be cognisant that the person with primary responsibility for compliance with the court order, including staying out of further trouble, is the offender/defendant. S/he is the one who is put *on probation*, and who enters into the bond, recognizance or agreement with the court to do that. The probation officer’s role in the first instance is thus to monitor and provide assistance to the offender to stay out of trouble, and to report any failure to do so to the court.

Specific reference is made in the Children Act, 2001, to the duties of probation officers as including to:

- (a) visit, assist, advise and befriend the child and, where feasible, the child’s parents or guardian or other adult in whose residence the child may be residing

- (b) see that the child observes the terms and any conditions attaching to the supervision
- (c) when necessary and appropriate, endeavour to find the child suitable employment and accommodation.

The Sex Offenders Act, 2001 provides for post-release supervision of sentenced sex offenders by a probation officer, but is silent on what that supervision comprises, save to state that the offender shall comply with the terms and conditions of any such supervision order imposed by the sentencing court. Similarly, the Criminal Justice Act, 2006 specifies (Section 99.4) that a person convicted of an offence may have all or part of a custodial sentence suspended on certain conditions, including the optional condition that they 'co-operate with the probation service to the extent specified by the court for the purpose of his or her rehabilitation and the protection of the public'. This may include additional conditions that the offender undergo addiction treatment; take part in an educational, training or therapy course or psychological counselling and be 'subject to the supervision of the probation service'. These two pieces of legislation seem to allow for a broader or narrower interpretation of 'supervision', depending on the individual case and subsequent Court ruling, and particularly related to whether specific supervision conditions have been added to a general order for probation supervision in such cases.

What the recent probation literature tells us

What probation officers do in working with offenders has been described as 'offering tangible help to deal with problems associated with offending rather than unthinking control' (Vanstone, 2004a, p. 160). It is now broadly accepted that 'there is a significant body of research demonstrating that offender rehabilitation can reduce recidivism' (Bourgon *et al.*, 2010b, p. 12). While there is a substantial body of research literature on 'what works' in terms of the 'macro' issues of criminogenic needs and what can help to reduce risk of reoffending, there appears to be less written about the 'micro' level of what probation officers' day-to-day tasks and actions might include. Van Kalmthout and Durnescu (2008, pp. 17–21) carried out a review of the core tasks of probation services across Europe. The 'core tasks' identified on the basis of actual practice, as well as similarities and differences between national

systems, included providing assessment information and reports to courts, enforcing sanctions and supervising offenders, developing and organising community sanctions, providing help to offenders, and victim support and crime prevention.

Purkiss *et al.* (2003) carried out a similar analysis in the context of the ‘oft-competing goals of law enforcement/public safety and rehabilitation/reintegration of the offender’. They found evidence for 23 legislatively prescribed duties or functions of probation officers across the USA, with varying levels of applicability in different states. There was a reported increase over time in what are described as rehabilitative tasks (assisting in rehabilitation, counselling, etc), when compared to their law enforcement components (supervision, surveillance, initiating revocations etc). The authors also found (Purkiss *et al.*, 2003, p. 23) that ‘the statutorily prescribed goals of probation were becoming more balanced’, but pointed to the value in carrying out future research on the views of probation officers, given that probation officers seem to have ‘considerable discretion in defining their roles’, albeit within the confines of legislative prescription. Bracken (2003) undertook research in parts of Canada and Britain on the skills and knowledge necessary for probation practice. His research describes similarities and differences in officers’ perceptions of the skills and knowledge required in the two jurisdictions, as well as commenting on the ‘support for and scepticism of the current [what works] practice trends’.

Probation officers clearly undertake a wide range of agency-required and court-mandated functions and tasks. However, the focus of the present article is on what they actually do in their direct, face-to-face work with offenders on supervision. Specifically, how does the probation officer engage with the offender ‘behind the closed office door’, and what does the ‘black box’ (Bonta *et al.*, 2008) of community supervision comprise? What do probation officers *do* when they interact, moment to moment in their interviews and interpersonal interaction with offenders under their supervision? To some extent, the answer to these questions depends on what stage of probation involvement the offender is at, e.g. whether at the referral, assessment, generating a case-management plan, supervision/intervention or ending stage. While we have become increasingly focused in recent years on improving the assessment process, including through the use of an ever-widening array of assessment instruments, supervision (whatever meaning or definition may be ascribed to it) is the core of the Probation Service’s work (Probation Service, 2009).

In the more 'traditional' model of probation work, although organisational policies and goals are set out in official publications, decisions about one-to-one officer-offender interactions were largely a function of professional judgement and discretion. A number of researchers (e.g. Bourgon *et al.*, 2010a; Purkiss *et al.*, 2003, p. 23, citing Petronio, 1982) have written about how translating what probation services state their role and functions are to what actually gets delivered 'behind the closed doors' of probation offices can be less straightforward than at first may appear. For example, Purkiss *et al.* (2003, p. 23) suggest that 'probation officers do not always carry out the roles that are communicated to them'. This is not to imply that officers consciously subvert their agencies' missions and goals. However, individual workers operate within a professional worldview influenced and shaped by their training, work experience and a range of other factors. In addition, the detailed 'technology transfer' from evidence-based practice to what is actually delivered in face-to-face work with offenders can be challenging for staff for a number of reasons, including organisational environment, management, training, evaluation and other conditions, which may be supportive or otherwise (Bourgon *et al.*, 2010a).

The supervisees' perspective

Supervisees' views of what happens in supervision have traditionally been a neglected field of enquiry, although valuable research has been undertaken in recent years (e.g. Rex, 1999; McCulloch, 2005; Healy, 2010; McNeill, 2010). Keeler⁴ (2010, p. 305) – as a 'consumer' of probation services while a prisoner – is highly critical of the move by probation in Britain to an increased focus on risk and offender management, founded on actuarial risk assessments, and 'within which prisoners hear only the voice of risk and control'. Healy's (2010) research on Irish offenders' perspectives on what helped them to desist from crime is particularly valuable and illuminating from the Irish probation perspective. How individual offenders perceive their subjective experience of probation supervision can also throw qualitative light on this area. Some years ago, one probation officer in Ireland relayed to this author⁵ an account of an assessment interview, for a court report, with

⁴ A prisoner in HMP Long Lartin.

⁵ Personal communication, undated and unrecorded.

an offender who had previously participated in an intensive probation supervision programme (which had included groupwork and a range of multidisciplinary interventions and services). The interviewee described his previous experience of probation supervision to the assessing probation officer (as far as he could recall it) as having done ‘a FÁS⁶ course in talking’.

On a more encouraging note, Rex (1999, p. 369) found that ‘most probationers ascribed a rehabilitative purpose to probation’. Similarly, McCulloch (2005, pp. 17–19) found that offenders surveyed clearly understood the purpose of probation to be the reduction of offending and reported that considerable attention was given to addressing probationers’ social problems as a means of achieving this goal. She also found that probationers and workers identified the importance of the professional relationship and:

the importance of talking methods in helping probationers ... [and that this was] a more complex, structured and useful process than is often assumed ... [and] the value placed by participants on dialogue which incorporated direct attempts to develop probationers’ thinking skills (cognitive training) and ability to resolve real problems (concrete problem-solving) suggests a need for workers to more routinely integrate traditional talking methods with more structured and directive methods of addressing problems.

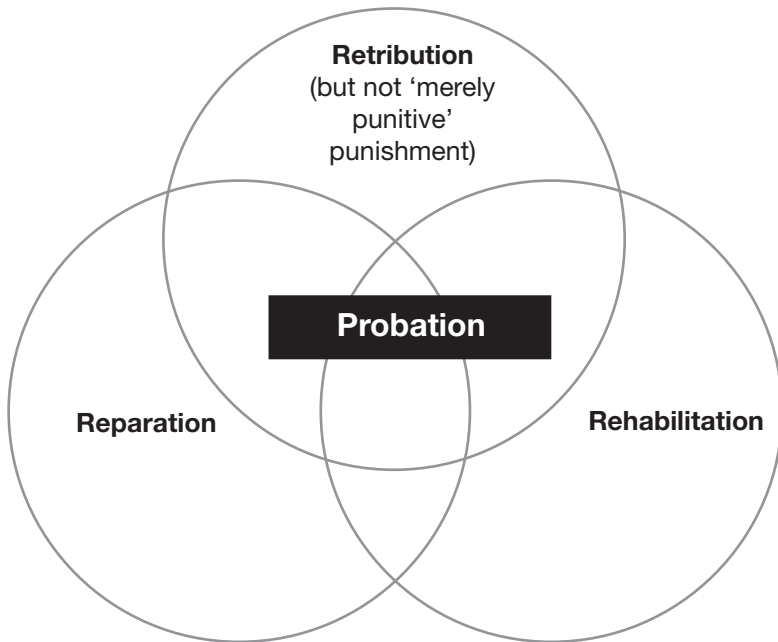
Research findings such as these, as well as those more widely reported in the desistance literature (e.g. Healy, 2010) lend support to the value of ensuring that probationers understand the purpose of probation supervision as a collaborative process, within which they are engaged as partners, and from which they as well as wider society can benefit through that co-operation and positive outcomes.

Joining the strands

The representation of the threefold goals of probation shown in Figure 1 is adapted from an illustrative slide used in McNeill (2009a), in which the author described the work of probation services in terms of ‘operating

⁶ Foras Áiseanna Saothair – the Training and Employment Authority.

Figure 1. Some conceptual resources (McNeill, 2009a)



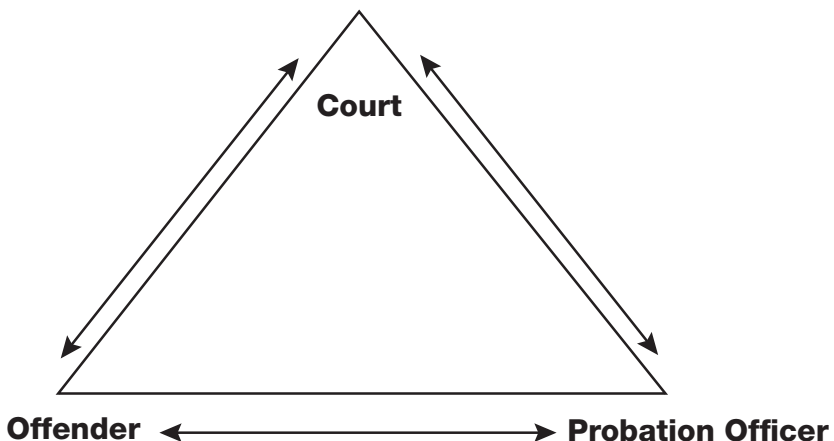
as a mediating institution, between purposes ... [and] between stakeholders'.

Burnett *et al.* (2007, p. 211) assert that 'throughout the distinct eras of probation history, the central idea underlying supervision remained that officers should 'advise, assist and befriend' offenders, with the main objective being to change individual behaviour ... [and the] ... personal (one-to-one) working relationship with their probationers ... was regarded as a *sine qua non* for influencing the change process'. According to van Kalmthout and Durnescu (2008, p. 40), 'the task of providing guidance, care and assistance is still the most important work of probation services' and 'these tasks can be regarded as the binding factor of all probation work and cover a large number of material and immaterial problems'. Whitehead and Thompson (2004, p. 149) assert that 'at the heart of work as a probation officer are relationships. Probation officers work with people and successful outcomes to that work depend on constructive relationships.' This view is shared by numerous authors including Bracken (2003, p. 112), Burnett and

McNeill (2005), and Ward and Maruna (2007, pp. 166–167). The professional probation officer–client relationship has a number of facets. At its core is a concern to reduce harm, which ‘is humanitarian’ (Vanstone, 2004b, p. 43).

Fundamentally, the work a probation officer does in supervising an offender on probation (or a comparable order) comprises a triadic relationship (see Figure 2). Each individual party in the triad has a relationship with the other two. As already stated, the offender contracts with the court to stay out of further trouble. Le Mesurier (1932, p. 18) has pointed out that ‘probation rests not upon the exercise of its power of compulsion, but upon a promise by the offender to amend his ways’. The probation officer is tasked with supervising the offender’s compliance with the terms of supervision and reporting back to the court in the event of any breakdown. In addition, the officer’s role is to *help* the offender to avoid reoffending. In the origins of probation work, 100 years or so ago, it may have been felt that the act of befriending in itself might have been sufficient to influence and effect reform in the offender. With the experience and research evidence of many years (e.g. see Burnett and Roberts, 2004; Mair, 2004), much more is now known about what interventions are most likely to be successful in encouraging desistance. This in turn informs practice clarity on the helping professional processes required to give probationers the best chance of staying out of further trouble.

Figure 2. The court–offender–probation officer relationship



The Probation of Offenders Act, 1907 set out the task of the probation officer clearly as to 'advise, assist and befriend' the supervisee/probationer. Over time, this narrative became interpreted very much through the 'welfare' lens, focusing on needs as defined by the subject/offender. More recently however, the objectives of probation work became more defined by society's needs. Thus, probation's objectives became identified with societal needs to control, punish, change and manage (Bridges, 2010) offenders, who began to be seen in the new narrative as risk entities. This change in language served to locate any description of what probation officers did behind the closed door of their daily work schedule, as instrumental actions to do something *to* the *object*, into which the offender had evolved. Desistance research and theory, among other recent developments, has done much to rebalance that view, with a focus on helping offenders to desist from crime, and avoid further offending, through methods tested and proven through modern research. What probation officers actually do – behind the closed office door – *is* to help, guide, counsel and teach offenders. This involves talking, listening, directing, checking, monitoring, advising, assessing and re-evaluating on an ongoing basis; all in the context of a purposeful, therapeutic relationship, which in turn is based on a foundation of education and training that has evolved over decades of practice and research. In contrast to this are the wider societal and organisational objectives of 'what' they do, including: rehabilitate, punish, control, change, and manage (in various combinations – e.g. see McNeill and Weaver, 2010).

Conclusion

So, where does all this lead, in terms of describing to the hypothetical eight-year-old interlocutor referred to in the introduction what probation officers do? And what does it matter anyway? 'The core of the [probation] enterprise is people in the form of probation officers working with other people we call offenders' (Whitehead and Thompson, 2004, p. 167). Le Mesurier wrote almost 80 years ago (1932, p. 55) that a probation officer should always 'make sure that he or she [the probationer] thoroughly understands what is happening' and that 'probation is far more likely to be successful if there is no mistake as to its nature from the very start'. This is surely as true today as it was in 1932, particularly given the strong 'rediscovery' of the collaborative

worker–client relationship in recent years. Trotter (2001, p. 82), for example, submits that ‘the most effective probation officers make it very clear to their clients that they have two roles, one as a person responsible for surveillance and social control, and ... they also have a role as a helper’.

It is now evident that probation officers across many jurisdictions perform a variety of functions and tasks, based on interconnected goals and objectives, with ‘reoffending ... the key test for any probation programme’ (Hedderman, 1998, p. 5). Some of what probation officers do (e.g. reports to courts, promoting community safety, managing community sanctions, case management, interagency work) does not always involve direct interaction with offenders, but they are all important tasks within the officer’s overall role. However, this article has been focused on how we can describe what officers actually do in face-to-face work with offenders themselves, an area in which there has been ‘very little systematic research’ (McNeill *et al.*, 2010b, p. 536). It would seem that, while there may have been significant changes over time in describing what probation officers do, there is a value in reviewing historical descriptors, while at the same time drawing on the most up-to-date research evidence that demonstrates how and with whom we can be most effective. According to McNeill (2009b, p. 39), probation officers must be *counsellors* (to help develop and deploy offenders’ motivation), *educators* (to help develop and deploy human capital), and *advocates* (helping to develop and deploy social capital).

The two consistently central parts of probation supervision as described across all its history in these islands are (1) *oversight* (monitoring/supervision) and (2) *help* (assistance, education, advice, counselling). According to Hamai *et al.* (1995, p. xviii), ‘there is no clear definition of probation in different criminal justice systems’. Barton-Bellessa and Hanser (2011, pp. 17–18) submit, on a more positive note, that ‘fortunately for offenders and the community, alternatives to incarceration and ways to enhance reintegration back into communities continue to evolve rather than remain stagnant’, and that:

Community corrections have gone through a long and complicated process of development ... many recognized experts ... offer competing views on the purpose of community corrections, resulting in a great deal of confusion and uncertainty ... The implementation of probation and parole comes in many shapes, forms, and methods.

How we describe what we do is significant. Our description can define, or at least strongly influence, what we do. On one hand, what probation *is* has always defied simple or straightforward definition, a view supported by McNeill (2010, p. 492). At its core, however, 'the everyday practice of probation ... has not moved as far away from its origins as has sometimes been assumed' (Deering, 2010, p. 451).

To describe what probation officers do in terms an eight-year-old could understand should not be seen as 'dumbing down' the professionalism and complexity of the role and the various tasks involved. There is also a need to be able to describe accurately and scientifically what workers do (even if that description is of necessity complex), to limit if not eliminate ambiguity, inconsistency and lack of accountability. Similarly, there is a value for all stakeholders in the probation enterprise in being able to describe what we do simply.⁷

Probation has always maintained its link to its fundamental core and values – to *help people* in the first instance – to do something better, in the case of probation work, to make good for the wrong they have done and to become better and more positively contributing citizens. To do that, we need to, as Maruna and King (2008, p. 347) suggest, 'tap in to other, equally cherished, emotive values, such as the widely shared belief in redemption, the need for second chances, and beliefs that all people can change'. In that regard, probation staff are central to building effective listening and talking professional relationships with offenders and their families; relationships that enable us to engage with, motivate and *help* offenders as clients, and as their own primary change agents, to change and live better lives and avoid reoffending; while *monitoring* and overseeing how they behave, and *holding them to account* when they disregard their promise to the court to work with us on our three-way contract.

⁷ For example, a current British government website (www.direct.gov.uk, 2011) clarifies that 'probation officers work with people serving time on probation and their families to reduce the chance that they might commit more crimes'. The website further states that 'If you're placed on probation, your probation officer will: monitor your activities, help you deal with problems such as drug and alcohol addiction, let the court know of any problems they see in your behaviour' and 'they can also require you to get help for emotional problems such as anger management' (accessed by the author on 9 February 2011).

Appendix: Examples of descriptions of probation supervision over time

- From the late 1800s to early 1900s: ‘the transcendent task [of the Police court Missionaries] was the saving of souls through divine grace ... exhorting offenders to give up drink, distributing uplifting tracts, and taking pledges of abstinence ... to reclaim their [offenders’] lives’ (McWilliams, 1983, pp. 130–134 – Britain).
- ‘to advise, assist and befriend’ the offender/supervisee (1907 Probation of Offenders Act, Britain and Ireland).
- ‘a child, instead of being committed to an institution, is kept under surveillance of the court until it is safe to release him ... Conditional suspension of sentence ... During that period, the offender has to carry out conditions that the court imposes, and has further to commit no offence which will render him chargeable before the court ... It is difficult to see how a court can satisfy itself that a probationer has carried out the conditions laid down in a probation order without some kind of supervision ... Probation is strictly speaking, an educational service ... reformation of the offender ... how to live better ... the offender is made to realize why the deed he has committed is an offence ... probation officers should be professors of conduct ... [with] magnetic personality ... [Probation] is a judicial guardianship through the intermediary of the court’s apostles. It is a close personal relationship ... [that] reveals to the court the method of treatment which may restore the offender to useful citizenship ... [it involves] the protection, care, reformation, and re-education of the delinquent’ (Trought, 1927, pp. 180–193, across a range of European jurisdictions).
- ‘The object [of probation] was no doubt, to facilitate the reformation of the individual and his return to normal life, by saving him from being a convicted criminal ... supervision is a vital element in the probation system – the thing that distinguishes it from an ordinary recognisance ... Probation officer as an official of the court ... turning asocial and anti-social persons into good citizens of the state. The duties of a probation officer are to watch over and assist those who have committed crimes ... essential that the probation officer should make himself respected and obeyed as well as loved ... their work is the re-formation of character ... based on re-education in its true meaning. They must try and influence the behaviour of their

probationer and raise it to a higher standard' (Le Mesurier, 1932, pp. 28–62 – Britain).

- 'Transition from missionary to the diagnostic ideals ... pleas for mercy for the accused translated into assessments for suitability for probation ... for those offenders deemed suitable for moral reform ... towards the end of the 1920s, the scene was being set for the gradual emergence of a professionalised probation service' (McWilliams, 1985, 257–263 – Britain).
- 'Between the 1930s and 1960s the probation system in England was transformed from a service devoted to the saving of souls through divine grace to an agency concerned with the scientific assessment and treatment of offenders ... This method of "case work" is usually cited as the forerunner of modern social work practice ... approach to each "case" as that of a man or woman in need, in circumstances unique to each' (McWilliams, 1986 – Britain).
- 'the ultimate re-establishment of the offender in the community' and 'restoration to full citizenship' (Morison Report, 1962, pp. 3–5 – Britain).
- (From the 1970s on): Diversification of policies, goals, organisation, management, staffing, roles and functions, approaches and methods. 'In the 1970s, the belief that penal "treatments" could cure offenders was officially abandoned ... The "new" policy-pursuing probation service was no longer missionary, no longer scientific ... The changes which followed the rise of "scientific" understandings of offenders radically changed the *nature* of the original mission, but it is quite clear ... that the *sense* of mission continued unabated... it remained missionary in its zeal and sense of righteousness of its cause, the "cure" of offenders through scientific treatment' (McWilliams, 1987 – Britain).
- 'rehabilitation involves providing the minimum services necessary for an offender to "reintegrate into society as a useful human being"' (Rotman, 1990, p. 6, cited in Lewis, 2005, p. 122 – Britain).
- 'The purpose of supervision is to reduce reoffending and to assist the offender's integration into society in a way which minimizes the likelihood of a return to crime ... Offenders should, when needed, be provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate their reintegration into society' (United Nations, 1990 – 'The Tokyo Rules').

- ‘support offenders to lead a crime-free life’ (Durnescu, 2008, p. 276, referring to Europe in general).
- ‘increase community safety and prevent victimization by motivating, challenging and supporting offenders in leading a crime free life’ (Probation Service, 2008 – Ireland).
- ‘providing practical, financial, social and psychological help as well as care and after-care based on social work methods at any stage during an offender’s contact with the criminal justice system’ (Van Kalmthout and Durnescu, 2008, p. 21 – Europe).
- ‘a range of activities and interventions, which involve supervision, guidance and assistance aiming at the social inclusion of an offender, as well as at contributing to community safety’ (Council of Europe, 2010, p. 2 – Europe).
- ‘Punish, help/change and control [offenders on supervision]’ (Bridges, 2010 – UK).
- ‘supervisors [probation officers] should *encourage* but have no right to *require* more than cessation of offending ... For some, the term *supervision* may invoke surveillance and discipline (pace Foucault) rather than rehabilitation, but the latter term is also ambiguous, contested and problematic ... That said, both supervision and rehabilitation seem better terms than mere “management” ... [and] it is unclear whether the vision is for probation to become part of the desistance process’ (McNeill *et al.*, 2010b, pp. 5–9 – Britain, reflections for the future).

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The Evolution of Community Supervision Practice: The Transformation from Case Manager to Change Agent

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Summary: Traditionally, the role of a community supervision officer has largely been that of a case manager. However, knowledge in the area of ‘what works’ in offender rehabilitation has stimulated efforts to revolutionise what it means to supervise clients in the community; that is, moving from a case-management approach to what we call a ‘change agent’ approach. In this article, we define what cognitive-behaviourism looks like in a criminal justice context and how it can be used to maximize the impact of community supervision. Through the amalgamation of cognitive-behavioural techniques and risk/need information, we propose the use of a theoretically and empirically based framework (i.e. the STICS Action Plan) to assist Community Supervision Officers in planning, prioritising and effectively achieving change with their clients.

Keywords: Offender supervision, community corrections, probation, ‘what works’, cognitive-behavioural interventions, risk, need, responsivity, change agent, STICS.

Introduction

The work of community supervision continues to evolve and change, placing greater demands on Supervision Officers’ knowledge, skills, and abilities. With the introduction of risk and need assessments into routine

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practice, Community Supervision Officers are now required to administer and score these instruments. Not only must Community Supervision Officers communicate this risk/need information to other criminal justice professionals, but they are asked to utilise this information for classification purposes and to interpret the information to develop case-management plans. Officers are also asked to make efforts to maximize offender compliance, plan and manage the client's rehabilitative services, and are often expected to facilitate positive prosocial changes in the clients that they work with.

With these increasing demands, community corrections agencies and their staff have paid more attention to the research on what works to reduce reoffending and, in doing so, struggle with the process of bringing empirically supported practices into the everyday work of community supervision (Taxman, 2008; Taxman, Henderson and Lerch, 2010). In this article, we briefly review what works in offender rehabilitation and what is known about community supervision. This is followed by some reflections on what we see as an evolution of the work of community supervision officers; that is, the evolution from 'case manager' to what we term 'change agent'. This 'change agent' role asks the officer to play a more substantive and direct role in facilitating client change in, dare we say, a 'therapeutic' manner. Finally, we describe what we believe to be two key interrelated challenges that we consider to be critical in this transformation to evidence-based 'change agent'. They are: understanding the fundamentals of cognitive-behavioural interventions and clinically translating risk/need assessment into an intervention plan.

'What works' and community supervision

Over the past 30 years, the research initiated by Andrews and his colleagues in Canada on offender treatment has shown that rehabilitative efforts can reduce reoffending (Andrews and Bonta, 2010; Hanson *et al.*, 2009; Lipsey, 2009; Lösel and Schmucker, 2005). This 'what works' body of evidence has demonstrated that rehabilitative efforts are not all equal: interventions can maximize their effectiveness via adherence to the principles of effective intervention known as the risk-need-responsivity (RNR) model of correctional treatment (Andrews and Bonta, 2010). There are currently 17 principles represented in the model; however, three of these principles have been at the core since 1990 (Andrews *et al.*, 1990). They are the *risk principle* (match the level of service to the

offender's level of risk; provide intensive services to higher risk clients and minimal services to lower risk clients), the *need principle* (target criminogenic needs or the dynamic risk factors functionally related to criminal behaviour such as procriminal attitudes and substance abuse), and the *responsivity principle* (match the style and mode of intervention to the abilities, motivation and learning style of the offender; cognitive-behavioural interventions are generally the most effective with offenders).

In their most recent review (Andrews and Bonta, 2010), it has been shown that adherence to these three principles mediates the effectiveness of rehabilitative efforts with a step-wise reduction in recidivism and increases in adherence. Specifically, non-adherence to the three principles was actually associated with a small (2%) increase in recidivism ($r = -0.02$, $k = 124$). When treatment adhered to at least one of the principles, there was a small (3%) decrease in recidivism ($r = 0.03$, $k = 106$). Larger decreases were observed with increased adherence to the RNR principles: adherence to two principles demonstrated a 17% difference ($r = 0.17$, $k = 84$) and adherence to three principles ($r = 0.25$, $k = 60$) showed a 25% difference.

Although most of this evidence has been gleaned from studies examining formal treatment programmes that are typically group-based, it is reasonable to expect that these principles are also relevant in the case of one-on-one supervision of offenders in the community. It is believed that community supervision has positive benefits by minimising the criminogenic effects of imprisonment and facilitating the community integration of offenders (Abadinsky, 2009; Gibbons and Rosecrance, 2005). However, evidence on the effectiveness of community supervision questions its association with reduced offender recidivism. In a review of 15 studies that compared some form of community supervision with an alternative criminal sanction (e.g. prison sentence, fine), Bonta *et al.* (2008) found that recidivism was only two percentage points lower on average for offenders under community supervision. There was no decrease in violent recidivism associated with community supervision. Such findings, which contrast with the more positive results found in reviews of the offender rehabilitation literature, prompt the question of why this is so.

The answer to this question is only recently emerging, as researchers begin to pay more attention to what exactly goes on behind closed doors during supervision. Bonta *et al.* (2008) examined case files and audio

recorded supervision sessions of 62 Probation Officers with 154 clients in Canada. What they found was that adherence to the principles of risk, need and responsivity was lacking. For example, the frequency of contact between officers and their clients was only mildly related to the offender's risk level (risk principle) and officers rarely intervened directly to facilitate change in important criminogenic needs such as procriminal attitudes and friends (need principle). Furthermore, officers exhibited cognitive-behavioural techniques of interpersonal influence in less than one-quarter of the audiotapes (responsivity principle). The findings strongly suggested that what goes on between the officer and client during supervision should more closely adhere to the RNR principles.

Research on applying the RNR principles to one-on-one supervision is almost non-existent. This is somewhat surprising given that there is rich literature on the 'core correctional practices' derived from the RNR principles (Andrews and Bonta, 2010; Dowden and Andrews, 2004). Researchers have only recently begun to pay more attention to the training of community supervision staff in how they interact with their clients during supervision. In 1996, Trotter developed a training programme that followed some of the elements of the responsivity principle. In this study, 30 Probation Officers were provided with five days of training on prosocial modeling, empathy and problem-solving. After the initial training, 12 officers attended ongoing training sessions and applied the skills during supervision. The recidivism rate of 93 clients of the trained officers who continued their involvement in the ongoing training and applied these new skills was compared to 273 clients of officers who reverted to their routine supervision practices. The four-year reconviction rate was 53.8% for the clients of the officers who continued to apply the skills taught in training as evidenced by file reviews. The rate for the clients of the officers who engaged in routine supervision practices was 64%.

More recently, Canadian psychologists (Bourgon *et al.*, 2010a, 2010b; Bonta *et al.*, 2010) developed the Strategic Training Initiative in Community Supervision (STICS). This training programme included three days of training and ongoing clinical support activities (i.e. refresher courses, individual feedback and monthly meetings) with specific, practical and concrete RNR-based intervention techniques and skills. After randomly assigning officers to training or no training, the results showed that STICS-trained officers significantly improved their behind-closed-door interactions (employed RNR-based skills and

intervention techniques) with clients as measured by audio recorded one-on-one supervision sessions. When client recidivism was examined, it was found that clients supervised by STICS trained officers had a two-year recidivism rate of 25.3% compared to 40.5% for clients supervised by the officers assigned to the control group (Bonta *et al.*, 2010). This project has stimulated others to develop similar training programmes, for example Staff Training Aimed at Reducing Re-arrest (STARR) from Lowenkamp and colleagues at the United States Office of Probation and Pre-trial Services, and Effective Practices in Community Supervision (EPICS) from the Corrections Institute of the University of Cincinnati. The promising results of these efforts are only beginning to emerge (Robinson *et al.*, in press).

The evolving work of Community Supervision Officers

As our knowledge about the importance of what happens behind closed doors increases, we see a need to re-examine and re-focus the work of community supervision. Traditionally, community supervision has been dominated by a case-management approach to working with clients. In this approach, officers are expected to ‘manage’ their clients and the services they receive. At a minimum, the community supervision case manager ensures that the client is complying with the sentence handed down by the Court and documents the client’s behaviour in this regard. With the introduction of risk/need assessments into community corrections, additional tasks are demanded. The Community Supervision Officer must conduct risk/need assessments and share the results with a variety of criminal justice partners (e.g. Courts). In addition, the officer may be responsible for more complex rehabilitative case planning that goes beyond simple compliance with the conditions of the sentence.

Case planning and the associated activities of the case manager vary considerably across jurisdictions. For jurisdictions with a strong emphasis on public protection, the case manager is primarily concerned with how the offender will fulfil the obligations of the sentence (e.g. completing community service, urine testing), monitoring the client’s compliance and conducting surveillance of the client. For those jurisdictions with more emphasis on offender rehabilitation, the case manager identifies the client’s criminogenic needs and makes efforts to connect the client with appropriate services to meet these needs. The case manager typically acts as a broker and/or advocate for the offender

to utilize community-based social services such as welfare programmes, employment, housing and health (e.g. addictions, mental health and medical) services. During face-to-face supervision, the case manager may engage in problem-solving with the client to resolve various barriers and/or obstacles the client faces in obtaining such services. Motivational interviewing techniques are also common. In terms of the work behind closed doors, the case manager primarily assists, motivates, directs, guides and supports the client to receive appropriate services. With a case-management approach, the actual ‘change-work’ – that is, the work of facilitating prosocial change – is considered to be the domain of the professionals who are actually providing the rehabilitation, treatment and/or social services as opposed to the case manager.

On one hand, the case-management model can appear to line up quite nicely to the principles of risk and need. In terms of the risk principle, higher risk clients (when identified via a valid risk/need instrument) can be provided with more services through more frequent contacts and more frequent referrals and connections to treatment and social services. Basic administrative policies, such as those requiring more contact with higher risk clients, can be developed that attempt to enhance adherence to the risk principle. The case-management model can appear to adhere to the need principle if and when officers identify specific criminogenic needs and efforts are made to refer, connect and assist the client in obtaining services that target those criminogenic needs. Finally, a well laid out case-management approach appears to adhere to a number of other more recently added principles (see Andrews and Bonta, 2010 for a full list of principles) such as the use of structured assessments and other organizational/administrative factors when the agency pays attention to such details as staff training, supervision policies and organisational practices.

On the other hand, the case-management approach does lack specific attention to the responsivity principle. This principle is almost exclusively focused on the intervention itself regarding what goes on behind closed doors. Responsivity adherence requires the use of cognitive-behavioural interventions and structuring skills during interactions with the clients (Andrews and Bonta, 2010). In a case-management approach, what exactly is the ‘intervention’? In our opinion, the use of cognitive-behavioural interventions does not seem critical to case-management functions where the focus is on brokerage, advocacy, support, assistance and social problem-solving. The therapeutic intervention or ‘change-

work' is the responsibility of the professionals providing the treatment and/or social services and the case manager is not *directly* responsible for facilitating change. In fact, analysis of audio recorded supervision sessions by Bonta and colleagues (Bonta *et al.*, 2008, 2010; Bourgon *et al.*, 2010a) suggests that community supervision officers generally do not take on an active or direct role in 'change-work' with clients unless they are specifically trained to do so.

The recent work of STICS (Bonta *et al.*, 2010; Bourgon and Gutierrez, in press; Bourgon *et al.*, 2010a) and other similar new training initiatives (Robinson *et al.*, in press) suggest that Community Supervision Officers take on a more active and direct role in the change process to be more effective. A closer look at these training programmes illustrates how Community Supervision Officers are being encouraged to take on the 'change agent' role. At the heart of these training courses are fundamental therapeutic concepts, cognitive-behavioural intervention techniques and structuring skills. Officers are taught to take on a 'change agent' role where the dominant task is to engage actively in the therapeutic change process with the client while traditional case-management work is viewed as supplementary. This is a new demand on Community Supervision Officers, challenging them to work with clients in a therapeutic manner and to employ skills and techniques that are firmly rooted in RNR principles so that they can *directly facilitate* personal, attitudinal, and behavioural change.

What's critical for the 'change agent' Community Supervision Officer?

In our work with criminal justice professionals, we have noticed that this shift from a case-management to 'change agent' approach is significant and challenging. One of the major challenges that we have observed concerns officers' understanding of cognitive-behaviourism and the practical implications of this model to 'change-work' that goes on behind closed doors. Another significant practical challenge for the 'change agent' Community Supervision Officer is translating traditional risk/need assessment information into a strategic therapeutic intervention plan. This intervention plan is not simply a case-management plan, but rather one that guides the day-to-day direct 'change-work' the officer engages in with the client. Once the officer has this road map for change, the 'change agent' can focus on initiating and facilitating attitudinal and

behavioural change via cognitive-behavioural therapeutic processes. Provided these two challenges are addressed, along with learning concrete interventions and interpersonal skills and techniques, the evolution of Community Supervision Officers from case manager to 'change agent' can begin.

For the remainder of this article, we elaborate on these two challenges. First, we discuss cognitive-behaviourism at the very practical level in terms of what goes on behind closed doors. We offer the reader what we consider to be the four fundamental steps or change tasks to facilitating change using a cognitive-behavioural model, with an emphasis on community supervision officers working with criminal justice clients. Next, we discuss the difficulties Community Supervision Officers often have regarding translating risk/need assessment results into a practical and useful change plan that takes account of all the pressures and realities of working with clients who are under supervision in the community. We present the STICS Action Plan to provide a concrete and practical framework to assist officers in understanding and interpreting risk/need assessments in order to develop a strategic therapeutic plan of change to work directly with the client.

Cognitive-behavioural interventions

There is substantial empirical evidence regarding the importance of utilising cognitive-behavioural interventions with criminal justice clients (e.g. Bourgon and Gutierrez, in press; Cullen and Gendreau, 1989; Gendreau and Andrews, 1990; Lipsey *et al.*, 2001; Landenberger and Lipsey, 2005; Lösel and Schmucker, 2005; Wilson *et al.*, 2005). Often these programmes use terms such as 'triggers', 'thinking errors', and 'negative thoughts' and employ cognitive restructuring techniques such as 'reframing' and 'positive self-talk'. Today, it seems that just about every programme and service purports to be cognitive-behavioural. But what does cognitive-behavioural really mean?

The simple answer is that in addition to the recognition of the fundamental principles of learning (e.g. reinforcement and punishment), cognitive-behavioural approaches recognize the role that cognitions or thoughts play in determining behaviour. However, the answer to what constitutes effective cognitive-behavioural interventions in practice and behind closed doors is more complex. A few years ago, a discussion took place between the first author and his long-time colleague, Barb

Armstrong. At that time, it was agreed that four practical steps or tasks are required to conduct cognitive-behavioural interventions effectively. They are: (1) identifying with the client the link between thoughts and behaviour; (2) helping the client identify personal thinking patterns that cause that client's problem behaviours, (3) teaching the client concrete thinking *and* behavioural skills, and (4) facilitating the client's practice of and generalization of these new skills. On the basis of these four steps/tasks, we quickly recognized that there is considerable variation in how effectively, if at all, each is accomplished via the multitude of programmes and services that claim to be cognitive-behavioural. For officers interested in acting as change agents, we believe that it is critical to understand each of these four steps/tasks and how they can promote or hinder effective change.

We would argue that the most critical step or clinical task, and the most difficult, is illustrating to the client the direct link between thoughts and behaviour. To do this effectively, this causal link must be clear, explicit and direct. In STICS, officers are taught how to show clients, in a concrete and practical manner, that *the reason they behave as they do is a direct result of their thoughts alone and for no other reason*. The 'for no other reason' is crucial. In our experience, when a client is presented with a model of behaviour that suggests, either explicitly or implicitly, that the cause for behaviour is the result of external stimuli (i.e. things outside of the individual), it reinforces his/her problematic and procriminal thinking patterns. We do not believe that the model presented to clients should legitimise their excuses, justifications and neutralisations for behaviour.

With this in mind, the model avoids limiting the amount of personal responsibility clients can take for their thoughts, feelings and behaviours; in other words, for the choices that they make. For example, many cognitive-behavioural interventions and models suggest that the external stimuli are 'triggers' for certain thoughts and/or emotions. Clients are taught that it is their responsibility to manage the resulting events of these 'triggers'. This 'external event caused the internal event caused the behaviour' outlook is exactly the kind of thinking we are attempting to change. Believing that circumstance is the reason and thus the justification for the behaviour, and blaming outside forces for behaviour, thoughts and feelings leads to clients believing that they cannot control what they think, feel and do (i.e. they are a victim), when in reality the opposite is true.

In our opinion, the direct causal link of thought to behaviour is the crux of the matter. Either I am responsible for all of what I think, feel and do *or* I am not responsible. If I am not responsible, then I have excuses. If I am responsible, then I recognise that I have choices and I cannot blame others, circumstances, or anything else but myself for my problems and for my successes. Practically, this must occur before the 'change agent' can actually conduct any 'change-work'. Once clients understand the direct causal link between their thoughts and their behaviour (that the only reason for behaviour is the thoughts) then they are in a position to begin to evaluate the costs and benefits of their behaviour *and* of their thinking. In terms of change, the table is set for the client in the sense that the client is ready to accept that in order to change behaviour, he/she must change his/her thoughts first. Once clients are at this stage, they are in a position to examine what it is they think and to examine the behaviour that this thinking promotes.

The second step/task is helping the client to identify personal thinking patterns that cause that client's problem behaviours. In the case of criminal justice clients, problem behaviours are those empirically related to crime, essentially the criminogenic needs. As the first step/task establishes to the client (and the officer for that matter) that all behaviours are the result of the client's thoughts (over which they have choices and can exert control), the client is ready for the next step. However, identifying what thoughts, beliefs and attitudes contribute to procriminal behaviours (in STICS, these thoughts are called Tapes) is not an easy skill, particularly with criminal justice clients who are characterised as impulsive, with poor self-reflection and self-awareness. But it is a skill nonetheless and, like all skills, it can be taught.

To accomplish these two tasks (i.e. the thought-behaviour link and identifying personal thinking patterns and behaviours), the 'change agent' provides structured activities for clients to learn and to practise self-awareness skills. This is done to identify specific thoughts and also to evaluate their contribution to specific behaviours. In addition, the 'change agent' assists the client in recognising and identifying the consequences of these behaviours. It is through concrete and practical examples that the client learns these skills and begins to recognise the complexity of thoughts, behaviours and consequences. For example, it is easier for the client to understand that the thought, 'Taking cocaine will make me feel better' results in the choice to buy and use cocaine and that there are many short-term (e.g. getting high, having fun with peers) and

long-term (e.g. gaol, nose bleeds, paranoia) consequences. However, it is harder to see the link between the thought 'It's my way or the highway' and the choice of using drugs and the consequences. The 'change agent' accomplishes this task through exercises and interventions that specifically increase the client's awareness of his/her own personal thinking patterns and abilities of observation of both internal and external events. The client is then in a position to evaluate whether or not the thinking and behaviours are 'worth it' and at the same time recognise that he/she is completely responsible for the choices made, including the choice to change.

It is at this point that the client is ready for the third task: learning cognitive *and* behavioural skills on how to think differently and thus how to act differently. The skills target *both* thinking and behaviour. Given the importance of thinking, the first skill focuses on learning how to change thinking. Often referred to as cognitive restructuring, STICS calls this "Countering". This skill should be clearly and directly linked to the change from procriminal to prosocial thoughts and behaviours. In addition to learning the skill of Countering, and particularly for moderate and higher risk criminal justice clients, the 'change agent' must also teach the client a variety of prosocial behavioural skills (e.g. résumé writing, basic communication skills, negotiation/conflict resolution, and problem-solving). In accordance with the responsivity principle, and in order to be practical and effective, all the skills outlined above should be concrete, simple, and presented to criminal justice clients in ways that are easy to learn.

The last task in effective cognitive-behavioural interventions is providing ample opportunities for clients to practise and generalise the new skills they are learning. Practice is a foundation for learning as it requires emitting behaviour, receiving feedback about the behaviour, and using that feedback to facilitate change and reinforce new patterns of thinking and behaving. Criminal justice clients need to use the new skills they are being taught within supervision sessions (e.g. doing role plays) as well as outside of supervision (e.g. trying communication skills with their partner) so that the process of learning and generalisation may take place. The task for the 'change agent' is to provide opportunities to use the skills, provide feedback, and encourage and reinforce the use of these new skills.

In summary, these are the four clinical tasks that the Community Supervision Officer needs to do if he/she is going to play a direct and

active role in facilitating change. These four tasks are the fundamentals of what we believe to be truly cognitive-behavioural intervention, a foundation of the responsivity principle of effective correctional interventions. Of course, how to actually accomplish these tasks behind closed doors is challenging, and that is most of what is taught in our STICS training: learning the skills and tools necessary to intervene in a concrete, direct, practical and personally relevant manner for the client.

From assessment to change plan

Prior to embarking with a client on this process, it is beneficial for the 'change agent' to have a general strategic plan for change for each individual client. The assessment of the client's risk and need factors can aid the officer in developing this action plan for prosocial change. Traditionally, risk/need assessment information has primarily been used to guide a series of criminal justice decisions rather than clinical intervention strategies *per se*. For example, risk/need assessments are used for sentencing decisions and institutional classification. In terms of interventions, risk/need assessment information may be used to identify client needs in order to match them to appropriate services. In community corrections, the risk/need assessments are often central in determining levels of supervision (e.g. type and frequency of client contact with the officer) and guide either the courts in mandating, or the officer encouraging, client participation in specific treatment services (e.g. substance abuse treatment for addicts).

Traditionally for the case manager, the role is one of identifying the specific set of criminogenic needs and to start the referral–admission process. Making the effort to connect the client to the programme(s) and supporting and encouraging (i.e. enhancing motivation) this connection is primary. It matters little which programme the client gets first, second, or third as most programmes and services are designed to address discrete problems or needs (i.e. male domestic violent offenders, employment programmes, substance abuse programmes that sometimes target very specific drugs of choice such as cocaine, heroin, or meta-amphetamines). In this fashion, the case manager monitors and documents what needs were addressed.

The 'change agent' approach, however, asks the officer to understand the risk/need assessments from a slightly different, and perhaps more complex, viewpoint. Here the question is not just about what the client's

needs are and what services can best meet these needs, but also where to start and how to intervene with a particular client. One difficulty is that the moderate- and high-risk clients present with multiple needs and these needs are interrelated. So how does the ‘change agent’ discriminate which of the multiple needs is primary? To be strategic in facilitating change, the ‘change agent’ attempts to identify and then tackle the more ‘basic’ or primary criminogenic need, which should then influence the more ‘secondary’ and interrelated criminogenic needs.

To answer this question, the cognitive-behavioural model provides clear and concrete guidance for the ‘change agent’ on how to translate the results of a risk/need assessment into a coherent, comprehensive, strategic and practical therapeutic plan to facilitate change. Rather than view risk and needs as a set of discrete and individual criminogenic factors, the client must be viewed from a holistic perspective taking account of all the information the risk/need assessment provides. However, considerable variability and difficulty are still associated with translating traditional risk/need assessments into a comprehensive and practical therapeutic ‘change plan’. In our STICS training, by providing officers with a solid foundation of cognitive-behaviourism, it becomes easier to see the interrelatedness and hierarchy of different criminogenic needs. From this, we developed a helpful tool we call the STICS Action Plan, which helps Community Supervision Officers to understand and practically formulate strategic intervention plans with each client.

The STICS Action Plan

Translating risk/need information into a strategic change plan can be a complex and challenging hurdle for Community Supervision Officers. Besides the complexity of the individual’s risk/need profile, the officer must consider additional factors. One set of factors centres on administration of the sentence. This means that there are typically sentencing requirements, such as the variety of potential conditions/restrictions that the client must comply with. There are other ‘business’-related details the officer must be cognisant of, such as the policy directives and practices that may be in place for certain types of offender (e.g. specific directives regarding the supervision of sexual offenders) or for offenders of certain levels of risk (e.g. high-risk offenders must report to their Probation Officers in person at least three times per month).

A second set of factors centres on the client's life itself. Criminal justice clients often have rather chaotic and unpredictable lives (e.g. unstable and sporadic employment, rocky relationships, unstable residences and financial difficulties) and their situations often change frequently and dramatically over short periods of time. Probation Officers must be sensitive to a client's crisis and acute needs without such crises overwhelming and preventing the officers from actually engaging in 'change-work'.

It is typically after these two sets of factors are addressed that the 'change agent' can focus on criminogenic needs and facilitating change. The officer not only must be able to identify which criminogenic needs the client has, but must also determine which ones are most salient and which take priority over others. Officers must consider the resources at their disposal (i.e. treatment programmes and related services) and the inevitable waiting list for admission. For the 'change agent', they must also take on active therapeutic work and start the process of facilitating attitudinal and behaviour change.

In order to aid the officers with this complex task, the STICS Action Plan (see Appendix) provides a framework and is intended to provide an overall picture of the client's risk/need factors. It is sensitive to the community corrections policies and the complexity of clients' lives, and ultimately assists the officer in knowing what 'change' efforts to focus on, and where. The STICS Action Plan is conceptually coherent with a cognitive-behavioural model and thus adheres to the RNR principles. In our work to date, the STICS Action Plan has been found to be a very useful and practical tool by a vast majority of the officers involved in the project. Below, we describe the steps to completing it.

The first step, following the formal risk/need assessment (typically done either immediately preceding or following sentencing), is to address the policies around supervision levels and reporting frequency. This step involves indicating what level of risk the client poses for reoffending and the overall need level (traditionally low, moderate or high) to determine the specifics of supervision (e.g. frequency of reporting in person). We recognize that there are potential reasons for overriding this level of supervision (e.g. frequently seen with sex offenders who often have higher levels of supervision than what is indicated from actuarial risk/need assessments) and the Action Plan encourages documenting such reasons.

The second step involves identifying acute needs or crises that may require immediate attention. Common examples of these include suicidal ideation or behaviour, and the presence of information suggesting an immediate threat of harm such as a homeless client in the middle of winter, a client who is currently psychotic, or a client with a history of domestic violence with evidence of recent escalation of marital discord and conflict. In essence, this step provides the opportunity for the officer to identify issues that require immediate attention before working on long-term prosocial changes.

The third step involves conceptualising the client's risk–need profile for intervention planning and ensuring consistency with the cognitive-behavioural model of human behaviour and change. This involves answering four very basic questions regarding the client in a specific order from highest to lowest priority in terms of facilitating change. More specifically: (1) Should intervention target procriminal attitudes and behaviours? (2) Should intervention target the client's interpersonal relationships? (3) What are specific problem behaviours that should be targeted? (4) Are there other minor criminogenic needs that require help? Answers to these questions, we believe, aid the officer in conceptualising, prioritising, and developing an overall personalised map of strategic change for each client, as well as providing concrete direction on where to start and where to proceed to facilitate cognitive-behavioural change.

As indicated by the cognitive-behavioural model, procriminal attitudes (i.e. thoughts, attitudes, values and beliefs that promote procriminal behaviours) are considered to be the most central causal factor contributing to criminal behaviour. We know from research that attitudes are one of the Big Four (along with history of antisocial behaviour, antisocial personality pattern, and antisocial associates) and one of the strongest predictors of reoffending (Andrews and Bonta, 2010). Unfortunately, it is our opinion that the current assessment of procriminal attitudes in most risk/need assessments is weaker than the assessment of other criminogenic needs.

For example, the procriminal attitude/orientation subscale of the LS/CMI (Andrews *et al.*, 2004) has four items whereas the substance abuse subscale, a weaker predictor of criminal behaviour, has eight items. The employment/education section has nine items. In addition, the four items assess rather limited and very general procriminal attitudes; those towards crime, towards convention, towards the client's sentence and offence combined, and towards supervision and treatment combined. We

believe that this weak assessment of attitudes explains why in our STICS study (Bonta *et al.*, 2010) we found the following: of the 143 clients in the project, 55% were assessed as High Risk and 40% as Moderate Risk, but close to 60% of these clients were assessed as *not* having a problem with procriminal attitudes. For a cognitive-behavioural model which points to thinking as the primary determinant of behaviour, it does not make sense that so few clients were assessed as having problems with procriminal thinking when 95% are moderate or higher risk to reoffend.

This seemingly contradictory information is really only a reflection of the method used to identify procriminal attitudes when one considers other indicators or proxy measures of procriminal attitudes that are available in almost all risk/need assessment instruments; namely criminal history and antisocial personality pattern. Given that behaviour is a direct result of thinking, it is reasonable to evaluate client attitudes by also examining client history of criminal behaviour and client antisocial personality pattern. It seems reasonable to assume that when a client's personality is antisocial and/or the client has a lengthy history of criminal behaviour, then that client must also have strong procriminal attitudes and thinking patterns.

In the STICS Action Plan, the answer to the question of whether or not the officer should begin facilitating change in procriminal attitudes is answered by examining the results of three typically separate assessment sections: criminal history, antisocial personality pattern and procriminal attitudes. The officer need only indicate low, moderate or high in each of these areas. Unless all three are rated low, change efforts must begin targeting the client's thinking. In virtually all the cases that should receive correctional treatment services (i.e. according to the risk principle, those would be clients of moderate risk or higher), the 'change agent' begins the process where it all starts: with the client's thinking.

The next question regarding criminogenic needs deals with whether or not interventions should focus on the client's relationships. As in the previous section, the STICS Action Plan utilizes much of the information found in the risk/need assessment and asks the officer to rate the level of need for *all* the different types of interpersonal relationship. This includes family of origin, marital or present family life, and the client's circle of friends and acquaintances. Using the LS/CMI as an example, the officer can look at the results of the Family/Marital section to get an idea of the criminogenic potential of the client's family of origin as well as their present family life (i.e. spouse or equivalent). The

Companions subsection of the LS/CMI provides information on the client's peer group. This information is transcribed to the STICS Action Plan to aid in making efforts to address criminogenic relationships. The priority, however, remains facilitating the change in thinking as our cognitive-behavioural model holds that changing thinking leads to changing behaviour, including choices regarding how and with whom the client interacts and for how long this interaction takes place.

The third section regarding criminogenic needs revolves around specific lifestyle choices. That means substance abuse, impulsive/aggressive behavioural patterns, and poor education and employment lifestyle. Again, sections of most risk/need instruments directly assess these criminogenic needs. Similar to relationships, these specific criminogenic behaviours or lifestyle choices are secondary to thinking and attitudes but can provide a concrete context to facilitate change in client thinking.

The last section regarding criminogenic needs is examining highly detailed and very specific needs, which include housing, financial difficulties, and leisure/recreation activities. These criminogenic needs are relatively simple targets and link very nicely with many social/welfare/community services. In our experience, they are generally easier to address after having made significant progress in changing the procriminal thinking.

The fourth and final section of the STICS Action Plan is the identification of specific responsivity issues. These guide the officer in the way he/she interacts with the client and how he/she may present information and facilitate learning. This would include any noncriminogenic needs such as mental health issues (e.g. schizophrenia, developmental delays, depression, anxiety, childhood trauma), physical handicaps, and the like.

Overall, the STICS Action Plan was developed to be a concrete and practical tool for Community Supervision Officers at the same time as attempting to permit the flexibility and versatility that is required when working with individuals who are under community supervision. It attempts to provide a comprehensive and holistic view of the client, encourages adherence to RNR principles, and should be able to accommodate a variety of policies and practices that are inherent in community supervision work. Most importantly, we believe it can assist the Community Supervision Officer's evolution from case manager to 'change agent' by guiding the understanding, planning and

implementation of direct one-to-one cognitive-behavioural interventions that can facilitate reductions in criminal behaviour.

Conclusion

In today's world of community corrections, professionals whose job it is to supervise offenders are being asked to assume more and more responsibilities. From traditional supervision practices to case-management, the profession of Community Supervision Officer continues to evolve. Officers are beginning to take on a more direct and active role in the therapeutic change process. This new role challenges existing skills, abilities, knowledge and resources.

To meet these new challenges of becoming a 'change agent', we have presented what we hope to be some fundamental and practical information that facilitates this evolution. Guided by the empirically derived principles of risk, need, and responsivity, as well as clinical experience, we have attempted to translate from theory to practice what exactly cognitive-behavioural truly means. Similarly, through the use of the STICS Action Plan, officers may practically understand risk/need assessment information from a 'change agent' perspective. We hope that this information can guide Community Supervision Officers on the journey to becoming effective 'change agents' with the individuals they supervise.

Appendix: STICS Action Plan

Instructions: Complete the form below by circling the appropriate scoring and writing any additional short notes or comments in the appropriate sections. Use all available case information (e.g. Risk/Needs Assessment Measure, case file) to score the various items.

Case Information **Decisions for Case Planning and Intervention**

1. What is the appropriate level of supervision/service for this client as indicated by the Risk Assessment measure?

Overall Risk Level	L	M	H	LOW	MED	HIGH	Supervision Level Determination
Overall Need Level	L	M	H				

Reporting Frequency (note monthly, weekly, etc.)

2. Is there any acute need or crisis requiring immediate attention?

Crisis, Acute Needs or Concerns **NO** **YES** Specify:

3. What are the client’s criminogenic needs?

a. Should intervention target procriminal attitudes & behaviours?

Criminal History	L	M	H			Target procriminal attitudes & behaviours <input type="checkbox"/> ↓ procriminal & ↑ prosocial attitudes & behaviours
Antisocial Personality*	L	M	H	NO	YES	
Attitude/Orientation	L	M	H			

b. Should intervention target the client’s relationships & associates?

Family of Origin	L	M	H			Target interpersonal associates & relationships <input type="checkbox"/> ↓ procriminal & ↑ prosocial ties & associations Teach skills & access to prosocial rewards
Marital/Significant Other	L	M	H	NO	YES	
Companions/Peers	L	M	H			

c. What are the specific problem behaviours that should be targeted?

Substance Abuse/Misuse	L	M	H	NO	YES	Target substance abuse: ↑ relapse prevention skills
Aggression & Impulsivity	L	M	H	NO	YES	Target aggression: ↓ impulsivity & ↑ self-control
Employment & Education	L	M	H	NO	YES	Target ↑ employment, education & job skills

d. Are there other criminogenic needs (i.e. housing, financial, or leisure problems) that require help?

Housing/Financial Issues	L	M	H	NO	YES	Target residence: ↑ stability, ↑ financial skills/supports
Leisure & Recreation**	L	M	H	NO	YES	Target leisure time: ↑ prosocial pursuits & activities

4. Are there any special responsivity issues and/or noncriminogenic needs to note?

Noncriminogenic Needs	NO	YES	Specify:
Special Responsivity Issues/Concerns	NO	YES	Specify:

* Refers to a long-standing pattern of criminal behaviour. Can include, but is not limited to, problems with impulsiveness, self-control, self-management, aggression and violence (general, domestic, and sexual).

** Refers to the type and frequency of organized activities the individual engages when not working, evaluating the degree to which these activities are prosocial, conventional pursuits.

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Narrating Desistance: Identity Change and the 12-Step Script

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Abstract: Desistance from crime has been identified as a process that often entails the development of a new life ‘script’. This script facilitates an internal change through a narrative-building process that supports a non-offending identity. This paper investigates the intersection between these scripts as described in the criminological literature and the well-known script at the heart of the 12-step recovery literatures. This exploration is based on the findings of qualitative research into the long-term desistance experience of five former persistent and drug-addicted offenders based in Dublin involved in the 12-step Narcotics Anonymous and Cocaine Anonymous groups. Results indicate that narrative development through the 12-step programme parallels many of the features of narrative detailed in the desistance literature.

Keywords: Desistance, addiction recovery, life scripts, 12-step recovery, Dublin.

Introduction

In recent years, the study of how and why former offenders desist from criminal behaviour has become a key topic in the criminological literature (see e.g. Maruna, 2001; Farrall and Calverley, 2007; Laub and Sampson, 2003). Central to this literature has been the idea of the role of self-narratives in promoting and sustaining desistance (see e.g. Burnett, 2004; Maruna, 2001, Vaughan, 2011). Maruna (2001, pp. 7–8) writes: ‘To successfully maintain this abstinence from crime, ex-offenders need ... a coherent and credible self-story to explain (to themselves and others) how their checkered pasts could have led to their new, reformed identities’. This new life script provides new values and beliefs that can

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navigate the offender to crime-free living despite the often overwhelming structural obstacles they face.

Questions remain about the construction of narrative and the adoption of a new life script by desisting individuals, however. What is involved in constructing a new script? Is it a solitary or a co-operative process? How does the script account for past misdeeds and simultaneously provide a framework for change?

Interestingly, the well-known 12-step programmes of Alcoholics Anonymous (see Appendix) and Narcotics Anonymous (1993), and similar mutual aid programmes, also focus a great deal on life scripts and provide a narrative template for the addict seeking recovery. At regular fellowship meetings, members in recovery are invited to share their stories and contribute to an atmosphere of recovery. These stories reinforce a sense of bonding and of common ailment between members, and the recovery programme is held up as a common solution for all to participate in. Newcomers are mentored by more established members and encouraged to request a sponsor to act as a guide through the 12-step process.

This paper will interrogate the core elements of the 12-step ‘script’ as internalised by a small sample of Dubliners in long-term recovery from serious addiction problems to explore the possible parallels between this 12-step narrative and the desistance narrative literature as outlined by Maruna (2001) and Vaughan (2007, 2011) in their criminological research. The findings suggest a great deal of overlap between these two literatures in the function that narrative performs in desistance from crime and recovery from addiction.

The role of narrative in desistance and recovery

Narrative has played a key role in the understanding of desistance from crime as well as recovery from addiction. In the review below, I briefly summarise the two literatures.

Narratives of desistance

Self-narrative (or storytelling) has had a central place in the literature on desistance since at least the arguments in Shadd Maruna’s (2001) *Making Good*. For desisters, narrative is crucial not just for understanding the past; it is also thought to have ‘significant effects in the present and toward the future by eliciting appropriate emotional

responses that condition the agent's current dispositions' (Vaughan, 2007, p. 399). Indeed the likelihood of any offending person attaining and maintaining a crime-free status very much depends on developing a new identity, and new values and beliefs that are not compatible with offending (Burnett, 2004; Maruna, 2001; Vaughan, 2011). Narratives are said to provide a subjective account of meaning for significant life events and turning points. Often at least part myth, self narratives are thought to help people explain their actions and decipher their motivations. The self narrative of the ex-offender holds a version of the truth that is often quite different from historical truth (Maruna, 2001). This revised version of the past imbues an often quite horrific personal history with a sense of meaning and purpose. It is the psychological truth, rather than factual truth, of this narrative that provides the desister with the framework that will determine future behaviour (Maruna, 2001). In a study that focused entirely on religious conversions of incarcerated offenders, Maruna *et al.* (2006) found that the prisoners' self narrative was dramatically changed by their conversion experience. Once again this narrative provides a context for the offender's life, it helps make sense of the past and provides hope for the future, even among those serving very long sentences. A new social identity for the offender was created, as well as a sense of purpose, empowerment and forgiveness.

Barry Vaughan writes that the active offender has a minimal narrative, which 'is sparse and populated by the agent's own concerns whilst the perspective of others rarely intrudes' (Vaughan, 2011, p. 11). For an individual to attain and maintain desistance from crime he or she must engage in a narrative construction process that seeks to explain the past, and connect it to the present through a new life script. This is achieved through working with other people to develop this new self story that situates the person as an agentic actor in both the past and the present, and needs 'some form of moral reflection on past deeds', and 'an acknowledgement of the harm caused to other people through offending as the offender's narrative is opened up to other perspectives' (Vaughan, 2011, p. 4). The realisation of damage caused to others, and the realisation that it was he or she that caused the damage, can result from this intersubjective, and intrasubjective, reflection on life events. This serves to create a sense of ownership of past actions, but also a sense of distance as the actor commits to living according to new values. The emergence of this powerful new self understanding develops a script that considers offending no longer possible. The actor attains a sense of

personal action that takes the welfare of others into consideration, and provides new guidelines for behaviour. Therefore the offending behaviour is not considered as consistent with the new identity of the desisting individual.

In the Liverpool Desistance Study, Maruna (2001) sought to understand how changes in ex-offender identities allow for desistance by analysing the self narratives of two groups of offenders, one persisting and one desisting. The study found that persistent and desisting offenders have similar personality traits. Both groups are less agreeable and less conscientious than the general population. What separated the two groups was the self narratives that were revealed through qualitative research interviews. Active offenders had what Maruna (2001) termed a 'condemnation script'; that is, they saw life as a bleak and hostile experience. They considered themselves to be at the mercy of circumstances outside their control and were repelled by authority. Desisting ex-offenders had a vastly different view of themselves, their past and their present circumstances. They had created a self narrative that not only made offending no longer possible but also painted a very positive outlook for their future. This 'redemption script' is the belief that the individual is essentially good, and the past is a result of social exclusion and disadvantage. The ex-offender viewed himself, or herself, as the victim of both society and circumstance who became caught up in a vicious cycle of crime, addiction and recidivism. Now that they have managed to desist they can truly realise their good qualities and begin to live as they were always meant to live. These desisting ex-offenders believe that they are uniquely equipped with the skills and desire to help the next generation avoid going down the same path as they did. Maruna calls this mindset 'making good': the desister 'rewrites a shameful past into a necessary prelude to a productive and worthy life' (2001, p. 87). Among the LDS sample Maruna found a high degree of generative concern; generativity refers to the rehabilitative effects of work, either voluntary or vocational, and is 'a product of both inner drives and social demands' (Maruna, 2001, p. 118). From this perspective the desisting ex-offender needs to find a way to give back to society. Therefore any employment or voluntary work they may get involved in has to have depth and meaning to ensure continued engagement. The ex-addict who becomes an addiction counsellor, or the ex-offender who goes to work with troubled youth, is a well-known stereotype. This belief leads many ex-offenders to become counsellors or youth workers as they believe that

desisting or recovering people have a high level of wisdom to pass on to young people and active offenders. This moral superiority and refashioning of the life history is an attempt to make up for long stretches of lost life (Maruna, 2001). It also provides the desister with the opportunity to make restitution symbolically for past harms; gives a sense of legitimacy and fulfilment; and often has substantial therapeutic benefits.

Narrative and spirituality in recovery

Galanter *et al.* (2007) found that a sense of spiritual direction and growth was viewed by recovering people as more important to their lives than either employment or professional addiction treatment. Recovery is very much a subjective experience and these subjective developments may need to occur before structural turning points can aid the construction of a new and prosocial life course (LeBel *et al.*, 2008). Therefore it is likely that the study of spiritual beliefs and spiritual growth in desisters as one path to subjective development and change may be important for furthering our understanding of the desistance process, and, as Galanter *et al.* (2007, p. 263) state, ‘spirituality, however difficult to define in operational terms, likely constitutes an important motivator for recovery for some (perhaps many) substance-dependent people’. Additionally, Best *et al.* (2008), in a study of long-term abstinence from substance addiction, found that formal addiction treatment was not perceived by participants as an important factor in maintaining recovery. In fact, ‘for both achieving, and especially for maintaining, abstinence spiritual factors and “sober” support groups, associated with the 12 steps, were mentioned much more frequently’ (p. 623).

The 12-step programme seeks to diagnose the nature of the addiction in the individual as a spiritual disease or illness, and provide a clear set of recovery directions. The central belief of the programme is that the addict has lost all control over their substance-using behaviours, and efforts to moderate or stop on their own willpower are doomed to failure. Once the addict ingests a substance the phenomenon of craving is triggered and he or she cannot then regulate or stop usage:

We alcoholics are men and women who have lost the ability to control our drinking. We know that no real alcoholic ever recovers control. All of us felt at times that we were regaining control, but such intervals – usually brief – were inevitably followed by still less control, which led

in time to pitiful and incomprehensible demoralisation. (*Alcoholics Anonymous*, 2001, p. 30)

The individual suffers from an obsession of the mind that will, when abstinent, lead him or her back to drug use. The addict, according to this belief system, cannot prevent the obsession to use from overpowering their thinking, and cannot control the craving that results from using the first substance. In addition the addict's life has become unmanageable, even if he or she remains abstinent. The addict is without defence against relapse; he or she cannot, of their own volition, prevent an addictive pattern of thought and behaviour from compelling them into further substance use. This is believed to be true even after long periods of chemical-free living; hence the need for spiritual reliance and spiritual regulation.

Addiction, as outlined in the 12-step literature, is a disease of selfishness and concern with self. All the individual's life problems – including criminal justice sanctions, broken relationships and employment problems – stem from this self-focused existence:

Selfishness – self centeredness! That, we think, is the root of our troubles. Driven by a hundred forms of fear, self delusion, self seeking, and self pity, we step on the toes of our fellows and they retaliate. (*Alcoholics Anonymous*, 2001, p. 62)

The programme of recovery involves a thorough reflection of their past actions and life circumstances, as well as a commitment to a new set of prosocial values and beliefs. Among the most important of these new values and beliefs are the willingness to make restitution for past harms, a commitment to guide newcomers through the 12-step programme, and an acceptance of spiritual guidance as indicated by the surrender of self-will involved in the first three steps.

While Cashwell *et al.* (2009) point out that this surrender of the first three steps can lead to an externalisation of responsibility for desistance and recovery, and therefore to a place of stagnation and inaction, the 12-step literature cautions against such events. The admission of powerlessness over one's life, and the surrender of will and life in the first three steps, could appear as abdicating responsibility and casting positive human social action to the wayside. Appearances can, however, be deceptive, and engaging with what can seem to the desister as

unorthodox ideas can require a great deal of determination and commitment. Approximately one quarter of the ‘Big Book’¹ is dedicated to explaining the concepts behind the first step, and emphasises the determined action that is needed for recovery to be achieved and maintained. Of this process Maruna (2001, p. 150) states that ‘This apparent contradiction (giving up control in order to be free) should still be seen as agentic in nature – the person freely chooses to give over his or her life to God’. Bruner (1987, p. 31) argues that narratives do not change easily and ‘perhaps a metaphysical change is required to alter the narratives that we have settled upon as “being” our lives’. Acceptance of the quite radical concepts of the first three steps may qualify as such an event.

The identification of the addiction as a spiritual disease or illness, and the belief that it never leaves and always has the potential to re-emerge and manifest in a return to substance use, infers an alternative source of agentic power within the addict. Pertrunik and Shearing (1988), in their investigation of the subjective experience of stuttering, found a similar sense of the otherness of the behaviour, and indeed suggested that the following framework could be used for understanding many other psychological and behavioural abnormalities:

the self is experienced as consisting not only of an ‘I’ and ‘Me’, but as an ‘I’, a ‘Me’ and an ‘It’. This ‘It’ is for them every bit as real as the ‘I’ and the ‘Me’. Like ‘I’ it is a source of action but one which is both independent of and antagonistic towards the ‘I’. (Petrunik and Shearing, 1988, p. 442)

Petrunik and Shearing (1988, p. 441) state that this isn’t a multiple personality type situation; rather it’s an unwanted part of the self experienced as ‘an alien source of agency’ that periodically takes control of the individual’s actions.

White (2001) provides an excellent account of the arguments for and against the 12-step addiction recovery model, some of which are relevant here. Craving and powerlessness have no scientific basis, according to one prominent strand of criticism, and are an illusion of 12-step ideology (White, 2001, p. 6). Addiction, from this perspective, is simply a learned

¹ The fond name for the basic text of the Alcoholics Anonymous fellowship.

behaviour and addicts choose to use chemicals. Therefore the power of choice resides firmly within the limits of the addict's will. Furthermore the incurable sickness, or disease concept, is an excuse for socially deviant and personally destructive behaviour, and the 12-step fellowships replace dependence on chemicals with dependence on like-minded people. Some criticisms have gone so far as to claim that 12-step fellowships are merely cults. The debate that surrounds the 12-step model of addiction recovery is often impassioned and acrimonious, and 'is a debate not just about ideas, but about the future of personal and professional lives as well as institutions and communities' (White, 2001, p. 2).

The study

This paper reflects the findings of a small qualitative investigation into the lived experience of five long-term desisters. The participants, five white Irish males living in Dublin, had maintained desistance from crime for a minimum period of 10 years. Each participant was also addicted to illegal narcotics; that is, they used Class A drugs on an almost daily basis during their offending careers. The interviewees in this study are not representative of desisters as a whole; rather they enable an exploration of the lived experiences of a small group of desisting offenders to whom the researcher had privileged access. Purposive sampling was used because long-term desisting ex-offenders are a specific group and therefore the paper's focus is very clearly defined. The author has worked in the community and voluntary sector in Dublin and was able to access participants through community-based organisations. Indeed, all participants were known to the author for a number of years.

Insider status has been identified as having advantages and potential disadvantages regarding the quality of information collected and the analysis of data. Validity of this research project, therefore, depended on the researcher understanding the impact of insider status, and minimising any potential negative effects. The possible epistemological and ontological criticisms that can be levelled against insider research can be challenged by the postmodernist researcher's rejection of the idea that there is one objective truth waiting to be discovered. This school of thought claims that all research is affected by the historical, cultural and social backgrounds of the researchers regardless of the methods used (Hammersley *et al.*, 1997; cited in Rooney, 2005). Therefore validity is

not a straightforward concept, and, according to Norman Denzin, should be replaced by concepts such as credibility, confirmability and dependability (Denzin *et al.*, 2000; cited in Rooney, 2005). Therefore every effort was made to realise the advantages of insider research, such as accessing rich and authentic data, and the elimination of social distance and obstacles faced by outsiders, while avoiding the potential pitfalls of over-rapport, role confusion, and data analysis tainted by similar social and political backgrounds (Hodkinson, 2005; Rooney, 2005). The successful management of insider research, therefore, depends on being able to step back and 'view the familiar as strange' (Hodkinson, 2005, p. 145).

Each participant was chosen because he met the criteria identified by the author, drawing on the relevant desistance literature, for long-term desistance. Firstly he had to meet the definition of career criminal as set out by Maruna (2001); that is, he had to have a significant number of years of persistent criminal offending in his past. Secondly he had to be in long-term desistance from crime: in this case a 10-year minimum was chosen.

Qualitative research methods were used for this paper, specifically semi-structured interviews. Each participant was interviewed for approximately 90 minutes. Three interviews took place in the homes of the participants and two in the home of the researcher. In four of the interviews a tape recorder was used to record data. The data from the tape-recorded interviews were transcribed by the researcher verbatim. The data were then analysed to identify key concepts and recurring themes in the participants' answers. The use of semi-structured interviews allowed for comparability between answers when analysing the data.

This project represents only the second desistance study carried out in Dublin to date. Healy (2010) investigated the psychosocial factors associated with primary desistance; that is, the earliest stages of desistance. While the sample for this paper is obviously small, some compensation is provided by the very rich data, as well as by the fact that, as Maruna (2001) indicates, it is very difficult to research long-term and 'pure' desisters at this level because not many exist, and those that do are not readily available to researchers. Likewise, Best *et al.* (2008, p. 624) found that recruiting participants for studies of long-term substance use recovery was 'intrinsically problematic' as people in this group have new lives and new identities, and therefore may not wish to expose their past.

The long history of criminal offending reported by participants, as well as the quality of their desistance, place them in a difficult-to-reach and quite small sample. As Piquero (2004) notes, most ex-offenders may display a genuine desire to change but instead tend to drift in and out of desistance.

Findings

Participants in this study had developed a new sense of identity consistent with the narrative script they encountered through the 12-step fellowships and literatures. The primary identity claimed by each individual related to addiction recovery, and maintaining desistance from crime was dependent on continued successful recovery from addiction. Acceptance of the diagnostic criteria of addiction as a state of powerlessness, and of the need to examine their past in order to maintain desistance and recovery, was evident. Addiction was viewed as incurable and even in abstinence could manifest in daily attitudinal and behavioural problems. Finally, the need to make restitution for past harms, and to support their own recovery through generative pursuits, was very evident from the data.

Addiction as a lack of power

All the participants claimed that the initial decision to attend a 12-step fellowship came from a sense of desperation engendered by mental and physical collapse:

I was forced to stop, the decision to stay stopped came later. I was mentally breaking down, crime escalated to a level I couldn't handle and there were moments of truth where I wondered how it had come to this. (Participant 4)

The experience of attending the fellowship meetings was, for these men, the first step on the road to recovery from addiction. One stated:

I learned for the first time in my life that there was another way to live, rather than just taking drugs. I didn't know that, I'd never heard that before, so seeing other people do it created my desire to stay clean. (Participant 2)

Gaining an understanding of the powerlessness and unmanageability as outlined in the 12-step literature highlighted the seriousness of their

predicament. Furthermore, the diagnostic process of the first step instilled a deep belief that having a substance-free and healthy future very much depended on continued participation in 12-step fellowships and programme. This diagnostic process, as outlined in the literature review above, speaks of the perceived incurable nature of addiction and an inexorable descent towards relapse if the principles and actions of the programme are not accepted as the cornerstones of a new life:

I know I have a great life ahead of me as long as I stay connected to the fellowships and to God. I will always be an addict but the programme means I don't have to live as a junkie. I can live free as long as I remember to work this programme. (Participant 1)

Step 2 asks the addict to be open to the idea of a power greater than themselves that can aid them in their recovery. Step 3 builds on this spiritual foundation by asking the addict to place their will and their lives, understood as their thoughts and actions, into the care of a loving and compassionate spiritual power. According to participants, this acceptance of a higher power in their life, and the values of honesty, openmindedness and willingness that are emphasised by this step, has a profound effect on their sense of purpose and identity. Through spiritual practice they believe they can access the power to abstain from addictive behaviours and live a productive and crime-free life:

You can't live with a spiritual mind and use God's power to keep you clean, and still offend and go around smashing people's faces in and robbing houses and cars. It's impossible, so the chance of offending with me is zero. (Participant 5)

The primary way the individual can demonstrate this decision to commit to a new set of values and behaviours is to pursue immediately the moral inventory involved in Step 4.

Clearing the fog

The fourth step, inventory, requires the individual to account fearlessly for their past, and especially to seek to understand their own role in the events and circumstances of their lives thus far. Special emphasis is placed on harm caused to others, and on the internal dynamics that drove the actor's behaviour. Resentment and fear are identified in the 12-

step literature as the addict's biggest enemies, and these untamed forces are viewed as the driving forces behind seemingly irrational cycles of behaviour. 'Resentment is the "number one" offender. It destroys more alcoholics than anything else. From it stem all forms of spiritual disease' (*Alcoholics Anonymous*, 2001, p. 65). The data in this study revealed that this understanding of past motivations was critical to participants' ability to navigate through the initial stages of recovery:

Going through the steps removed the big monster of shame that I had lived with. I understood why I had done the things I done and what made me tick. It was so much about fear, anger, and resentment had driven me all my life. (Participant 3)

The inventory is a written exercise in which the addict accounts for all current and past relationships, episodes of violence, theft, damage to property, sexual harms, and literally anything that can be placed under the umbrella of 'harm to others or oneself'. This often difficult and time-consuming exercise is designed to allow the addict to see the exact nature of their past life and deeds. This is achieved through Step 5, which is an examination of the inventory with a fellowship mentor or sponsor:

I now see exactly what I took from people, I see that physically beating someone took something from them, taking someone's dole money every week to buy drink and drugs, making people sell drugs for me, intimidating and bullying people, these things I did really fucked people up. (Participant 3)

In this step the addict makes an admission that this is their past, and seeks to bare all in an exercise of honesty. The fourth and fifth steps of the process also provide the addict with a previously unimagined level of self-knowledge and self-awareness; indeed participants in this study strongly expressed the personal development they achieved through the stocktaking of their past:

I was a victim myself, I only acted in a way I was shown how to act. Now that I'm after being shown another way I've no excuse now, now if I act in the wrong fashion it's because I choose to act in the wrong fucking fashion, and I have to suffer the consequences and step up to the mark and ask myself why I done that. (Participant 2)

Involvement in criminal activity was viewed as inseparable from addiction: the two behaviours overlapped and interacted. Despite all men stating that they had been involved in offending before they became addicted to narcotics, all also stated that the majority of their crimes were to facilitate their continued drug use:

The crime fed the drugs, the drugs fed the habit, and the habit had to be fed.
(Participant 2)

Through this inventory process the negative characteristics of the formerly addicted person, or character defects, are identified and listed. From the 12-step perspective these character defects are regular human instincts and characteristics that have been magnified and warped by spiritual illness. These defects manifest in a series of negative and antisocial attitudes and behaviours that further push the individual into an abnormal social and psychological state. Defects may include, for example, pride, lust, self-centredness, spite, rage and greed. The goal is to see clearly the role that these defects had in constructing the past events of their lives, and to help the individual develop a sense of personal responsibility for past, present and future actions. A commitment to a new set of prosocial values and behaviours is deepened through the monitoring of these defects through the rituals of Steps 6 and 7. Only a higher power can remove these defects according to the 12-step literature, and any attempt to try to control one's future behaviour is doomed to failure; past mistakes will be repeated and the end result will be a return to substance addiction:

Fear can motivate and that can be dangerous. It's so important to keep my mind straight because circumstances can sometimes dictate and fear can make you do things. (Participant 1)

Twelve-step literature is deeply infused with values that encourage concern for others. Indeed, the proposed remedy for the illness of selfishness and self-centredness is constant thought of others. This gains momentum in Step 8, where a list of people to whom harm has been caused is drawn up. Step 9 is the action of making amends. Amends can be for a varied range of harms, from financial to sexual, or mental to physical. The men in this sample, under the guidance of the literature and a sponsor, sought to cause no further harm while making these amends and emphasised the necessity of facing up to their past misdeeds:

Actually going to people and saying sorry, giving back money, trying to make up for being really violent to someone, was really difficult but it made me feel like I was finally growing up to be the kind of person I want to be. (Participant 5)

This amends process was understood by these men as existing for the benefit of the people harmed, to help restore peace of mind to family, friends, ex-employers, or community members in general.

Recovery as maintenance

I began to realise that I may never get caught, I became unwilling to take the chance of getting caught and I was willing to do terrible things to people so I would not get caught. I don't wanna go back to that fucking life, and if doing these steps keeps me clean then grand, I will do them. (Participant 1)

The final three steps are designed to maintain the recovered state of the addict. Step 10 instructions include the taking of a written daily inventory 'to watch for selfishness, dishonesty, resentment, and fear' (*Alcoholics Anonymous*, 2001, p. 84). Effectively this is a miniature daily version of Steps 4 through to 9; inventory to be taken, defects to be watched for, amends to be made where necessary. Participants stated that they could avoid the internal build-up of resentments and fear, and could remain free of guilt and shame through righting wrongs. The prayer and reflection through meditation of Step 11 was an additional practice that helped maintain a sense of balance and health in their daily lives. Their personal relationships and general quality of life are enhanced through practice of these rituals:

My place in society is normal to me now. I pay tax, a mortgage, I do normal things, I take it for granted. But I always feel a bit different; I seem to struggle more than others. It's all about my frame of mind, if I don't have my mental or emotional side looked after I don't feel like a member of any society, I feel like a fucking alien, like I did when I was a kid. (Participant 3)

The twelfth step demonstrates the importance of helping others that permeates the 12-step philosophy. Sponsorship is the foundation on which the fellowships grow, and the sponsors' purpose is to guide the

newcomer through the steps. Participants in this study took this direction very seriously and expressed a high degree of generative concern for new members. All identified using their experience to work with others whom they feel could benefit as an important part of their lives. All participants carry out this work on a voluntary basis within a 12-step fellowship, and one participant in his paid work as a youth worker. Indeed three participants identified it as the most important aspect of their lives and crucial to their continued development. Giving back was identified as a way to make amends to actual individuals who were damaged or hurt through their criminal activities. It is not possible to make personal amends to victims who are now deceased, or are unknown to participants. One participant stated:

I will never be able to fix all the harm I have done, or apologise to all the people I have hurt, but I can try to fix it by passing on what I now know about life to a young fella who needs to hear it. Maybe that could stop him creating another fifty victims. (Participant 2)

All participants stated that they obtain a great sense of value and self-worth from working with other people. A great sense of power and effectiveness deriving from the ability to potentially affect the course of a family's life by steering an individual in the right direction was clear:

There's nothing greater than seeing someone recover in front of you, who was hopeless for a long time and who was destined to die on the streets or in prison. To see them recover and be free from the living hell that they have lived for years, that's a huge part of my life. (Participant 5)

This was also experienced as proof of how far they have moved away from their old way of living and provided a marker of change, and could be viewed as part of a process of de-labelling and stigma management:

When I got clean first I had fuck all to give to anyone, I had three kids and I couldn't sit them on my knee because I thought I was fucking contagious, I was just scum. I was the type didn't care about anyone or anything, I was a bad bastard and it might rub off on them. Now it has got to the stage where I know I have loads to give. (Participant 1)

Most especially, the emotional and psychological benefits that were obtained by participants from helping others were emphasised strongly

by each individual interviewed. There was a consensus that this work was vital to their continued successful desistance. When they ease up on this work or take a break from it, personal problems mount, coping skills weaken and their desire to remain crime- and drug-free becomes more difficult to sustain. Indeed, participants stated that their very survival depends on continued work with others:

When I stop practising my programme my life seems to go out the window and I don't have any willingness or desire to live anymore, I lose my passion for life. So helping others is the key to recovery for me, I can't function without it. (Participant 5)

All stated that this attitude needed to be cultivated and practised throughout their daily life, including in their places of work and family settings. Once again the rationale behind this attitude is to keep their focus off themselves, and therefore to prevent a descent into selfishness:

I want to be the best I can be and treat people right, because not only do people deserve that but I need to do it to stay clean you know. (Participant 2)

Discussion

The narrative presented to the desisting offender and substance-free addict through the 12 steps fulfils many of the functions of narrative as outlined in the criminological literature. Vaughan's (2011) argument that the active offender has a minimalist narrative that doesn't include the perspectives of others (see also Maruna, 2001) can be viewed a comparable to the 12-step diagnosis of addiction as a manifestation of selfishness and concern with self. Vaughan (2011) proposes that the solution to this state of being is the expansion of narrative through moral reflection on past deeds. Through this process, undertaken with significant others, the actor realises their role in the past; accepts responsibility for the damage they caused; and possibly for the first time in their lives is able to take account of the perspectives and welfare of other people. Through the engagement of the inventory of the fourth step the men in this sample undertook a moral reflection and personal stocktaking that expanded their narrative, situated them clearly in the events of their lives, and created a tangible sense of remorse and

commitment to new values. Moreover, this opportunity for them to discover the influences on their development and the effect they had on their world provided the critical link between the past and the present that is necessary for narrative construction (Maruna, 2011; Maruna and Roy, 2007; Vaughan, 2007).

In Maruna's 'redemption script' the desisters believed that their past was meant to be, and that it was necessary for their current level of wisdom and generative skills. While none of the participants in this study viewed their past in such positive terms, they were grateful that they were able to refashion and reinterpret their past through the 12-step process. The generative work, as expressed by the sample, carried out in the spirit of the twelfth step met the criteria of the functions of generative pursuits among desisters as outlined by Maruna (2001). All claimed that it was an opportunity to make restitution for past harms; it provided a great sense of self-worth and fulfilment; and indeed was viewed as crucial to their continued desistance and recovery. The desire, or more accurately the need, to reach continually for personal growth was voiced by each interviewee, and growth could be best obtained by helping others. In light of the primacy of helping others identified in the 12-step literature, it is extremely interesting that this work has been identified by criminologists as being one of the crucial ingredients for sustaining long-term desistance from crime.

The five men in this study expressed clearly the experience of addiction as a powerful force that compels them to act against their better judgement. They spoke of using drugs even when they really didn't want to, once again a reflection of the concepts of Step 1. Moreover, this sense of a separate force within their being persisted long after abstinence was achieved, hence the need for the daily practice of all the 12 steps. Emphasis was placed on the need to follow actively the guidelines of the programme to ensure a balanced emotional and psychological state.

The character defects that result from not actively pursuing this sense of balance resonate with Petrunik and Shearing's (1988) concept of an alien source of agency. The emergence of addictive and self-destructive thoughts and behaviours that are beyond the control of the individual was evident in the life stories of these men. Agency and conscious thought focused on self, and self-seeking behaviours, experienced as an unwanted inner drive, appeared. The generative work outlined in Step 12 directly addresses this issue of selfishness, and seems invaluable in keeping the sense of recovery and empowerment alive. In other words,

applying the principles of the programme and taking the suggested action provides relief from the experience of the addiction as an alternative source of agency. Indeed, the entire 12-step programme seeks to identify this agentic drive, referred to as a spiritual illness or disease in step literature, and to provide a thorough understanding of how it has affected the person in the past and present. The inventory process that is a vital component of this represents not only an admission of responsibility for past actions, but also an expression of desire and intent not to repeat the harms of the past.

The daily coping tools of the sixth and seventh steps gave the men in this sample the power to live relatively free of the character defects that they saw as damaging to their lives. The deeper admission of fallibility required in Step 7 is also a deeply personal redemption ritual where the addict sincerely asks for their perceived character defects to be removed. Of course, as the step literature states, the defects are not removed permanently. Instead they are relieved on a daily basis as long as the recovery rituals of the 12 steps are maintained. The eighth and ninth steps bring this sense of personal redemption to a new level, as the study participants often made face-to-face amends to people and institutions they have hurt, deceived, betrayed and robbed. Amends rituals include 'expressions of remorse and repentance by those who are responsible for the harm' (Maruna, 2011, p. 21), and require a huge level of sincere agentic action. For these men the amends process was the beginning of redemption, and followed the ritual of surrender started in the earlier steps. Twelve-step practice is replete with ritual and, as Maruna (2011) points out, ritual is crucial for the reintegration of offenders and the personal redemption of those who had previously shunned society's norms and were ostracised and punished as a result.

In summary, 12-step programmes provide a narrative template to persons entering recovery from addictions; they situate the person within a story that makes sense of an otherwise chaotic and often tragic life course. Nevertheless this narrative should not be considered as a ready-made life script that can be easily adopted by all. Rather the 12-step programme can be viewed as a narrative-building process, with each step providing tools to construct a new life script. Tools by themselves are of no value, so the desire to use these tools must be present, or nurtured, within the individual. This nurturing can be provided by significant others in the individual's life (Vaughan, 2011) or, as Maruna (2001) indicates, a mentor or community of like-minded people. The 12-step

programme embedded within the community of the 12-step fellowships should therefore be understood as one possible avenue for desisting offenders to re-story and rebuild their lives.

Appendix: The 12 steps of Alcoholics Anonymous

1. We admitted we were powerless over alcohol – that our lives had become unmanageable.
2. We came to believe that a Power greater than ourselves could restore us to sanity.
3. We made a decision to turn our will and our lives over to the care of God *as we understood Him*.
4. We made a searching and fearless moral inventory of ourselves.
5. We admitted to God, to ourselves and to another human being the exact nature of our wrongs.
6. We were entirely ready to have God remove all these defects of character.
7. We humbly asked Him to remove our shortcomings.
8. We made a list of all persons we had harmed, and became willing to make amends to them all.
9. We made direct amends to such people wherever possible, except when to do so would injure them or others.
10. We continued to take personal inventory and when we were wrong promptly admitted it.
11. We sought through prayer and meditation to improve our conscious contact with God *as we understood Him*, praying only for knowledge of His will for us and the power to carry that out.
12. Having had a spiritual awakening as the result of these steps, we tried to carry this message to alcoholics and to practise these principles in all our affairs.

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Where Is Our Criminal Justice System Going?*

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Summary: Ireland's criminal justice system is showing some signs of drifting in the direction of an 'assembly line' model of justice in which the State-individual balance is increasingly tipped in favour of the former. David Garland's 'culture of control' thesis is very useful in describing the thrust and direction of this trend, particularly given the tendency to review events through starkly juxtaposing the inclusionary elements of *penal welfarism* and the exclusionary elements of *control*. Such a juxtaposition facilitates analogies, contrasts and generalisations serving the very useful purpose of highlighting ruptures, discontinuities, and dissimilarities within orthodox practices and ways of thinking. The paper makes the point that though many of the indices of control are present in Ireland, many significant phenomena and occurrences in the criminal process do not sit neatly within the four corners of the thesis.

Keywords: David Garland, criminology, penology, punishment, welfare, rehabilitation, Ireland, culture of control, constitutional liberalism, legal justice, penal welfarism.

Introduction

Ladies and gentlemen, I am delighted and honoured to have been asked to deliver the Annual Martin Tansey Memorial Lecture this year. Many of you may not be aware that I have actually known Martin Tansey since I was five or six years old, when my father commenced work with the Probation and Welfare Service in the West of Ireland. They had a great friendship and working relationship for over 30 years, but I also got to know Martin independently of this relationship. Indeed in 2003 he

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contacted me in Cork, inviting me to speak at an ACJRD conference event that was due to take place in Cavan. He wondered whether I would present on the topic of community service orders, the subject of a thesis that I had recently completed. I informed him that I would be delighted to speak, but that I would not keep the interest of his conference audience for five minutes if I spoke about my thesis!

Instead, I suggested that there was a great new book called *The Culture of Control* (Garland, 2001) by David Garland that documents the changes taking place in western criminal justice systems. I suggested that it would be interesting because it discusses criminal justice topics in a manner that brings different agencies and institutions together, and that it acted as an excellent touchstone from which to ask questions and produce interpretations about systems of justice. He accepted that this would make for an interesting presentation and I duly delivered the paper at the conference.

I think Martin liked the topics raised, though of course there were parts that he would change, deny, refute and do differently. When my friend and colleague Maura Butler asked if I would be willing to deliver this year's lecture in his honour, I suggested that it would be interesting to revisit the topic. Aside from the link this culture of control thesis created between myself and Martin, and the obvious symmetry it allows me to create in delivering the lecture in his memory this evening, the topic is interesting because of its capacity to be inclusive: all of you – whatever your disciplines, professions and experiences of the criminal justice system – will be able to engage with the thesis. In particular, it permits me to engage in a wide-ranging discussion about the culture of control and the extent to which it is pervasive in Ireland.

The title of the lecture is deliberately broad, permitting me to paint with large brushstrokes, capturing broad criminal justice contours and the sharpest of contrasts.

The author of *The Culture of Control*, David Garland, is a very interesting academic and probably the leading penologist in the western world at the moment. After completing a law degree in Sheffield, he read for a sociology masters before undertaking a PhD, which was later published as a book in 1985, entitled *Punishment and Welfare* (Garland, 1985). He quickly became a professor of law at the University of Edinburgh, before moving to New York University.

One of his most significant contributions is to make us consider more 'histories of the present' of our criminal justice system. Too often we are

focused down on the *micro* detail of what we do, never glancing upwards to see the assumptions, logic and objectives that underpin this detail. This is an important exercise from time to time, not least so as to determine what constitutes our ‘present’ criminal justice system, and to consider how it might be changing.

Pre-modern legal justice

In order to show the shift that had taken place in our justice system, Garland examined the model of the criminal justice system that existed in the nineteenth century (1985, pp. 3–73). The pervasive ideology right across society was one of individualism. Everybody had to take responsibility for his or her own actions; this *laissez-faire* philosophy, for example, existed in contract law where the values of rational choice and free will were safeguarded through the principle of equality of bargaining power – if you made a decision to enter into a contract, you did so on your own terms and everybody was presumed to be equal.

That type of thinking also existed in the criminal justice system at that time. Crime was perceived to be a failure of will. If you committed a crime, the assumption was that you did so rationally, of your volition and free choice. Such thinking, of course, presupposes that egalitarianism is real, and that a homogeneous population actually exists. Within such an environment, the sanction that was favoured was the prison.

It is no surprise that penitentiary science emerged at a time when the ideology of individualism was at its zenith. The reason why this prison system was the sanction of choice was that it could be calculated with algebraic precision; it could be undifferentiated for everyone sentenced to serve time, as embodied in the maxim ‘hard fare, hard labour and hard bed’. Such a system of justice might best be described as ‘legal justice’; punishment was meant to fit the crime, and nothing else. It was called ‘legal justice’ because there was no knowledge used or employed beyond the law. A crime was not discussed or analysed in sociological or criminological terms; it was simply ‘did the criminal commit the act?’. If so, the sentence was mechanically calculated having regard exclusively to the narrowly construed crime event.

Our understanding of the justice system then changed, of course, so that the way of knowing a crime event in the 19th century was undermined. Garland suggests that a major change took place between 1895 and 1914. Initially the ideology of individualism was attacked

because of the inequalities and diversity it concealed beneath its assumptions. Increasingly the state began to be viewed as a positive influence. Science also began to come of age. A science degree was introduced in London in the 1860s; new modules emerged such as physiology, embryology and biology. Charles Darwin wrote his seminal book in 1859, *The Origins of the Species* (Darwin 1859), for the first time beginning to question the idea that we are all the product of God's endeavour. His cousin, Francis Galton, in his book *Hereditary Genius* (Galton 1869), also engaged in evolutionary hypothesising, suggesting that the 'black sheep' of a family may not have chosen his or her fate. Such thinking was quickly taken up in the emerging field of criminology. Cesare Lombroso, who is known as 'the father of criminology', wrote a book in 1876 entitled *L'uomo delinquente* (translated as *The Criminal Man*). He submitted that the reason people commit crime is that they are a throwback to an early atavistic age, to an earlier stage in evolution; in other words, a criminal's propensity to commit crime could be explained by the fact he or she was closer in appearance to the ape than ordinary human beings who did not commit crime.

Today we would dismiss such thinking as outrageous, but at the time it was hugely significant because it questioned and indeed undermined the notion that individuals made free moral choices to commit crime. As a result the concept of blame became more problematic. The act of committing a crime could not continue to be explained only by *intentionalist* or *voluntaristic* understandings of human behaviour; *determinist* understandings also began to compete for attention. Michel Foucault describes this transformation very well when he notes:

By now a quite different question of truth is inscribed in the course of the penal judgement. The question is no longer simply, has this act been established and is it punishable? But also what is this act, to what level or field of reality does it belong? It is no longer simply: who committed it? But: how can we assign the causal process that produced it? It is no longer simply: what law punishes this offence? But: what would be the most appropriate measure to take? How do we see the future development of the offender? What is the best way to rehabilitate? A whole set of assessing diagnostic, prognostic normative judgements concerning the criminal have become lodged in the framework of penal judgement. (Foucault, 1977, p. 19)

This period thus witnessed an epistemic shift in how offenders were perceived and punished. The system gradually moved away from *moralism* (that a crime was a failure of will) to *causalism* (that crime was determined by factors beyond a simplistic rational choice logic). A good example is provided in the case of offenders who suffered from alcoholism. In 1879, an Act of Parliament was introduced entitled *The Habitual Drunkards Act*. Consider the title of that Act; the phrase ‘habitual drunkards’ is moralistic in outlook. In 1898, however, another piece of legislation was introduced, entitled the *Inebriates Act*. This is a scientific phrase, indicating a changing approach to offenders with alcohol addictions, moving the sentencing process away from a blind, legal discipline to a much more socialised, (quasi) scientific form of regulation. The law and human sciences are beginning to claim the right to speak about personal conduct and character.

This modern approach to offending supports individualisation in treatment and the need to know why the offender committed the crime in question. It is also committed to a process of normalisation of the offender, premised on the notion that social engineering can stop deviant behaviour. It accommodates knowledge beyond the law and supports an extended grid of sanctions designed to facilitate an individualised approach to the punishment of offenders.

Late modernity

In 2001 Garland published a new book, *The Culture of Control*, in which he suggests that the criminal justice systems of western countries are now moving in a new direction again, constituting a new way of knowing offenders and those accused of crime. He explains that there are 12 indices that document and manifest this emerging new paradigm of justice.

The first index of this change is the *decline of rehabilitation*; in western societies, ‘perfectibility of man’ discourse is no longer met with the enthusiasm and optimism of earlier generations. New, more pessimistic punishment rationales are coming to the fore such as incapacitation and just deserts. The second index of change that represents this new way of knowing is the *re-emergence of punitive sanctions*, such as the reintroduction of chain gangs in some states in the US. The third index, he claims, is a change in the *emotional tone*. For most of the twentieth century the image of an offender was one closely intertwined with the

notion that he or she was disadvantaged and deserving of intervention. According to Garland, we no longer accept the truthfulness of such a claim. Offenders, it is argued, are not deserving or in need of positive intervention, and it does not serve society well to pursue 'perfectibility of man' objectives in the criminal process. What offenders deserve is their just deserts for infringing the social contract. The fourth change relates to the *re-entry of victims into the criminal justice system*. It is no longer sufficient that the victim be subsumed within the public interest, as mediated by the DPP and the Gardaí. Their experiences increasingly have to be individualised, and employed in the pursuit of punitiveness. Fifth, the principle of *protecting the public* trumps all other values, including accused and offender rights. So it is not surprising that you hear lots of talk about balance, rebalance and so on.

Garland also suggests that the *politicisation of law and order* is occurring in many western criminal justice systems. Its genesis can be traced to Barry Goldwater in the USA in the 1960s; he began to make an issue of law and order and to ratchet up his stakes against opposition politicians. The baton was taken up by Richard Nixon in 1964/68, and by the New Right in England (and individuals such as Rhodes Boyson) in the early 1970s who also began to be perceived as 'tough on crime'. Now no political party representative wants to be seen to be 'soft' on crime. Ireland appears to have followed a similar trajectory. No party wants to appear to be weak on the crime issue.

The seventh index of change is the *reinvention of the prison*. For much of the twentieth century, the criminological literature emphasised the failure of the prison in relation to rehabilitation and deterrence. The institutionalisation of inmates had serious negative consequences and so there was a strong emphasis on decarceration and deinstitutionalisation. More recently, the positive aspects of prison have begun to be emphasised again. It is accepted that it may not rehabilitate or even deter. But it does do one thing very well; it warehouses effectively, and this became the new mantra. 'Prison works' because it contains people.

The *transformation of criminological thought* is the next index of change. Criminological thought for most of the twentieth century was based on the notion of making people better. Varying causes as to why crimes were committed were put forward including labelling, the environment that offenders grew up in, social deprivation, the controls or lack thereof in their lives, poor family support and so on. In the late twentieth century

new criminologies began to emerge – situational crime prevention, rational choice theory and routine activities theory – which no longer try to make people better but do attempt to make society safer. A socially engineered solution is thus replaced with an approach that emphasises territoriality, securitisation, and observation. Other indices, which I will mention briefly, include the expanding infrastructure of *crime prevention and community safety*, the *commercialisation of control*, *new management styles* and a *perpetual sense of crisis*.

There are many reasons for this transformation in the past 30 years. To begin with, the notion that offenders could be rehabilitated came under sustained attack and the mantra of ‘nothing works’ began to set in. The nihilism of this mantra was fuelled by high crime rates. For the most part western societies can be characterised as high-crime societies, particularly if one measures from say 40 or 50 years ago. For example, in 1950 in Ireland we had 150,000 recorded crimes; by 1998 that figure had jumped to 500,000. There are a variety of reasons for this increase in crime rates, but it seems fair to suggest that most western countries followed this upward trajectory.

According to Garland, two things followed in western societies. First we adopted a *pragmatic* response. We accepted that we lived in high-crime societies, and that we needed to make changes accordingly. What does this mean? It means that where possible you redefine success (for example, you judge a prison not by its capacity to rehabilitate but by its capacity to contain); you concentrate on consequences and focus more on victims; you ‘responsibilise’ citizens, informing them how to minimise the possibility of becoming a crime victim and emphasising that crime prevention is predominantly their responsibility. The second response is an *expressive* response: be seen to be tough on crime. As John O’Donoghue once suggested, do not be seen to be part of the ‘can’t do or won’t do anything brigade’. Garland describes this as follows:

Policy making becomes a form of acting out that downplays the complexities and long term character of effective crime control in favour of the immediate gratifications of a more expressive alternative. Law making becomes a matter of retaliatory gestures intended to reassure the world public and to accord with commonsense however poorly these gestures are adapted to dealing with the underlying problem. (Garland, 2001, p. 134)

Garland's thesis is very useful not least because it makes us look at the structure of our criminal justice system and the assumptions and priorities that drive it. It asks us to step outside our own respective disciplines, whatever they may be, and look at the bigger picture. It also seems clear that much of what he says is evident in Ireland. There is definitely some evidence that highlights changes in respect of criminal procedure and evidence law in Ireland over the past 30 years. The increase in length of detentions, the politicisation of the law and order issue, the re-emergence of the victim, the movement towards a more inquisitorial model of justice, increased restrictions on silence, changes to bail laws, and increased pressure on the judiciary not to individualise sentences, particularly for the repeat offences, all signpost this movement towards a culture of control.

Can the 'culture of control' thesis be universally applied to Ireland?

But does his thesis always work for Ireland? It seems not. For example, the modern penal welfare period is thought to extend from 1895 up to the early 1970s, before descending into a control paradigm. But probation in Ireland was only beginning to take hold in Ireland from the 1970s onwards (aided in no small way by the influence of Martin Tansey). Moreover, criminology was not really embedded as a discipline in Ireland until very recently, with the introduction of the Institute of Criminology in UCD. So it seems that we were experiencing our modernity much later than in other jurisdictions. Moreover, Garland makes the point that prison was de-centred throughout the twentieth century. This may be true of Ireland to some extent but it is not the complete picture. It depends on how we view incarceration.

In examining the sites of incarceration in Ireland in 1956, Dr Eoin O'Sullivan in TCD documents that there were 376 inmates in our prisons, 172 in reformatory schools and 29 detained in Clonmel Borstal (Kilcommins *et al.*, 2004). He then examines all the other institutions where people were incarcerated: almost 5,000 were detained in industrial schools and 1,900 women were detained in various institutions for having children out of wedlock. We also detained almost 30,000 people on an involuntary basis in various psychiatric institutions (Kilcommins *et al.*, 2004). These statistics do not, to my mind, speak to the welfarism that Garland had in mind when he described the constitutive elements of a modern justice system.

How true is the thesis now? I think there is definitely a strong ring of truth in it, as I mentioned already, but I want to highlight three areas where I think it needs further refinement. To begin with, constitutional liberalism is still real and significant, and this seems to be underplayed in Garland's thesis. The point I am making is that many rights of the accused only became protected as constitutional rights in the 1990s.

The presumption of innocence, for example, was a common law right which was only recognised as a constitutional right specifically in *O'Leary v. AG* [1993] 1 IR 102 at 107 in 1993. Similarly the right to silence was only recognised as a constitutional right in *Heaney* in 1996 (*Heaney v Ireland* [1994] 3 IR 593 (HC); [1996] 1 IR 580); the right of access to a lawyer became a constitutional right in *Healy* in 1990 (*People (D. P. P.) v. Healy* [1990] 2 I.R. 73); the exclusion of unconstitutionally obtained evidence in its current form stems from a decision in *Kenny* in 1990 (*People (DPP) v Kenny* [1990] 2 I.R. 110). Garland says that the culture of control emerged from the 1970s onwards and yet in Ireland we were still safeguarding and expanding the protections afforded to accused persons in the 1990s via our Constitution.

This is significant because when you say that something has constitutional status, it means in effect that it cannot be trumped for collective policy reasons such as public protection and security. A constitutional right is a threshold right that the government is required to respect, decision by decision, case by case. That seems to have been totally ignored in the culture of control literature. Two examples from recent years will help illustrate the point that I wish to make that courts continue to interpret the rights of accused persons in liberal ways.

The *CC v Ireland* [2006] IESC 33 judgment was delivered in 2006. Section 1(1) of the Criminal Law (Amendment) Act 1935 provided that any person who had carnal knowledge of a girl under the age of 15 would be guilty of a serious offence, punishable by a maximum of life imprisonment. It was classified as a strict liability offence, meaning that a mental element was not required to prove the crime. This derogation from the requirement of *mens rea* was traditionally justified in law under the utilitarian rationale that the legislation was designed to 'protect young girls, not alone against lustful men, but against themselves' (see *Attorney General (Shaughnessy) v Ryan* [1960] IR 181 and *Coleman v Ireland* [2004] IEHC 288). Though such a provision had the potential to cause injustice in individual cases, it served the greater good because its 'in terrorem' effect would prevent men from having sexual intercourse

with young girls in circumstances where they did not know for certain that they were above the relevant age. Here a 19-year-old was prosecuted for the strict liability offence of unlawful carnal knowledge of a 14-year-old girl. The defendant claimed that he thought that she was 16. Nevertheless he was prosecuted for the offence and because the prosecution was not required to prove a *mens rea* element to the offence, he was found guilty. He challenged this conviction, claiming that there should be a moral blameworthiness element to this crime. The Supreme Court agreed. Despite previous precedents upholding the legality of the offence, we see the Supreme Court in 2005 protecting the rights of the accused and striking down as unconstitutional a sexual offence that did not embody a *mens rea* element.

Another example that supports the point I wish to make can be discerned from the body of jurisprudence that has emerged since the mid-1990s on the issue of delay in sexual abuse cases. These cases really only began to come before the courts from the mid-1990s onwards. This posed a dilemma because with these cases very often the complainant would not have made a complaint for 20–25 years for various reasons. Normally after such a length of time such a case could not proceed because of the consequences of delay. But the courts began to make exceptions in these cases for good reasons. Until the *S.H. v D.P.P.* [2006] 3 IR 575 judgment in 2006, judges would ask if the accused was in a dominant position over the complainant at the time the alleged offence occurred. If so, they would reason that the defendant also contributed to the delay in making the complaint and would permit the case to run. In 2006, in the *SH v D.P.P.* judgment, Hardiman J stated that you could not uphold a dominance test of this nature because it infringes the defendant's right to a presumption of innocence. Again, the court interfered to protect the rights of the accused.

These two examples of superior court decisions cannot be explained using the culture of control thesis. Of course, there are many aspects of our current approach to sexual offenders that can be explained through this thesis, particularly its expressive and politicised elements. In many respects, there appears to be a contradictory duality at play, embodying rights-oriented and culture of control elements. In emphasising that rights-oriented value and principles still have a role to play in our criminal justice system, you may wish to argue that I overvalue the importance of rights and their capacity to act as a counterpoint to the culture of control that is enveloping western criminal justice systems. It

is true as well that the judiciary has not always acted as infallible protectors of rights and will sometimes make decisions that support popular sentiment. The *A* case (*A. -v- The Governor of Arbour Hill Prison*, [2006] IESC 45) for example, where the Supreme Court refused to release an individual after the law upon which he was found guilty had been declared unconstitutional, has been cited as a results-oriented decision that did not uphold the rights of the applicant. It is also true that judges can be overly deferential to the legislature, that rights are inherently limiting and that we can be overly focused on rights and insufficiently attentive to our responsibilities as citizens. But even in recognising all these limitations to rights and their interpretation, I still think we should not shut ourselves off from the continued appeal and potential of constitutional liberalism and human rights.

It can also be argued that the culture of control thesis cannot really explain the rise in regulatory approaches to justice. It is doubtful whether various agencies such as the Competition Authority, the Health and Safety Authority, the Director of Corporate Enforcement, and the Environmental Protection Agency follow a culture of control logic, particularly given their emphasis on compliance-oriented strategies such as audits, warning letters, notices, injunctions, guidance and binding directions. Such analysis, however, is not included in Garland's thesis, which is exclusively focused on 'crime in the streets'; its antenna is not attuned to developments in the regulatory sphere.

My last point relates to victims of crime, who, Garland suggests, have facilitated the emergence of this culture of control. I think that such reasoning does an injustice to victims of crime. Rather than seeing their re-entry into the criminal justice system through the lens of punitiveness, I think it should be viewed positively, as an attempt to accommodate a previous scandalous lack of attention. In the seventeenth and eighteenth centuries, the victim was the key decision maker in the criminal justice system. He or she could decide whether or not to proceed with the case, or to engage in private settlement. If a victim did take a case, he or she drove the prosecution; victims were responsible for gathering the evidence and presenting it in court. As the justice system became more centralised and rationalised in the nineteenth century, it became decreasingly dependent on victims, their energy, needs, concerns, and experiences. The victim was thus displaced, confined to the bit-part role of reporting the crime and acting as chief prosecution witness, if needed.

So from being a cornerstone in the regulation of relations concerning the conflict, victims now found that their individual experiences were subsumed within a collective grouping will, the public interest. The public interest was validated through the institution of the criminal justice system. The individual experiences of victims increasingly became seen as an invalid knowledge. Why? Because modern, rationalised criminal justice systems have sought to ‘rout the personal from the courtroom’. Bureaucratised, rationalised justice does not value knowledge driven by emotiveness, partiality, subjectivity, or unconstrained dimensions. Accordingly from the 1860s onwards one can really see a shift from what might be called a ‘victim justice system’ to a bureaucratised, formalised ‘state-accused’ system.

Over the past 20 to 30 years, we are beginning to see a slight unravelling of this model and I do not think it is driven solely by an exclusionary logic of control and punitiveness, as Garland’s thesis would indicate. There is also an inclusionary impulse underpinning the gains that have been made for victims. This is evident on a number of different levels in Ireland, not least in commitments given in the Victims Charter, and work being undertaken by the Commission for the Support of Victims of Crime. It is also evident in the criminal law system through, among other things, the use of intermediaries and live TV links in court, separate legal representation in a specific circumstance, and the use of victim impact statements. What we are seeing is that the status of the victim is slowly altering from being a ‘non entity’ or a ‘hidden casualty’ to a stakeholder whose interests matter. Criminal justice agencies are having to re-work their relationships with victims of crime, and they are doing so.

Conclusion

Garland’s thesis is excellent. It prompts us to consider closely the changes that are taking place in our criminal justice system and the determinants that are driving and shaping this change. Many of the recent developments in the Irish criminal process can readily be explained by using his thesis. As mentioned earlier, it acts as an outstanding heuristic device. But I hope that I have shown in this paper that there is a danger in pursuing an agenda of juxtaposition too far. In seeking only to gather evidence of dramatic dissimilarities and discontinuities that speak to a logic of welfare or control, such analysis

often both overlooks strong patterns of similarity, stability and continuity and over-extends its reach by reducing all new developments and initiatives to a dystopian causal pattern of control and punitiveness.

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Diversity Profile of Offenders under the Supervision of the Probation Board for Northern Ireland

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Summary: This paper discusses equality research conducted by PBNI staff from June 2010 to date. This research seeks to identify the diversity of the offending population and discover through ongoing longitudinal research whether different groups have differing needs and issues that PBNI should consider to promote equality of opportunity. This research is supporting the development of PBNI's Equality Scheme due to be published in November 2011.

Keywords: Equality monitoring, offender monitoring, Section 75 of the Northern Ireland Act 1998, offender equality profile, key inequalities, diversity, good relations.

Introduction

Since the process of giving up crime is different for each person, criminal justice responses need to be properly individualised. One-size-fits-all approaches run the risk of fitting no-one. (McNeill and Weaver, 2007)

In order to understand the equality and diversity issues facing probation staff, the Probation Board for Northern Ireland conducted a census of all offenders under supervision in June–September 2010, to yield a profile of the offending population. This information has been gathered to help identify and address any inequalities facing service users. Our approach has been to examine each of the nine equality categories specified under

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Section 75 of the Northern Ireland Act and, based on available data, to identify actions to address inequality under our equality scheme 2011–2014. The Northern Ireland Act 1998 requires all public authorities in Northern Ireland to have regard to promoting equality of opportunity and to have due regard to promoting good relations between religious, political and ethnic groups. Public authorities are encouraged to monitor their services by using the nine equality categories specified by the legislation. These categories are race, age, gender, sexual orientation, disability, religious belief, marital status, political opinion and whether they have dependant responsibilities.

Information was sought from offenders via a confidential equality monitoring questionnaire that was given to the client to self-complete at the end of their supervision interview. If the offender had difficulty completing the written questionnaire their Probation Officer assisted by asking the equality questions; however, forms completed orally did not capture political opinion and sexual orientation data as these are deemed too sensitive to ask directly for the purposes of equality monitoring. A report was then compiled that combined our own equality research with external equality-related recommendations that have been made to the criminal justice system in Great Britain and Northern Ireland over the past five years. The following is a summary of the findings of our equality research: it should be understood that this research to date has simply identified an equality profile of offenders and that over time we will examine differential impacts in outcomes for each equality group.

Gender

On 1 June 2010 the PBNI caseload figures for gender were 9% female and 91% male. Although women make up a small proportion of the overall offender population in Northern Ireland, their experiences of the criminal justice process and the interventions and services available have a disproportionate impact, particularly on children and families. Problems underlying women's offending are often complex; issues such as poverty, homelessness, mental illness, abuse, domestic violence, and addictions have been shown to be prime motivators for a woman's involvement in crime. To reduce offending, it is vital to develop ways of supporting women to address these multiple needs, where possible within the community (Department of Justice Northern Ireland (DOJNI), 2010).

In 2006, the UK Government commissioned Baroness Jean Corston to carry out a review of women with particular vulnerabilities in the criminal justice system in England and Wales. This followed on from extensive previous research, much of which showed that women offenders present particular problems.

Overall, women offenders will experience a broad range of vulnerabilities with regard to issues such as family relationships, children, health and mental wellbeing, and addictions. Many will have led chaotic lifestyles and will often have spent long periods of their childhood in care, gaining a very low educational attainment, as well as little, if any, experience of employment. They will also suffer concerns about their financial situation and accommodation needs, particularly if they have dependants. Poverty and a lack of choices can lead to women feeling that they have little control over their own lives. All of these issues can be particularly devastating when a woman is also a mother. (Corston, 2007)

Baroness Corston's conclusions are broadly the same for women offenders in Northern Ireland, although the relative importance of some of the factors may differ. Baroness Corston and others have shown that women experience all of these issues in a very particular way, and that addressing the often complex needs of women offenders requires a targeted and tailored approach.

The number of women offenders in Northern Ireland is small compared to the male offender population. More could be done to address women's reoffending as there were few interventions designed specifically for women: the development of interventions has been focused on male offenders who make up a much larger segment of the offender population. Interventions based on male offending characteristics may not be appropriate for women, who have different offender characteristics and needs. Women who receive additional requirements to Probation Orders, which are designed for delivery through group work, may end up completing this work on a one-to-one basis rather than within a group as intended, given the small number of women offenders in any particular area (DOJNI, 2010).

In 2008 PBNI set up the Inspire Women's Centre in Belfast to offer a range of interventions to women offenders in the Greater Belfast area (Belfast, Newtownards, Bangor and Downpatrick). Since its inception

there has been a caseload averaging 150 offenders; this consists of women subject to statutory supervision orders and women whose court cases have been adjourned for pre-sentence reports. This initiative is part of the wider DOJNI Management of Women Offenders Strategy in Northern Ireland 2010–2013.

Dependants

In the Probation census of offenders, 45% stated that they have responsibility for one or more children; 2% had responsibilities for a disabled person and less than 1% had caring responsibilities for an elderly person.

Probation employees have been aware for a long time that dependant responsibilities have a major impact on a person's ability to comply with supervision orders. PBNI has adopted a flexible approach to the delivery of our services, with clients receiving visits at home, programmes made available in the evening as well as during the day, and community service hours available in the evening and at weekends. The Inspire Women's Project set up a crèche facility for visiting mothers in 2009 to enable their participation in programmes organised during working hours. While dependant responsibility clearly affects a person's ability to comply with successful completion of a Probation Order, we believe that sufficient mitigation has been put in place over many years to lessen any adverse effect on people with dependants.

Marital status

Sixty-eight percent of offenders stated that they were 'single'. The second most common response to this question was 'married', stated by 14%. Offenders that are cohabiting are not recorded as such, as the Northern Ireland Act 1998 is specifically interested in 'marital status'.

Statistically, single people are more likely to be referred to PBNI through the justice system in Northern Ireland, therefore this group will be disproportionately affected by how we carry out our function, and this is also true of men and younger people.

An analysis of the three main disposals at court reveals that single people are more likely to be supervised by the PBNI under Community Service Orders or Probation Orders, with Prison the least favoured option. Prison becomes statistically a more favoured disposal

for married or divorced people, and this tends to be an older age group as well.

PBNI currently has no evidence that single people are adversely affected through their interaction with the services that we deliver. Indeed, it could be argued that single people are treated more favourably because they receive fewer prison sentences statistically than their married/separated counterparts. However, this is thought to be related more to age and offending history, with older people statistically more likely to be married, separated, widowed, etc.

Disability

PBNI's equality research shows that 37% of people under the supervision of the Probation Board have disabilities. This is higher than the population average, estimated to be 18–20% in Northern Ireland. Nearly a quarter of all people under the supervision of PBNI have declared that they have a mental health condition. Twenty-five per cent of people on Probation Orders, 21% of people on Community Service and 17% of people in prison have declared that they have a mental health condition. It is possible that the figure for mental health in prison could be substantially higher, as the return rate for our equality monitoring forms from prisoners was low from June to September 2010.

The Labour Force Survey (2002), records that 18% of individuals living in private households in Northern Ireland have some form of disability (21% of adults and 6% of children). It is therefore apparent that, statistically, disabled people are overrepresented in supervision of offenders and that mental health disability is the biggest disability category. PBNI will continue our equality research to look at outcomes for disabled people while on Probation Orders, Community Service and in prison, to discover whether there are differential equality impacts compared with those who have no disabilities.

Many people who offend have serious health, mental health and other problems, including alcohol and substance abuse issues, low levels of literacy and skills, a poor employment record, housing needs, and personal relationship and behavioral/personality-based difficulties. Addressing these issues is central to the reduction of reoffending and will need to take account of policy and practice in other jurisdictions across these islands and on an international basis (Criminal Justice Inspection Northern Ireland (CJINI), 2010).

The Probation Board for Northern Ireland is considering the use of enhanced screening of pre-sentence reports to identify offenders with learning and communication disabilities, in order to ensure that appropriate interventions are identified from the outset.

Race/Ethnicity

While the number of minority ethnic offenders is relatively low, i.e. around 2% (1% being Irish Travellers) in terms of offenders, the experience of minority ethnic people as victims must be a concern for the justice system, with numerous research reports suggesting that there are training issues for statutory bodies and concern in relation to low numbers of prosecutions in terms of hate crime. Our own equality statistics also currently show that no victims from a minority ethnic background are currently making use of the Victim Information Scheme.

A number of reports published over the past five years have looked at the issue of minority ethnic people's experiences of the justice system in Northern Ireland. The following are some of the key findings pertinent to the work of Probation.

The CJINI Hate Crime in Northern Ireland report (2007) made the following recommendations.

1. We recommend the development of hate crime training programmes within and across Criminal Justice agencies.
2. There is an urgent need for the Criminal Justice Agencies to collectively demonstrate a more robust, co-ordinated and informed approach to hate crime management.
3. It is recommended that the Criminal Justice Board should co-ordinate the development of a Criminal Justice System Hate Crime Strategy for communication to all staff and the public. All agencies need to enhance both staff and public awareness as to how hate crime will be managed including outlining the roles and responsibilities of each agency and providing transparency as to the minimum service delivery standards that can be expected. Strategy development would also facilitate the objective review and alignment of each agency's hate crime policy and procedural guidance.
4. It is also recommended that there needs to be agreement of a common set of hate crime definitions for use within the CJS and that they be communicated clearly across all agencies.

The main focus of the above recommendations is on victims of hate crime including foreign nationals. PBNI supports victims of crime through our Victims Information Scheme to offer limited information about the management of the perpetrator of the crime. In 2009 PBNI's Victims Unit commenced equality monitoring of victims; to date it has found that 100% of victims using this service are white, but this is based on monitoring over a relatively short period.

The Equality Commission for Northern Ireland's 2007 *Key Inequalities in Northern Ireland* report stated that:

Statistics produced by the Police Service of Northern Ireland show that in 2006/07, the number of reported racist incidents increased by (+12%) to 1,047; there were 1,695 sectarian incidents, 155 homophobic incidents, 136 faith/religion incidents and 48 incidents with a disability motivation. Violent crime represented 77% of those crimes with a homophobic motivation.

Police statistics continue to show high levels of racially motivated crime; however, information supplied by the Court Service indicated that there are few prosecutions where racial aggravation has been proved. This poses a challenge for the justice system as a whole here in Northern Ireland.

We are also aware that where a person is unable to speak in English, they are unable to take part in PBNI programmes due to the 'disruptive' effect on the group that an interpreter brings. More research is needed to identify whether this is having a negative effect in terms of how PBNI is delivering services to those who cannot speak English.

Religious belief

In Northern Ireland there are two main religious communities – Protestant and Catholic – who are almost equally represented in our survey of offenders under the supervision of PBNI, with 3% more Catholics than Protestants. These statistics reflect a broader demographic trend which indicates that there are higher numbers of young Catholic people in the population. In the 2001 Northern Ireland Census 41% of Catholics were under 25, compared to 31% of Protestants.

Sexual orientation

Ninety-four per cent of the offenders stated that they were straight/heterosexual, 1% stated they were gay/lesbian, 1% bisexual and 4% of offenders did not supply an answer to this question.

Our understanding is currently limited in relation to the sexual orientation of both our staff and offenders. In both cases the number of people prepared to disclose their sexual orientation, other than straight/heterosexual, is very low.

In relation to an analysis of the three main supervision orders, there are no significant variances between the various sexual orientation classifications, and in any case the numbers are so low that such an analysis over such a short period of time might not be dependable.

Lesbian, gay or bisexual people are also victims of hate crime, and this is a steady trend in society according to PSNI statistics (Police Service of Northern Ireland, 2010). No one responding to the PBNI equality monitoring of the Victim Information Scheme stated that they were lesbian, gay, bisexual or transgender (LGBT). Therefore the PBNI may wish to consider promoting the scheme within the LGBT community as part of our equality objectives under our revised equality scheme.

Political opinion

To measure the political opinions of those under the supervision of the Probation Board, the Census questionnaire asked offenders to select one of five options presented, which reflect the broad political views that are specific to Northern Ireland, i.e.:

- unionist – pro retaining the political link with Great Britain
- nationalist – pro political union with the Irish republic
- none – no political opinion
- other – any other political opinion
- prefer not to say.

Fifty per cent of offenders stated that they did not hold a political opinion. The two main political views were almost equally represented, with 16% of offenders stating they are unionists and 15% stating that they are nationalists. Four per cent stated they had a different political

opinion to those listed and 15% preferred not to say what their political opinion is.

PBNI are of the view that we are unable to identify any equality issues at this stage of our research relating to the political opinions of those that we supervise; however, this area will be researched further in relation to outcomes for those who have expressed a political identity.

Age equality

PBNI equality research has shown that 66% of caseload in June 2010 was made up of people under the age of 35.

From first contact with the justice system, a cautioning system operates to allow some offenders to stay out of the formal criminal process. In terms of young offenders, the Youth Justice Agency has been created and a youth justice strategy put in place focusing on early intervention to reduce or prevent offending.

Government spends considerable resources on education to ensure that young people, in particular, are diverted from crime. A number of statutory and voluntary bodies also operate early intervention programmes to prevent young people at risk of offending from doing so. The Probation Board provides a range of programmes and specialist services internally, and also financial assistance to the community and voluntary sector's offender-focused groups. PBNI works within prisons to deliver pre- and post-release programmes and services to offenders. On return to the community, a number of voluntary sector bodies provide services for the care and resettlement of offenders.

PBNI is undertaking a longitudinal equality study that will track offenders from their first interview to their last appointment. Further analysis will be carried out on outcomes for each age group currently measured by PBNI to identify any differential impacts for each individual age group.

Conclusion

For the first time the PBNI has identified a diversity profile of offenders under our supervision using the nine equality categories. This information becomes useful especially when compared with population census data so that we are able to identify whether any of the equality

groups are statistically overrepresented and, if this is the case, to seek to understand the reasons and examine whether these groups have particular needs.

We have discovered to date that there are higher than expected numbers of offenders with disabilities, especially those with mental health disabilities. As our research progresses we will seek to better understand the unique needs of people with disabilities so that we can offer interventions that address their offending behaviour in ways that are relevant to people with learning difficulties, personality disorders and communication difficulties, etc.

Crime that is motivated by hate against ethnic minorities, faith communities, disabled, gay and transgendered people is an issue for the whole of the justice system in Northern Ireland, which has seen a rise in the frequency of reported hate crime incidences and crimes over the past five years. PBNI operates a victim-focused information scheme that seeks to keep victims of crime informed about when the offender involved in their case is subject to the community phase of a Probation-supervised sentence, and of any change to the sentence (e.g. breach/revocation). Our monitoring of victims shows that there has been little uptake of the scheme by the groups affected by hate crime. The Probation Board will intensify our efforts to publicise the Victim Information Scheme to victims within the identified vulnerable groups.

The Probation Board took a decision to continue to equality-monitor all new offenders at their first pre-sentence interview. In this way we will be able to track an offender's progress over their time under our supervision. Work has commenced on analysis of outcomes for each of the equality groups by supervision order type, and it is too early to report trends. This research will be used to inform the development of future Probation policies and will indicate what equality issues face service users over the next few years. The requirement to equality-monitor under Section 75 of the Northern Ireland Act affects all criminal justice agencies and departments and as such the police, Courts and prisons have commenced equality monitoring as well (CJINI, 2009). The long-term aim is to work towards a shared understanding of justice equality issues for victims, witnesses and offenders so that ultimately equality of opportunity is promoted through a better understanding of the actual issues.

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The Inspire Women's Project: Managing women offenders within the community

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Abstract: While the number of women offenders in Northern Ireland is relatively small compared to the number of men, it is recognised that women's experiences of the criminal justice process can differ significantly from those of men. Service provision and interventions aimed at reducing reoffending have largely been designed for the management of male offenders and there is recognition in recent research that such an approach can have a disproportionate impact on women, their children and families. This article considers the pathways to offending and how they relate to women offenders. It describes the Inspire Women's Project, introduced in Northern Ireland in October 2010, which forms part of the current strategy to manage women offenders and those women vulnerable to offending behaviour.

Keywords: Women offenders, gender-specific services, women's centres, Inspire Women's Project, desistance.

Introduction

Until recently, the approach adopted to managing women offenders in Northern Ireland was no different to that delivered to men, it being assumed that the risk factors resulting in criminal behaviour did not differ between the sexes. However, recent research has shown that gender matters significantly in both the factors that contribute to criminal behaviour and the types of offence committed.

As Convery (2009) states, 'there are significant differences in pathways into and out of crime for men and women. In particular the prevalence

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of static and non-criminogenic factors identified among women who offend and the relatively low reoffending rates for women indicate different pathways for women compared with men.'

Women within the criminal justice system differ from men in that fewer women offend than men, and where they do, women generally commit fewer offences than men. On the whole, women commit less serious offences and are more likely to desist from crime (Arnall and Eagle, 2009). The literature on women offending, although largely focused on adult women and particularly skewed towards women in custody, concludes that gender matters significantly in shaping criminality (Bloom *et al.*, 2003).

There is extensive evidence that women who are involved in offending often have a history of physical and sexual abuse in childhood and into adulthood (Rungay, 2001; Gelsthorpe, 2003). Other factors associated with offending behaviour in women include weak social ties, strained family relationships, abuse of drugs and alcohol, low educational attainments, severe social exclusion, accommodation problems and the strains engendered by child-rearing responsibilities coupled with low income and dependence on state benefits (Byrne and Trew, 2008). It is therefore important that the planning of effective services must take account of the knowledge and understanding of 'factors which are unique or more relevant to women' (Hedderman, 2004, p. 242). Treating women offenders with strategies that focus on male criminogenic factors is recognised as both inefficient and counterproductive in terms of time, resources and outcomes.

Best practice strategies need 'to take into account distinctive features of women's lives and needs in order to facilitate effectiveness' (Gelsthorpe *et al.*, 2007, p. 200). The problem is compounded by the 'lack of research in decisions made by the police, prosecution, probation and courts, and practices adopted in the supervision of women in the community' (Convery, 2009, p. 21).

Women offenders in Northern Ireland

According to the most recent data compiled by the Department of Justice, only 13% (3428) of those who passed through courts in Northern Ireland in 2006 were women. The most commonly committed offence type among women was 'theft', with 11% of women offenders committing this offence compared to only 6% of men.

Indeed, when offences of fraud and forgery are included, such acquisitive-type crime represents 13% of overall women offending compared to 7% for men, which would reflect the propensity for women to engage in financially motivated crimes that are often brought about by family and personal circumstances.

On 31 January 2011, PBNI was supervising 395 women offenders, representing 9% of all offenders under PBNI supervision. The main offence types for women subject to supervision at this time were theft, violence against the person and deception, fraud and forgery offences. An important difference between the genders is that fewer women than men are assessed as high risk in terms of likelihood of reoffending: 19% of women were subject to community supervision on 30 June 2011 compared to 27% of men. Likewise, 2% of all females were assessed as being of risk of causing serious harm to others (RoSH) compared to 4% of all males. PBNI statistics on reconviction in Northern Ireland show that for those offenders who received a Probation Order in 2005, 20% of women compared to 27% of men reoffended within 12 months.

In May 2011 there was an average of 48 women offenders in prison in Northern Ireland, which represents 3% of the total overall prison population. This is a comparatively low rate compared with Great Britain, the Republic of Ireland and most of Western Europe. Women are more likely than men to be committed to custody on remand (48% compared with 34%). While the number of prison receptions for men decreases after 28 years of age, the same is not true of women, with a high percentage of committals into custody among women aged 40–49 years. Women subject to community supervision orders tend to be older: just over a third (34%) of male offenders compared to 46% of females are aged 35 and over.

Pathways into offending behaviour

With regard to the factors that shape criminal behaviour, or pathways into crime, there is ongoing debate and discussion as to the appropriateness of applying the 'risk, need and responsivity model' to women offenders. The risk need model is based on criminogenic needs/dynamic factors and has 'become highly influential in guiding research and practice in the criminal justice area' (Hollin and Palmer, 2006). Formal risk and assessment measurement tools such as the Assessment, Case Management and Evaluation System (ACE) (Best,

2007) and the Home Office Offender Assessment System (OASys) (Raynor, 2000) were developed for use in predicting the likelihood of further offending and case management.

It has been argued that the 'dynamic risk factors' that have influenced such assessment were constructed through investigations among predominantly male offenders and therefore concerns have been raised as to the applicability of these assessment tools in assessing women's needs (Blanchette, 2004). These concerns have led to the emergence of the 'pathways' approach, which recognises the needs of women offenders and those who are at risk of offending as being multiple, complex, interrelated and distinctive (Gelsthorpe and Sharpe, 2007). The 'pathways perspective' incorporates a whole life perspective in the study of crime causation. Based on extensive interviews with women offenders, it sequences life events that shape women's choices and behaviours.

This approach has established that women enter the criminal justice system in different ways from male offenders in terms of:

- the role of violence, trauma and substance misuse
- the type of offence and reoffending patterns
- the impact of responsibilities for children and other dependent family members and a reduced ability to support self and children
- connections with violent and substance-abusing partners (Bloom *et al.*, 2003).

It is necessary to understand the specific and significant pathways that need to be addressed in order to provide a strategic, proportionate, holistic and integrated approach to the management of women who offend. The pathways that most impact on women's lives include financial, family and child care responsibilities, education and employment, accommodation and mental health.

Poverty and financial difficulties

Studies of the experiences of women offenders and their characteristics show that poverty, social exclusion and deprivation are significant pathways to offending. Byrne and Trew (2008) in their Northern Ireland study state that offending by women commonly occurs in the 'contexts of restricted resources and limited choices'. For most women in their study the motivation for offending was triggered by finance-related

problems such as poverty, parental and child care responsibility and dependence on state benefits. In a study of reintegration needs of women prisoners in Northern Ireland, Roberson and Radford (2006) found that 64% of women were dependent on social security benefits prior to their committal to custody. Debt and financial pressures and having to cope as a single parent were identified in PBNI pre-sentence reports as relevant issues for women (Bailie, 2006). Financial difficulties were also cited by Gelsthorpe *et al.* (2007) as the most significant dynamic risk leading to offending by women, which may 'severely restrict how successful they may be in avoiding further offending' (p. 17).

Children and family

For women who experience lack of child care support, a community sentence can present serious difficulties in terms of endeavouring to comply with the conditions of the order and at the same time caring for the needs of their family. These conflicting demands by their very nature impinge more heavily on women offenders than on men. Helping women to maintain their family ties and responsibilities is critical in any strategy aimed at reducing offending. Even taking the offending out of the equation, it is important for female offenders' emotional and psychological health that practical advice and support be available to them and their families.

Education and employment

Many women offenders have low educational achievements and lack basic skills and abilities (Department of Justice, 2010). Enhancing employment and employment opportunities in particular is 'an important focus for gender specific interventions' (Arnall and Eagle 2009). The Independent Monitoring Board (2008, para 2.10) stressed the particular importance of employment and accommodation on release from custody to reduce the likelihood of women reoffending.

Accommodation

Problems of accommodation, particularly homelessness, are frequently linked with offending and these problems are 'often complicated by mental health issues' (Roberson and Radford, 2006). Seymour and

Costello (2005) found that 50% of the women in their study in the Republic of Ireland were homeless on committal. Their results indicate that the risk of ending up in the criminal justice system is greater for homeless women than for those in accommodation. Again, this is an area where little research exists for Northern Ireland; however Robertson and Radford (2006) found that a significant percentage of women had experienced housing problems: for instance, 36% of women prisoners did not know where they would live on release and 44% and 32% respectively had had experience of living in a hostel and in care.

Mental and physical health issues

While not so important in male offending behaviour, evidence indicates that physical and mental health issues are a concern for many women offenders. Depression, anxiety and self-harming behaviour are more prevalent among female offenders (Belknap and Holsinger, 2006; Bloom *et al.*, 2003). In their study of women on remand in British prisons, Hollin and Palmer (2006) found that 59% of women suffered from some form of mental disorder. The most frequently reported conditions were personality, mood, anxiety and psychotic disorders. Moreover, Talbot (2007) reported that 70% of women prisoners suffered from two or more mental health problems. A study in 2005 found that 60% of women prisoners interviewed had been taking some form of medication prior to their committal, 68% had been referred for psychiatric assessment, 88% had experienced depression and 60% had suffered from panic attacks while in prison. Almost one third (32%) of the women prisoners interviewed had attempted self-harm and almost half (48%) reported thoughts of self-harm. A PBNI study of the needs of women offenders under supervision indicated a relatively high prevalence (44%) of women offenders in Northern Ireland with mental health issues.

Substance and alcohol misuse

Although substance and alcohol misuse is related to men's and women's offending, it has been suggested that it has a unique impact on women, given its high co-occurrence with other problems, particularly related to mental health and histories of victimisation (McLellan, 2006). Substance and alcohol misuse are now significant factors in women's offending in Northern Ireland. Roberson and Radford (2006) reported that 70% of

the women prisoners misused drugs and/or alcohol prior to committal to custody.

The Northern Ireland Office (2009) cites a 2008 snapshot of Northern Ireland women prisoners showing that 50% had a history of alcohol misuse and 40% had misused drugs.

An analysis of women offenders under PBNI supervision (June 2010) found that 32% had alcohol related problems, a further 9% had drug problems and 16% had problems with both alcohol and drugs. These were all factors related to their offending behaviour.

Byrne and Trew (2008) found that among women offenders alcohol misuse, as well as their offending, was linked to negative personal relations, financial difficulties, parental responsibilities, poor mental health and emotional problems. Thus it can be seen that the difficulties in managing women offenders are a number of complex, interlocking and related issues, and any strategy aimed at reducing reoffending must take account of the multifactorial nature of the problems facing women offenders.

Overall strategy

In recognition of gender-specific pathways, and following a consultation process, the Northern Ireland Office (NIO) in 2009 published its *Draft Strategy for the Management of Women Offenders in Northern Ireland*. The overall aim of the draft strategy was to develop a coordinated, long-term, sustainable approach to addressing the needs of women offenders in Northern Ireland. The document advocated the need to develop more creative and constructive ways of dealing with women's offending and to reduce the use of imprisonment wherever possible. The strategy has five key strands:

- to provide alternatives to prosecution and custody
- to reduce the number of women coming through the criminal justice system
- to ensure that, when women are sentenced, their needs are met in the community wherever possible
- to develop a tailored approach to the management of women in custody
- to take forward the options for developing a new purpose-built facility for women prisoners.

In 2010, following consultation on the draft strategy, the DOJ published the full strategy titled *Women's Offending Behaviour in Northern Ireland: A Strategy to Manage Women Offenders and Those Vulnerable to Offending Behaviour 2010–2013*. The ministerial foreword to this strategy recognises that in order to 'meet the specific needs of women offenders, the criminal justice system must provide a different response to that targeted at men' (Department of Justice, 2010).

The Probation Board for Northern Ireland set up the Inspire Women's Project in October 2008 'to develop and deliver in the community a new, enhanced range of women-specific services which directly contribute to reducing women's offending through targeted community based interventions' (DOJ, 2010) This is a pilot project that will run until March 2012 and will pilot the development and refining of a range of women-specific services to meet the needs of women offenders. It plans to co-ordinate community provision for women offenders and present a model for use throughout the PBNI.

The Inspire Women's Project

The Inspire Women's Project provides probation supervision for women offenders subject to community supervision on relevant orders and licences, prepares pre-sentence assessment reports, and offers resettlement opportunities for a small number of women on day release. The project encourages women offenders to address their complex needs in order to reduce the likelihood of further offending, by adopting a holistic and 'women-centred' approach to dealing with the issues that lead to offending.

The project provides a women-only space for women to attend Probation appointments, complete offence-focused programmes such as the Think First Programme, a Home Office accredited cognitive behaviour programme for women who have more than three previous convictions, anger management programme, alcohol management programme and drug counselling, which are delivered by both Probation staff and a range of other support programme providers. Inspire also runs the GOALS UK programme, which is a life coaching programme aimed at increasing self-esteem and responsibility.

Inspire Women's Project has a core team of four Probation Officers, a NIACRO worker, a project worker employed by the Women's Support Network (WSN), an administration officer and manager, with access to the overall professional support provided by the Probation Board for

Northern Ireland. Childcare is available within Inspire and, if appropriate, can be sourced locally through a range of providers.

The Inspire Women's Project has developed links beyond Belfast City and with a wide range of service providers across the voluntary sector. These partner agencies deliver a range of services and support to women attending Inspire, and, for example, include the Prison Arts Foundation (PAF), which delivers a creative arts programme with a focus on creative writing, and the Forum for Action on Substance Abuse (FASA), which provides drug and alcohol services. Barnardos provides a parenting programme and family support. NIACRO has one worker permanently based at Inspire to provide support services in assisting women to resettle in their communities. NIACRO also provides Jobtrack for Women, and has a staff member dedicated to providing employment advice, support and training to women both in custody and in the community. The project has commenced a pilot programme with Business in the Community which provides mentoring support to women seeking employment.

Inspire also liaises with a wide range of other statutory, voluntary and community agencies including housing, Social Services, Women's Aid, Addictions N.I., etc. Inspire is keen to develop restorative justice practices and refers to projects such as Alternatives and Community Restorative Justice Northern Ireland.

One significant development is the strategic partnership between Inspire, NIACRO and the WSN, which provides a model of partnership between the statutory, voluntary and community sectors in the provision of services to women offenders. The three organisations developed the Women Community Support Project (WCSP), which provides a range of services to women both in the community and in custody. This partnership allows for individual programmes to be tailored and provided by the agencies involved, thus ensuring a more efficient use of resources. One of the main benefits is that the offer of support is provided to women subject to community supervision orders, those in custody and – particularly importantly – those who are beyond the duration of their probation order. This longer term provision supports key needs (e.g., employment, health, financial advice).

The WCSP also provides training for staff in women centres in working with women who have had experience of the criminal justice system. This capacity-building programme was developed and delivered by NIACRO and is currently being rolled out to other women

centres/women's groups in Northern Ireland. It is now accredited by the National Open College Network (www.nocn.org.uk). The partnership has been strengthened by the employment of a project worker to act as the support worker between WSN and Inspire. Her role is to take referrals from the Probation Staff working within Inspire for women to engage within women centres and support groups in their area. This has assisted the referral process and provides practical support to women as they link with the women centres.

Guiding principles for working with women within Inspire

Gender matters

The Inspire team is based on the emerging knowledge of what works with women offenders in the community (Gelsthorpe *et al.*, 2007). The starting point is that gender matters. The primary focus of Inspire is to ensure that women fulfil the requirements of the court order; it does so by adopting a women-centred approach. Many of the women have histories of sexual abuse and violence, and other experiences that can be very distressing. It is important to provide a safe, women-only environment where women can be assisted to address the impact of these experiences, to improve self-esteem, be empowered to take control of their lives and thus reduce the likelihood of their reoffending.

Encouraging appropriate change

The dependence of many women offenders on men, substances, prescription medication and welfare benefits can result in feelings of hopelessness and despondency. Women need to have meaningful options that will allow them to make responsible choices. Women also need to be supported and encouraged to experience the success associated with making positive, responsible choices. Probation staff through the use of programmes and motivational interviewing will encourage women to engage in courses available within the community. The NIACRO and WSN staff members actively assist women in attending such programmes.

Evaluation of the project

An initial evaluation was carried out by the London South Bank University in July 2010. A mixed methodological approach was adopted

which combined an analysis of quantitative data and semi-structured qualitative interviews with women offenders and stakeholders involved in the development and delivery of the Inspire Women's Project. The main findings from this evaluation include the following.

Having a women-only service was identified as an important element of the project in that women felt more comfortable, able to open up and discuss key elements of their offending behaviour and personal circumstances. This aspect of provision at Inspire was considered by those interviewed as particularly important for women offenders who had experienced domestic and sexual violence.

And I thought thank God it's just women, there's nobody judging me. And they don't judge so it's brilliant ... and women feel more comfortable in a room full of women rather than men because, not myself personally but women I've come in contact with, have been abused and all sorts so it's very important for them too. It was interesting for me to watch on the sidelines how important it was for them type of women. (Interview 8, 53 years old)

I think it's quite a good idea whenever it's just females especially when you're having a class or stuff 'cause it's easier to talk when there's just females here. (Interview 37, 25 years old)

According to women offenders, one of the better features of Inspire is the attitude and behaviour of the staff. The Probation Officers and staff from voluntary and community projects were seen to be non-judgemental, supportive and empathetic, all of which were instrumental in building positive rapport, encouraging women to accept being on probation and facilitating their engagement with the project. Women offenders reported that this approach allowed them to be open, to talk more about their situation, to seek appropriate support and to move on with their lives.

I just think it's a great facility [Inspire], the support that you get with it and they're non-judgemental as well. I could phone my Probation Officer tomorrow and say, you know, 'I've relapsed, I'm sitting here drunk' and she wouldn't, she wouldn't criticise and look down her nose at me she say 'right well how can we fix this? How can we get this back on track?' and I know that I could just come down here and press that buzzer and there'd be somebody available for me. It's just, for me personally, it's been fantastic ... Just the support and the non-judgementalness, if that's the word. (Interview 13, 48 years)

The evaluation acknowledged the importance of Inspire alongside other statutory and voluntary agencies to provide practical support in areas such as domestic violence, dealing with childhood sexual and domestic violence, mental health, debt management and housing issues. As noted in the evaluation, this support provides a sense of progression and change in women's lives.

[NIACRO worker] helped me with filling in forms to get my sickness benefit, she helped me with housing. She actually took me out to look at houses and things that were frightening me which were wee tiny things and she calls at my house, she's on the other end of a phone if I need her and I've never had that support before. She's incredible. (Interview 32, 58 years old)

Twenty-eight (76%) of the women offenders interviewed reported that their self-esteem and/or self-confidence had improved as a direct result of their engagement with Inspire.

I couldn't talk about anything, I would go to talk and then it was crying and then I couldn't get a word out and then I couldn't talk about that and then this shakiness would start and if somebody asked me a question I'd start crying again. I was a wreck, an absolute wreck. But only for this place I don't know where I would have been and I doubt that I could have done it on my own. (Interview 25, 56 years old)

My confidence grown a lot since being able to come down here and speak to [Probation Officer] about things and I'm more determined to go out and do things more compared to a couple of years ago when I would have just gone and buried my head in the sand and that was it. Now I'm more determined to get out and do things. (Interview 27, 38 years old)

The ACE score is used by the PBNI to assess offender risks and underlying criminogenic and social needs. Scores are calculated across a range of 11 components to create an overall score out of 99 which provides a measure of the risk of reconviction (Raynor, 2000). An examination of ACE scores for 309 women offenders showed an average three-point reduction between a woman's start date with Inspire (21) and her most recent score (18). The average ACE level reduced from medium to low over this time. Given that the majority of women fall into the low to medium categories in their likelihood of reoffending, this reduction in ACE score is statistically significant.

I do think that in here stops me reoffending because I've heard the experience of prison, what it's like ... Plus there's support here and I don't want to go down that line again, that's why I keep coming here, because I don't want to. I want to keep myself out of trouble and this keeps me out of trouble.
(Interview 22, 42 years old)

Although it was not possible to access formal data concerning reoffending for this initial evaluation, interviews with women offenders showed that self-reported reoffending had substantially decreased due to engagement with Inspire. Of the 37 women offenders interviewed, 29 (78%) reported that they had not committed any further offences since becoming involved with Inspire. Four (11%) women had committed further offences although all reported that their involvement with Inspire had changed their attitude and helped avoid further offending.

The evaluation report concluded that Inspire had developed:

an innovative and dynamic model of provision for women offenders and has made significant progress towards achieving its core aims. It has been particularly successful in the creation of a diverse and growing network of partner organisations through which a range of excellent support is provided at low cost to the statutory sector. The Inspire Women's Project is viewed highly by women offenders, probation officers, partner organisations and policy makers.

It highlighted the need for the project to be extended beyond the Greater Belfast area and for support structures for women who had completed supervision orders, and also pointed to the need to develop formal arrangements with accommodation providers.

Conclusion

The standard established models for dealing with offending behaviour and rehabilitation, having been developed for male offenders and their characteristics, fail to address the needs, offending issues and lifestyle circumstances of women offenders. Women offenders have significantly different pathways into and out of crime from men. They tend to be of low risk, have a lower rate of reoffending and have different support needs, particularly in relation to familial and child care responsibilities, financial difficulties and victimisation in personal relationships. Hence,

the recognition that 'one size fits all' does not work with women has led to the development of an alternative and gender-specific strategy to deal specifically with the needs and requirements of women offenders.

A woman-specific approach should cater to the different needs – social, economic and familial – as well as the psychological consequences of women's feelings of inadequacy, shame, social exclusion and *powerlessness* and their lack of self-esteem and self-worth.

The Inspire Women's Project was set up in Belfast in October 2008 'to develop and deliver in the community a new, enhanced range of women-specific services which directly contribute to reducing women's offending through targeted community-based interventions (Department of Justice, 2010). Thus, its strategy is to provide a gender-specific, holistic, supportive approach to encouraging change and desistance from offending.

This strategy is strengthened by the adoption by Inspire of a 'women-only' environment in order to encourage the women offenders to cooperate at the beginning of their community supervision order and then facilitate referral to appropriate community resources. A 'women only' environment encourages women to open up, especially those who have been subjected to domestic and personal violence and sexual abuse.

A major emphasis of the Inspire approach is to focus on enhancing the women's strengths and capabilities as well as taking account of their criminogenic needs and the diverse range of the women in terms of age, culture and familial responsibilities.

A significant achievement of the Inspire project has been the development of the partnership approach with other statutory, voluntary and community agencies, through which a range of excellent support is offered to women offenders at low cost to the statutory sector. Although it has only been in operation for a relatively short time, the project received a positive evaluation, being deemed 'an innovative and dynamic model of provision for women offenders' that 'has made significant progress towards achieving its core aims'.

It is recognised that there is a need for continuing involvement and development of policy and practice in the management of women offenders. The challenges are in extending the Inspire model beyond the Greater Belfast area. Given the current economic climate it would not be feasible to have centres in other areas of Northern Ireland, but the model could be applicable for use throughout the province. There are similar structures that will support the model of partnership. PBNI is working

with NIACRO, WSN and their counterparts in the rural areas such as the Northern Ireland Rural Women's Network, and will complete a mapping exercise of resources available beyond Belfast. Work has already commenced with one women's centre outside the Belfast area. It is important that consideration be given to how to ensure that the services for women are consistent with the values and principles of the approach described above.

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Ageing Behind Bars, with Particular Reference to Older Women In Prison

Azrini Wahidin*

Summary: Since the 1980s, prison officials, policy makers and researchers have witnessed an astonishing phenomenon in the USA and the UK: increasing numbers of older adults are entering the criminal justice system and in particular prison, finding themselves locked behind steel doors and razor wire fences. So much so that researchers and policy makers are beginning to turn their attention to policy issues such as economic costs, housing, end-of-life issues and institutional management of older offenders. This paper discusses what is currently known about older persons in prison, with particular reference to women prisoners, and gives recommendations as to how to respond to these people's needs.

Keywords: Older women, older prisoners, prisons, alternatives to imprisonment, human rights.

Introduction

This article draws on research from the USA and the UK and examines how these countries are responding to the needs of an ageing prison population. The aim is (1) to examine the rising numbers of older women in prison by examining the ways in which the USA and the UK are responding to the needs of these prisoners, and (2) to identify best practice models and emerging policies to manage efficiently the special needs of older female prisoners. To conclude, this paper gives a series of policy recommendations addressing the needs of the ageing prison population. For the purpose of this article, the term 'older' denotes a person aged 50 or over detained in a prison institution.

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I begin with quotes from two participants in my study. One had already spent 10 years in prison, and another had five years to serve. The first quote highlights how older women are placed in the shadows of prison life in terms of policy and facilities:

No specific thought is given to people who are in our age category. Thought is given to young offenders. It is given to lifers. It is given to sort of other categories; it is not really – they don't really think about people of our age group and our families. I appreciate we are a minority, but I think a number of people you have interviewed would say we are a significant minority, and presumably will continue to be. I do think they [the prison estate] need to address some of those aspects. They [the prison estate] need to address the problems of people who aren't a 100% fit, but who on the outside had normal jobs. (emphasis added)

The second quote comes from a woman who has spent five years of a 10-year sentence in prison:

Of course being an older person in jail you're in no man's land. (emphasis in original)

The literature available on older offenders is predominantly American-based research that focuses on older male offenders in the USA (Aday, 1994a, 1994b, 2003; Newman, 1984). In contrast, there has been only one study in the UK that addresses the needs of the older female prison population in England and in the USA (Wahidin, 2004; Wahidin and Aday, 2010).

So who are they?

There are different types of offender:

- the older first-time offender currently serving a term of imprisonment
- the older offender who has had previous convictions but has not served a prison sentence before
- the recidivist who may have spent a significant amount of her or his life in and out of prison
- prisoners fulfilling a life sentence who have grown old in prison
- long-term inmates.

Although the crimes committed by older offenders mirror those of young offenders, the older female prisoner cohort is different in terms of their health and social care needs, individual adjustment to institutional life, maintenance of kinship networks, resettlement needs, and end-of-life issues. In consequence, they pose specific challenges to the prison system regarding custody, rehabilitation and release.

Ageing and imprisonment

Much of the debate on older offenders has been around how to define 'old' in the context of the prison population (Cullen *et al.*, 1985; Phillips, 2005). Definitions of 'elderly', 'elder' or 'older' can produce information that at first appears contradictory. Official statistics on the age breakdown of offences and prison statistics in the UK (see Home Office, 1997a, 1997b) use a wide spectrum of ages between 21 and 59 or simply give figures for prisoners aged 21 and above. Some researchers have defined older prisoners as those who are 65 years of age and older (Newman, 1984), 60 (Kratcoski and Babb, 1990) or 55 (Goetting, 1983, 1992). However, studies such as those by Phillips (1996, 2005), Eastman (2000), Wahidin (2002, 2004), Aday (2003), Howse (2003), The Prison Reform Trust (2008, 2010), and Mann (2008), together with statutory bodies such as the American Department of Justice and prison units for older prisoners in the UK, have used 50–55 as the threshold age to define when one becomes an older prisoner. This definition is supported by the fact that offenders experience what is known as 'accelerated' ageing, so that a typical offender in their 50s has the physical appearance and accompanying health problems of someone at least 10 years older in the community.

Studies have shown that on average the cost of keeping an elder in prison runs over three times that of a young adult (Aday, 2001; Dubler, 1988). The specialised medical care for older prisoners varies from simple needs such as hearing aids and dentures to more expensive items such as high-cost prescription medication, prosthetic devices and wheelchairs. At the high end of the cost spectrum are the needs of Alzheimer's sufferers and critically or terminally ill prisoners (Cooney and Braggins, 2010). For these reasons, Morton (1992) and prison health-care personnel and prison officers in the UK (Wahidin and Aday, 2005) stipulate that 50 is the ideal starting point to initiate preventive health care and is the point to take appropriate measures to

reduce long-term medical costs for older offenders. At the same time, the assessments of care and support issues relating to custody for an ageing prison population are only just beginning to develop. Discussion has begun to emerge in the UK, following the first report to be commissioned by the Her Majesty's Chief Inspectorate team on older prisoners, entitled *No Problems – Old and Quiet* (Her Majesty's Chief Inspectorate of Prisons (HMCIP), 2004), and the later report, *Older Prisoners in England and Wales: A Follow-up to the 2004 Thematic Report* (HMCIP, 2008).¹

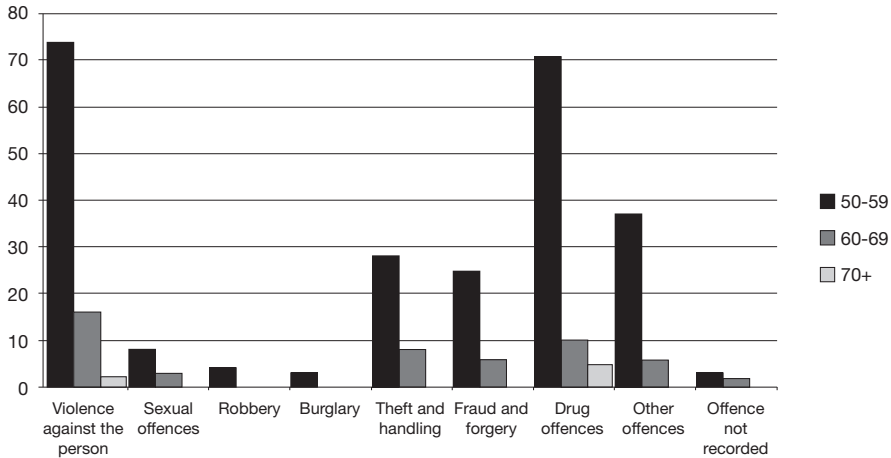
Older prisoners in the UK

Of the 85,368 prisoners who were held in prisons in England and Wales on 31 March 2010, 8120 people were age 50 and above, representing 9.5 per cent of the total prison population. There were 369 women over 50, representing 9% of the total female prison population, and there were 7,751 men in November 2001 (Ministry of Justice, 2010). Over the past 10 years the older male and female prison population has doubled and the long-term trend is for the population to continue to rise. The fastest growing age group in the prison estate is between 60 and 69 (NOMS, 2008). As this paper argues, their needs are often overlooked and unmet.

In terms of offences committed in England and Wales, the majority of the over-50 female prison population are serving sentences of four years and above; the second highest category is 12 months to four years. The overall increase in the older prison population cannot be explained purely by demographic change or explained by a so-called 'elderly crime wave'. It is a consequence of harsher sentencing policies, which have resulted in courts sending a larger proportion of criminals aged over 50 to prison to serve longer sentences (Howse, 2003; Wahidin and Aday, 2005). This has particularly been the case in relation to those convicted of sex offences and drug trafficking. Figure 1 shows categories of offences for women over 50 in England and Wales.

¹ The purpose of Her Majesty's Inspectorate team is to provide independent scrutiny of the conditions for and treatment of prisoners. Her Majesty's Inspectorate of Prisons for England and Wales (HMI Prisons) is an independent inspectorate that reports on conditions for and treatment of those in prison, young offender institutions and immigration removal centres. The Chief Inspector reports to the government on the treatment and conditions for prisoners in England and Wales and other matters.

Figure 1. Range of offences committed by women over 50 in England and Wales. Source: UK Ministry of Justice (2010)



Management challenges of ageing prison populations: The response of the UK

In the case of the older prison population in England and Wales, it is evident in the report *No Problems – Old and Quiet* (HMCIP, 2004) that people aged 50+ are a significant group within the prison population. However, the subsequent report (HMCIP, 2008) found that many of the key recommendations made in the earlier document had not been acted upon. For example, one of the key areas identified by HMCIP (2004) concerned the extent to which the prison environment was failing to reflect the needs of those with age-related impairments and disabilities. The Inspectorate Team found that in the women's prisons there were no separate regimes or age-specific activities for older women. However, a number of male prisons had special units or wings and tailored activities, and HMP Norwich is the only purpose-built prison in England and Wales that caters specifically for the healthcare needs of older men. Another key area for concern was the general level of health of older prisoners and healthcare provision, which will be discussed later. In some cases, prison healthcare centres were being used inappropriately to house older and/or disabled prisoners. Mental illness is a major issue. Over half of all older prisoners have been diagnosed with a mental illness, the most common being depression, which can itself emerge as a result of imprisonment (Prison Reform Trust, 2008, 2010).

In the following quote, the over-use of disciplinary control is evident and inappropriate in relation to her medical condition. Una, a first-time offender in her early sixties, after being in prison for only two months, recalls her experience of recovering from a heart attack brought on by the stress of the trial. She found herself handcuffed and chained to two male officers, suffering from a coronary attack and unable to move.

I was taken onto the coronary unit from the hospital. The family came in and I'm wired up in the coronary unit and my daughter just burst into tears because I was handcuffed and chained to an officer. There were two officers sat at the foot of my bed. I will never ever forgive the system for that. (emphasis in original)

She later goes on to ask:

What security risk did I pose? The doctor pleaded with them to take the handcuffs off and the answer was, 'we can't, we're sorry, it's the system'. But what does it do to your family to see you handcuffed, when they know I've never hurt anybody in my life?

These examples display the intransigent power of the penal system, impressing on both prisoners and the public that not only do prisoners have no rights, but not even the usual professional prerogative exercised by doctors and nurses holds sway when the patient is a prisoner. Research has shown that women who are infirm or are convalescing are denied association and exercise, and incur a loss in pay, which in turn reinforces their sense of isolation. The unknown world of prison and the lack of care received can and does damage health as well as increasing feelings of anxiety and dislocation. The fear of being ill in an alien environment, in which bureaucratic prison time ticks slowly, reinforces for elders a common fear: that of dying alone in prison (Deaton *et al.*, 2010). The distress caused by such traumatic experiences cannot assist the convalescing ill. In these circumstances and with such experiences not being uncommon, one has to ask whether the prison service can fulfil a duty of care.

Prisons have not traditionally been constructed to house older persons, or to respond to the changing physical and social needs that ageing is likely to bring. As a result, health and social care tends to be the

most critical concern for older prisoners and those responsible for managing their needs while in prison. Most prisons departments view the rising cost of providing adequate healthcare as the biggest challenge in meeting the needs of an ageing prison population. Ageing prisoners come into the system bringing a variety of high-risk behaviours requiring immediate attention. Research has shown that prisoners are likely to have an earlier onset of chronic health and social care needs than the general population. The most common age-related illnesses are arthritis, hypertension, and cardiovascular and respiratory conditions. Moreover, the female estate has to address gender-related health issues such as providing facilities on par with provision found in the wider community on topics such as the menopause, mammograms or cervical cytology screenings. Of the establishments included in the research, not one conducted systematic cervical cytology or breast screening (Wahidin, 2004), despite the HMCIP thematic review stating that ‘women prisoners come from a group with many of the risk factors for cervical cancer’ (1997, p. 108). Healthcare provision under the National Health Service is supposed to be applied equally to all individuals regardless of whether they are serving a custodial sentence.

As a whole, this population has a higher incidence of chronic disease and significant functional disability than similar age groups on the outside. The health expenditure for the older female offender is hard to map, given, as Dr Piper, Senior Public Health Adviser in Prison Health states, that ‘expenditure cost for age cohorts in prison is not known and the cells are not a data set used by the prison health service’ (personal communication, 2009).

Thus, without UK data on current healthcare expenditure, one has to look to studies conducted in the USA to understand the future resource implications for an older prison population. In 1997, the daily medical care for the general prison population in the USA cost \$5.75 per offender nationwide (Neeley, Addison and Craig-Moreland, 1997). The cost of caring for prisoners over the age of 50 was nearly three times higher, at \$14.50. Older prisoners with age-related illnesses are significantly more costly to care for than their younger counterparts.

Thus with a predicted rise in the number of offenders who are older, sicker and serving longer sentences, coupled with institutions’ over-stretched resources, it is reasonable to argue that if we fail to address the needs of older people in prison we will be facing an inevitable crisis (Prison Reform Trust, 2008). As more cohorts enter the latter stages of

life, the age revolution will significantly affect all facets of the criminal justice system.

Since 2004, prisons in England and Wales have been subject to the Disability Discrimination Act (DDA), which requires the Prison Service to take all reasonable steps to ensure that prisoners with disabilities can access services. In consequence, the Prison Service has issued orders (PSO 2855 and PSO 8010) detailing the steps prisons should take. The National Service Framework (NSF) for Older People (Department of Health, 2001) also identifies the need for prisons to provide for the health and social care needs of prisoners over 60. Yet it is evident from the official reports in this area that few prisons are reaching the standards required in legislation, though progress can be identified in some cases (HMCIP, 2008; Prison Reform Trust, 2008).

In prison, as illustrated above, the vulnerabilities of age are exacerbated by the lack of age-related facilities. Furthermore, the lack of continuity of programmes from the outside, such as healthcare, structured activities for the non-working prison community, and an 'adequate' living allowance for women of pensionable age in prison, increases the pains of imprisonment as the disparity between the working younger prison population and the non-working population is magnified (Hancock and Sunderland, 1997).

The former Chief Inspector of Prisons, Sir David Ramsbotham, states:

As I go around the prison estate I am finding an increased number of elderly prisoners, all of whom are classified as being retired, which means that they do not qualify for work. Without qualifying for work they do not get wages and, therefore, they live in pretty impoverished circumstances. Some of them need special facilities, including medical facilities, and these too are lacking. (cited in Eastman, 2000)

Prisoners in later life require improved health services, better pensions, different types of housing and a variety of aids when they become infirm. But they also need a reason for using these things. It is not surprising that older people in prison experience isolation and alienation when they are denied access to the sources of meaning that are valued by society in which they live. The lack of help and rehabilitation can only exacerbate the almost inevitable poverty that older people will face as a result of their imprisonment. The thematic review on older prisoners by HM Inspectorate of Prisons, published in December 2004, found little

evidence that older offenders' needs were either being met or that provision was being made for them. The report concluded by stating that 'prisons are primarily designed for, and inhabited by, young and able-bodied people; and in general the needs of the old and infirm are not met' (HMCIP, 2004).

Unless the Prison Service of England and Wales begins to recognise the needs of the older offender, mistreatment and neglect will be a pervasive facet of prison life. For older women who are already incarcerated as well as those who are to be imprisoned, there must be clearly articulated policies addressing their special needs while in custody and as they prepare for release. A discussion as to the possible scope of these policy recommendations will be the topic of the final part of the paper.

Future issues

As the number of older women offenders participating in the criminal justice system increases, developing social policies to respond effectively to the group will become critical. The programmes and policies now in place vary from country to country and this will most likely continue. Economic resources, sentencing guidelines, policy priorities and the variation in the number and diversity of older offenders contribute to these differences (Cullen *et al.*, 1985). Some have suggested that older offenders should be treated differently to their younger counterparts at all stages of the criminal justice system (Aday, 1995, Howse 2003). In particular, given the mental and physical characteristics of the older offender, the purpose of legal sanctions may be different, leading to a de-emphasis on restraint and deterrence (Mara, 2002). Such an alternative would create a separate and distinct system that differs from the current adult system in philosophy, sentencing, purpose and technique (James, 1992). Thus, questioning whether certain types of sentences for this cohort amount to 'cruel and unusual punishment' raises the question of whether it would be fairer to take account of the probable years remaining in the offender's life when deciding a sentence length.²

² Cristina Pertierra (1995) presents a series of cases brought to the American Court of Appeal in which elderly offenders, under the Eighth Amendment, have claimed that, given their ages and life expectancies, the sentences imposed amount to life imprisonment and are thus disproportionate to the crimes.

It can be argued that a 15-year sentence for a 65-year-old is practically a life sentence, while a 25-year-old who spends 15 years in prison still has at least a 30-year life expectancy after s/he leaves prison. This condemns the older offender to spend a greater percentage of her or his remaining life in prison. The disparity could be reduced by giving older offenders sentences that represent the same percentage of their remaining lives as those given to younger persons. For example, the average 25-year-old woman can expect to live for 46.9 more years. If such a person were convicted of a crime that carries a 20-year prison term, she would spend approximately 43% of her remaining life behind bars. A 65-year-old is expected to live 14.2 more years. A 20-year sentence would thus represent 141% of this defendant's remaining life, a *de facto* life sentence. By contrast, 43% of her life would be only 6.1 years (see James, 1992). In a landmark judgment from the USA, in the *State v. Waldrip* case, the judge reduced a 67-year-old defendant's sentence for voluntary manslaughter from five years to life to five to 10 years, recognising that even the minimum term of five years could theoretically be a life sentence because of the defendant's age (1992). It can be argued that if an older person does not have her or his sentence reduced, s/he will experience a greater punishment than a younger person sentenced for committing the same crime.

Moreover, to alleviate some of the problems associated with imprisonment, the prison authorities should be turning their attention to literature relating to residential homes or assisted living facilities (Aday, 1999; Atherton, 1989; Coleman, 1993; Hockey, 1989). There are many simple measures which could be taken that would allow older offenders control over their immediate physical environment. In addition, due to the impairment of sight, hearing, memory and reflexes, as well as the general slowing of movement and mental responsiveness, elders need to be cared for by staff members who are specifically trained in the needs of older people in prison. For prisoners who will spend the rest of their lives in prison, managing their healthcare will become a critical issue. Prison officials will be faced with the problem of finding suitable work and recreational activities so prisoners can pass the time in reasonably good health. Of course, prisoners who have spent a greater portion of their lives incarcerated will need intensive discharge planning and community placement orientation. Locating family or community agencies that will accept ageing prisoners eligible for release will also be a challenge.

In 2007, Baroness Jean Corston was appointed by the UK government to lead an inquiry into the treatment of women 'with particular vulnerabilities' within the criminal justice system in England and Wales. While the Corston Report (2007, p. 1) did not agree that women should never be held in custody, Baroness Corston was dismayed at the 'disproportionate' and 'inappropriate' use of imprisonment for women, concluding that the nature of women's imprisonment needs to be 'radically rethought' by creating 'a distinctive, radically different, visibly led, strategic, proportionate, holistic, woman centred approach' (p. 79), yet the report failed to address the needs of older women who come into conflict with the law.

In responding to the needs of older women and women in general who are in prison, there is a need to develop gender- and age-appropriate provision in prisons and in the community. As Gelsthorpe argues, this is 'an important prerequisite to promoting social justice, social inclusion and citizenship and the responsibilities and relationships which flow from them may enhance offenders' reintegration and help promote their desistance from crime' (2007, p. 54).

While it is obvious that the criminal justice system is becoming more sensitive to the special needs of ageing offenders, barriers continue to exist that interfere with the ability for prison officers to respond effectively. Most local governments in the UK are faced with the rising costs of medical care and overcrowding. With the continued increase in criminal activity among the older population as a whole, learning more about the relationship between crime and ageing, and about institutional adjustment, recidivism and release, seems imperative (see Wahidin and Cain, 2006). The limited knowledge concerning older women in prison and the absence of relevant policies and planning in this area in England and Wales, but also in other jurisdictions, leads one to suggest that the criminal justice system should be turning its attention to some of the following recommendations.

- An examination of existing formal and informal practices regarding women in later life, as the first step in developing an explicit and integrated set of policies and programmes to address the special needs of this group across jurisdictions. This will enable a national strategy to be implemented and good practice to be identified.
- To develop a comprehensive and gender-sensitive programme for older offenders that fosters personal growth, accountability and value-based actions that lead to successful reintegration into society.

- To prepare all personnel of the criminal justice system to understand and appropriately address gender- and age-specific topics and issues as discussed.

In terms of addressing the needs of older women in the criminal justice system, prison should be able to institute the following.

1. Adopting the age of 50 as the chronological starting point of the definition of older persons in relation to those in the criminal justice system.
2. Compiling of comprehensive data on the over-50s, addressing older-women-specific topics and issues from arrest to custody through to resettlement.
3. Identifying the costs of long-term incarceration of infirm prisoners and the potential risks of early release.
4. Introducing or expanding specific programmes, policies and facilities geared towards the needs of older women who come into conflict with the law.

Conclusion

This article has presented some of the issues and lessons to be learned that an older female prison population brings. In an increasingly pressurised prison system, the needs of older female offenders are likely to be overlooked, and it is only by examining their needs that we can begin to implement best practice and prevent further accusations of injustice and lack of care for this particular group.

If the focus of imprisonment is to assist offenders to lead law-abiding and useful lives, the Prison Service should be looking at ways to minimise the sense of isolation and helplessness that older women and men experience behind the walls. Thus, in order to comply with the Human Rights Act and the European Convention on Human Rights, policy makers must address the needs of the ageing prison population or be accused of discrimination on the basis of age – or, at worst, of contravening Article 2 (right to life) and Article 3 (right to be held in conditions that do not amount to inhuman and degrading treatment).

It is well known that the proportion of the older general population has increased. Research, policy initiatives and programmes targeted at the older criminal have not kept pace. Age will be considered one of the

biggest issues that will continue to affect the criminal justice system and prison healthcare in the future. At the time of writing the Prison Service of England and Wales does not have a national strategy for this cohort, and even though the Disability Discrimination Act (2005) now applies to prisons, few establishments are compliant. It is as Vivian Stern argues: that in every country, ‘there is a prison system for men, and women are everywhere tacked on in an awkward after-thought’ (1998, p. 141). Unless this changes, older women who come into conflict with the law will remain in the shadows of prison life.

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Perpetrators of Domestic Violence: Co-ordinating Responses to Complex Needs

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Abstract: The development of services for perpetrators and victims of domestic violence in Ireland has been an essential aspect of service provision for those whose lives are affected by domestic abuse and violence. Perpetrator programmes in Ireland are delivered through a combination of non-governmental bodies and the Probation Service. Since the 1980s, a network of perpetrator programmes aimed at changing the abusive behaviours of male perpetrators of such violence has developed around the country by voluntary self-governing bodies supported by a combination of charitable and voluntary contributions and State funding. Careful monitoring of both victims and perpetrators involved in these programmes ensures the safety of victims and their families. However, to date, there has been a dearth of evidence as to their effectiveness generally and a lack of information on their impact on different types of perpetrator with multifarious complex needs. Simply put, if programmes are not effective, violent recidivism will ensue. Ultimately understanding what interventions work best, and for whom, is vital to protecting victims of domestic violence and a key step to the cessation of such violence. Applying the main insights from leading international empirical research, this paper proposes that a range of criminogenic and non-criminogenic factors (e.g. substance use, mental health and personality attributes) may be hindering some perpetrators' engagement with current programmes. The capacity to provide a more co-ordinated and differentiated service to domestic violence perpetrators will be enhanced through co-operation and co-ordination with other complementary organisations. This is identified as a priority in the National Strategy for Domestic, Sexual and Gender-based Violence 2010–2014.

Keywords: Domestic violence, perpetrator programme, interagency co-ordination of services, differentiated and evidence-based approach.

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Introduction

This article sets out key issues for consideration in the development of domestic violence (DV) perpetrator intervention programmes in Ireland. The context for this consideration is the implementation of the National Strategy on Domestic, Sexual and Gender-based Violence 2010–2014. This strategy, produced by Cosc,¹ is a statement of government policy and a strategic action plan setting out the commitments to be achieved by State bodies.

This paper is informed by two key sources of information. Firstly, Debbonaire (2008) and Debbonaire *et al.* (2004) provided an overview of the development of perpetrator programmes in Ireland including the basis of the programmes and the relationship between the programmes and organisations providing support to victims of DV.

The second key source is leading international research published on DV perpetrator programmes (for example, Holtzworth-Munroe *et al.*, 2003). This paper will not present a review of the international literature, but rather, based on the insights gained, seek to explore a persistent and widely recognised problem, the inconclusive evidence for the effectiveness of particular perpetrator programmes and the impact of this on service development. This article also includes an elaboration of the different needs of DV perpetrators and the implications for treatment.

In order to strengthen our understanding of how DV perpetrator programmes work, it will be necessary to generate information that is based on a more refined view of DV perpetrators and programmes designed to address their behaviour.

National Strategy on Domestic, Sexual and Gender-based Violence 2010–2014

The National Strategy on Domestic, Sexual and Gender-based Violence 2010–2014 provides for DV perpetrator behaviour and interventions to reduce and eliminate recidivism involving Cosc, the Probation Service and other organisations. Several actions in the National Strategy address the offending behaviour of perpetrators of abuse, to implement risk management arrangements for DV perpetrators and to strengthen DV

¹ Cosc is an executive office of the Department of Justice and Equality. Following a Government decision, Cosc was established in June 2007 with the key responsibility to ensure the delivery of a well co-ordinated ‘whole of Government’ response to domestic, sexual and gender-based violence. See: www.cosc.ie

perpetrator programmes to ensure their greater effectiveness. Other strategic actions aim to address the accountability of offenders and strengthen the protection of victims through review and any necessary improvement of legislation on DV.

In the development of the National Strategy many helpful submissions on this topic were received and were examined. A review of perpetrator programmes commissioned by Cosc set out the current position in Ireland. The issues presented in this paper and the conclusions suggested are intended to inform the strategic approach to developing DV programmes.

Interagency co-ordination in the Justice family of services

At an early stage, Cosc established a Justice Committee comprising representatives from the Probation Service, An Garda Síochána, the Courts Service and other relevant State offices including divisions of the Department of Justice and Equality. This committee works to identify and resolve significant interagency issues and problems within the justice sector affecting the effective handling of domestic and sexual violence. The committee has made recommendations on reducing attrition in the prosecution of domestic and sexual violence cases.

A committee was also established to examine and advise on development of a 'one-stop-shop' option for greater accessibility to services for victims of DV. A further initiative was the establishment of a training committee to develop understanding and recognition of domestic, sexual and gender-based violence across the justice sector. It analyses training needs of relevant justice sector organisations, including the identification of areas suitable for cross-sectoral training and to advise in relation to the development of training programmes. It will, for example, build on the experience of the Probation Service in interagency training and information provision in introducing the Spousal Assault Risk Assessment (SARA) instrument and the sex offender risk assessment instruments (Risk Matrix 2000 and the Stable and Acute 2007).

During the process of developing the National Strategy, the Probation Service revised its internal policy and procedures on DV in relation to the assessment and management of perpetrators of DV in the community. These protocols have the dual function of ensuring that perpetrators are held accountable and have the opportunity to change their

abusive/violent behaviours and that victims are safeguarded. In addition, the policy document increases the understanding and capacity of all probation staff to intervene appropriately when the issue of DV arises in all aspects of working with service users.

The Probation Service document *Domestic Violence: Probation Service Policy and Practice Guidelines 2009*² was launched in January 2010 and was also made available to the invitees to the launch of the National Strategy in March 2010.

Domestic violence perpetrator programmes in Ireland – issues arising

Domestic abuse is complex. Programmes addressing the offending behaviour of perpetrators of DV must be carefully designed and implemented based on a solid awareness and understanding of domestic abuse and its impacts. Apart from the consequences for perpetrators, developing and improving these programmes also have extremely important consequences for the safety of victims of DV. These decisions are informed by a combination of verifiable evidence and expert opinion. Since the late 1980s there has been an increase in the UK of specialist DV groups set up to establish minimum standards and explore best practice in work with DV perpetrators (Respect, 2008). In recent years, there has been a move to standardise DV perpetrator interventions around certain programme approaches, to establish a specific set of uniform standards and practices and apply these consistently across different organisations (Debbonaire, 2004; Debbonaire et al., 2008). For example, one key area has been the formalisation of programme structure and length.

Meta-analyses of evaluation research suggest that DV perpetrator programmes may yield only a small effect (Babcock *et al.*, 2004; Levesque, 1999). One must be cautious, however, when interpreting the conclusions from these studies. If the average effect for all programme participants is small, this does not rule out a significantly large effect for some people. In practice, programmes rarely encounter a homogeneous group of perpetrators. In fact, practitioners have long recognised differences among perpetrators in terms of resistance to treatment. Yet there is very little evaluation work examining the effect of intervention

² Available at: www.probation.ie

efforts on different types of DV perpetrators, for example, the effects on individuals with different backgrounds (see Saunders, 1996) or on those who engage in different types of intimate partner abuse. An important starting point is to understand that DV is not a single phenomenon; rather, there are qualitatively different patterns of DV (Johnson, 1995) and these differences have implications for treatment effectiveness (Greene and Bogo, 2002).

Research outcomes suggest that certain perpetrators, with certain problems, fare better under some interventions than others (Holtzworth-Munroe *et al.*, 2003). This suggests the need for a more *differentiated approach* to programmes, where interventions are designed to help different types of perpetrator, reflecting differences among perpetrators' treatment needs. While it may be unrealistic to expect DV perpetrator programmes to differentiate their service by providing bespoke solutions to match individual perpetrator needs, it is very important to generate a better understanding of which perpetrators are benefiting from what elements of programmes and under which conditions.

There is a real need for further research and evidence on the effectiveness and value of these programmes to guide thinking on how and in what form DV programmes should be developed.

Another area meriting attention is co-ordination. There is clear support in the literature for the effectiveness of perpetrator programmes improved by a co-ordinated and integrated system³ (Shepard *et al.*, 2002). In Ireland, intervention work with perpetrators of DV is part of a multi-agency approach to programme delivery. The capacity to provide a more co-ordinated and differentiated service to DV perpetrators will be enhanced through co-operation and co-ordination with other complementary organisations. This is identified as a priority in the National Strategy for Domestic, Sexual and Gender-based Violence 2010–2014 and is being implemented as outlined above under 'Interagency co-ordination in the Justice family of services'.

Domestic violence perpetrator programmes in Ireland – issues arising

The development of services for perpetrators and victims of DV in Ireland has been an essential aspect of service provision for those whose

³ For example the Duluth model. See Shepard and Pence (1999).

lives are affected by abuse and violence in the family home. Perpetrator programmes in Ireland are delivered through a combination of non-governmental bodies and the Probation Service. Since the 1980s, a network of perpetrator programmes has developed around the country by voluntary self-governing bodies supported by a combination of charitable and voluntary contributions and State funding. The main programmes are associated with the Men Overcoming Violence (MOVE) programme network (seven groups) and the South East Domestic Violence Intervention Programme network (SEDVIP) (four groups). The North East Domestic Violence Intervention Project (NEDVIP) (one group) is run with the support of the Probation Service and takes referrals only from Courts and the HSE.⁴

SEDVIP's group programme, which aims to help men to stop their violent/abusive behaviour, is referred to as 'Men Ending Domestic Abuse' (MEND) and, like MOVE, also provides a support service for the partners or ex-partners of the men on the programme. The integrated partner support service in each local programme does important work with victims of the perpetrators.

Regardless of the outcome of work with the perpetrator, help is provided to the partners or ex-partners to draw up safety plans, learn about the nature of domestic abuse and become more empowered to make important decisions regarding their own and their children's lives. If a partner leaves or completes a programme, the partner support continues for another three months at a minimum. A one-to-one service is provided by these programmes to a significant number of women, often facilitating them to stay in their homes and get on with their lives, supported by the risk management and safety planning undertaken as part of the work of the intervention programme. Significant time and resources are put into training, supervising and line-managing these partner support workers (Cosc, 2010).

Views about the content of programmes can vary between organisations, across groups and among facilitators of groups in Ireland (Debbonaire *et al.*, 2004). Since 2004, the programme content has developed and the number of programmes increased. The programmes at present in operation include the CHANGE programme (see Morran, 1996), the MOVE programme,⁵ the Domestic Violence Intervention

⁴ Health Service Executive: www.hse.ie

⁵ See www.moveireland.ie

Project programme,⁶ the Ahimsa programme⁷ and the Men Overcoming Domestic Violence programme (Debonnaire *et al.*, 2004; Debonnaire, 2008). While some facilitators adhere to a specific programme, others select different elements from different programmes when, in their view, appropriate (Debonnaire, 2008). This variety in practice makes direct comparison, effectiveness research and evaluation difficult.

Standards in domestic violence programmes/interventions

In the UK, Respect,⁸ the national organisation of perpetrator programmes, has established minimum standards for DV perpetrator programmes to which members of Respect are expected to adhere (Debonnaire *et al.*, 2004). Respect core standards provide guidelines to organisations working with male perpetrators of DV and all integrated support services. These standards include the management of the organisation, the structure and process of service delivery, ensuring reach/access, working with children, risk management and partnership working (Respect, 2008). The quality control and best practice provided in such a model of operation ensure the best prospect of consistent, well-managed service delivery. In Ireland, we are still in the development stage and will benefit from international experience and learning.

Understanding the effectiveness of domestic violence interventions

Over the past decade research has focused on the identification of a set of ‘universal’ practices that can be translated into standards of best practice on changing the behaviour of perpetrators of DV (Debonnaire, 2008). The experience among practitioners is that perpetrators of DV are not a homogeneous group, and increasingly these insights are reflected in the debate among researchers. Driving this debate has been the persistent lack of evidence – either anecdotal or scientific – to support the assumption that ‘one size fits all’ or its close relative, ‘one size fits most’ (Gondolf and White, 2001). Increasingly, research is faced with the need to develop an approach that reflects differences among DV perpetrators and that examines how programmes can respond to the issues arising.

⁶ See www.dvip.org

⁷ See www.ahimsa.org.uk

⁸ www.respect.uk.net

Comparisons made using data from community or general population surveys (e.g. Shepard *et al.*, 2002) on one hand and from clinical populations⁹ on the other (e.g. Babcock *et al.*, 2004) consistently provide evidence of differences among perpetrator types. Consequently, much attention is given to specifying ‘types’, ‘typologies’ or subgroups of DV perpetrators. Partly arising from methodological differences, studies differ on the number of typologies identified and the interpretations provided. There are, however, certain key messages that are noteworthy.

DV perpetrators differ in terms of the seriousness and pattern of abusive behaviours they engage in (Holtzworth-Munroe and Stuart, 1994; Johnson, 1995; Kelly and Johnson, 2008). Contrary to some expectations, not all perpetrators escalate their violence. Those most severely violent initially are most likely to continue their violence over time (Feld and Straus, 1989; Holtzworth-Munroe *et al.*, 2003; Jacobson *et al.*, 1996; Quigley and Leonard, 1996). These more serious types also engage in a wider range of more violent behaviour as well as non-violent and controlling acts towards their partners (Holtzworth-Munroe and Stuart, 1994; Holtzworth-Munroe *et al.*, 2003; Johnson, 1995). Associated with different types of perpetrator are a range of personality and lifestyle characteristics that may complicate an individual’s potential to respond to treatment. A greater understanding of how these characteristics contribute to resistance to treatment and poor responsiveness to DV perpetrator programmes is needed in Ireland. Among these characteristics, substance use is very prominent in discussions. Substance abuse, in general, undermines an individual’s ability to pay attention, to extract relevant information, to reason and problem-solve, which disrupts the ability for planning and self-regulation (Pihl and Hoaken, 2002). The indications, in the US context, are that DV perpetrators who have substance abuse issues are less likely to complete DV treatment successfully (Bouffard and Muftić, 2007).

Although the relationship is complex, there are clear indications that alcohol use, particularly heavy and binge drinking, not only complicates the extent and nature of DV among intimate partners (Brecklin, 2002; Brookhoff *et al.*, 1997; Brown *et al.*, 1998; Feinerman, 2000; Schafer and Fals-Stewart, 1997) but also increases the likelihood of re-assault (Gondolf and White, 2001; Hamberger and Hastings, 1990; Jones and

⁹ Data obtained from individuals in court-mandated treatment programmes, recorded in police reports and emergency rooms and associated with victims in refuges/shelters.

Gondolf, 2001) and reduces the likelihood of completing treatment (Bouffard and Muftić, 2007).

Psychopathic tendencies and personality attributes are other complicating factors reported in the literature. Borderline, avoidant, antisocial, impulsive and self-defeating attributes (Dutton *et al.*, 1997; Gondolf and White, 2001) as well as mental health problems such as depression and anxiety disorders impede the response to treatment (Andrews and Bonta, 2003; Ogloff and Davis, 2004; Wong, 2000).

Consistent with numerous international studies on attrition, Bowen and Gilchrist (2006) report a link between the individual's response to DV programmes and lifestyle characteristics. These characteristics are indicative of a way of life marked by frequent life changes (e.g. jobs, residence) as well as personality characteristics associated with irresponsibility and impulsivity.

There are increasing reports that those who have problems committing to DV interventions are young (Cadsky *et al.*, 1996), poorly educated (Babcock and Steiner, 1999) unemployed (Daly and Pelowski, 2000) and unmarried (Cadsky *et al.*, 1996). The interpretation of these findings is that those who fail to complete treatment do so because of high levels of lifestyle instability and a low stake in conformity. It is this group of perpetrators that, in not seeking or not completing treatment, poses the highest risk in the escalation of problems. Those who are more seriously violent initially are most likely to escalate their violence and to go on to inflict the most serious injuries (Johnson, 1995; Johnson and Ferraro, 2000; Holtzworth-Munroe *et al.*, 2000, 2003; Holtzworth-Munroe and Meehan, 2004). Furthermore, in the US context, this group does not fare well in perpetrator programmes (Gondolf, 1997; Bouffard and Muftić, 2007).

With multiple problems and complex needs, some DV perpetrators have a greater breadth (range of need) and/or depth (severity of need) to their problems than others. These multiple problems complicate their ability to respond to interventions and/or their motivation to change (Scott *et al.*, 2004). Struggling and negotiating with many issues will no doubt compromise the effectiveness of programmes, particularly programmes that are not developed specifically for addressing these issues. It is essential, therefore, that we develop our understanding of the profile of those needing and availing of DV perpetrator programmes in Ireland.

Issues to be addressed currently include:

1. clarifying what types of perpetrator are accessing DV perpetrator programmes in Ireland
2. identifying who is benefiting from the different programmes and groups currently available in Ireland
3. examining whether and which approaches work better for particular perpetrators and in what ways
4. with particular attention on the severely violent/abusive perpetrators, identifying specific problems that impede the impact of interventions on their abusive behaviours
5. identifying and addressing gaps in service provision.

Priority areas for attention

A consistent finding in the literature is that individuals who drop out of perpetrator programmes are at greater risk of post-programme recidivism (Bouffard and Muftić, 2007), whether due to pre-existing factors, low motivation for change, a lack of treatment, or a combination of these. High levels of non-completion of perpetrator programmes are generally a persistent problem regardless of context (Daly and Pelowski, 2000). A direct consequence of this is that perpetrators who are most in need of these interventions are not getting necessary interventions, and victims most in need of protection are being failed.

To address these failings, two actions are proposed. The first is to explore the development of a comprehensive response to perpetrators and their families through enhanced inter-group and inter-organisational co-ordination. The second is to gather information to develop a greater understanding of the outcomes of responses to DV perpetrators in programmes in Ireland.

Action 1: Co-ordinating responses

Currently in Ireland, individuals involved in and affected by DV access the various services they need from a wide range of largely disconnected organisations including the Probation Service. There are real and practical reasons for addressing the disjoint in the current system. A disjointed system does not provide adequate protection to the victim nor does it properly confront and deal with the perpetrator. A disjointed system contributes to duplication and gaps in action, lack of confidence in the system and lack of confidence between

organisations. Furthermore, it lessens the impact of the work of individual organisations (Cosc, 2010). Studies suggest that under the right conditions, a co-ordinated community response can be enormously beneficial, leading to perpetrators of DV having significantly lower rates of recidivism (Murphy *et al.*, 1998; Shepard and Pence, 1999; Shepard *et al.*, 2002).

Hague and Malos (1998) discuss the advantages of the flow of information, the development of common understandings and the value of complementary approaches. If the currently fragmented service providers in Ireland were to deliver their service provision in a co-ordinated way, sharing resources and information and working closely together, the capacity for the system to respond to needs including high-risk offenders, and the consequent safety of victims, would be greatly improved. For example, by developing shared working agreements, specialist organisations would greatly improve the fit between service provision and perpetrators'/victims' needs.

The importance of links between DV perpetrator programmes and DV victim services is well recognised in the literature as a key step to increasing the safety of victims whose partners or ex-partners are on DV perpetrator programmes. Many such programmes in Ireland currently work closely with women's organisations involved in running the partner contact service (Debonnaire, 2008). This core work in co-ordinating the facilitation of DV perpetrator programmes and partner contact and support is an essential action to be developed.

Shared understandings, enhanced communication and common goals would improve conditions for the success of the various interventions involved. For example, if practitioners in one part of the services know responsibilities and limitations imposed on a perpetrator by another part of the services, both are better able to hold the perpetrator accountable and to intervene effectively (Shepard *et al.*, 2002).

In Ireland, three areas of interagency work particularly require attention, as follows.

1. Currently, those working with perpetrators in Ireland are trained in one area, for example specialising in either DV or substance use. While the specialised services need to develop further, the mutual understanding and integration of practice is essential. The effectiveness of practice with perpetrators with multiple problems within existing perpetrator programmes must be strengthened

through inter-group and inter-organisational co-ordination, collaboration and/or co-operation arrangements.

2. The motivation and support of DV perpetrators to participate in and complete programmes, particularly high-risk DV perpetrators, needs urgent attention and action. This is most important with perpetrators who are severely abusive/violent in the family context, those who show high levels of resistance to changing abusive behaviour and/or perpetrators who are susceptible to programme drop-out or non-completion. One part of the action, where focusing on court-mandated perpetrators, would be the development of working agreements between the Courts Service, Probation Service and others on information sharing, motivational work and information on enforcement of Orders including consequences of non-attendance, non-compliance and further incidents of violence.
3. Perpetrator programmes' engagement with partner contact services and other related services must reflect the need for a differentiated approach in perpetrator programmes and consistent co-ordinated practice.

Action 2: Information collection

Over the past decade the development of a set of principles or guidelines around DV perpetrator programmes, commonly known as the 'what works' or evidence-based approach, has been important (Andrews and Bonta, 2003). The principles of evidence-based practice for DV have been developed in a set of guidelines used increasingly to accredit DV perpetrator programmes (e.g. Respect, 2008).

A review of the empirical studies undertaken and guided by the 'what works' approach indicates that the evidence of many perpetrator programme outcomes is inconclusive (Babcock *et al.*, 2004; Rosenfeld, 1992). This is most unsatisfactory, as clear supporting evidence is vital to inform decision-making on DV programme content and development is needed to inform whether programmes can be effective and how best to strengthen and support the programmes to achieve positive outcomes.

Resolving this gap will require refined questions and relevant data gathering. The central questions must examine *what* DV perpetrator programmes/interventions work best, *who* they work best for and *how* we can implement that learning for best outcomes for all stakeholders: victims, perpetrators and the community. To do this, information on

programme-level factors in the operation and implementation of the various programmes in Ireland will be required. Information on the most salient aspects of DV perpetrator risk profiles¹⁰ needs to be developed and used to examine the DV perpetrator programmes/interventions in operation. These steps will help to identify those who benefit most from existing programmes.

Equally important will be the development of an understanding of the issues involved for those who benefit less from these programmes. Finally, in order to detect changes over time, these same outcome measures should be taken after an appropriate post-programme completion period.¹¹

The approach to data gathering should be guided by three aims:

1. to monitor and review perpetrator programmes/interventions and their outcomes, tracking developments over the long term
2. to develop evaluation research on perpetrator programmes/interventions in Ireland to distinguish which perpetrator programmes/interventions are effective and in what circumstances
3. to develop an understanding of how perpetrator programmes impact on the behaviours of different types of perpetrator.

The limitations of this work should also be considered. First, there will be a limit on the number of specific areas that can be covered by information gathering from DV programmes. Second, to ensure that the needs of main stakeholders are reflected in the outcomes of this work, input from each will be relevant in their development of data gathering and any conflicting interests must be resolved. It is essential, therefore, that key priorities be established in the planning stage and decisions made.

It is important to consider and measure what happens in effective rehabilitation that helps DV perpetrators to change their behaviours. It is likely that some perpetrators may be more responsive to certain

¹⁰ Preliminary work would need to be done to identify those attributes that are most likely to moderate treatment outcomes. These attributes and the mechanisms involved would need to be specified *ex ante*.

¹¹ We do not yet fully understand how perpetrator interventions might impact DV perpetrators' behaviour in the long run. It is important that follow-up be undertaken with as many participants as practicably possible. A six-month follow-up period is applied by many studies and research indicates that the majority of re-assaults may occur within the first six months (Gondolf, 2000).

approaches in rehabilitation than others (Stalans and Seng, 2007). Failing to distinguish between types of DV perpetrator would mean that important positive effects would be missed. More specifically, where the risk profile is not measured and controlled for appropriately in the data collection and analyses, little or no therapeutic or rehabilitative effect may be forthcoming in data outcomes.

Summary and conclusions

There has been concern regarding the lack of concise evidence to support the effectiveness of perpetrator programmes (Babcock *et al.*, 2004). Increasingly this has raised the question: if there is no evidence of benefit, is the funding wasted and should the funding be better spent elsewhere?

There is also a fear that perpetrator programmes are being funded at the expense of services needed for victims (Chung and Zannettino, 2005). In light of this, attention needs to be given to the strength of the evidence base and the degree to which programmes/interventions delivered are based on sound foundations. Data collection and programme/intervention delivery need to be sensitive to the diversity in the population of DV perpetrators.

Asking the questions from leading international empirical research, this paper identifies the need to understand whether and how criminogenic and non-criminogenic factors (e.g. substance use, mental health and personality attributes) may be hindering perpetrators' engagement with current programmes/interventions – particularly those not designed for this purpose – and asks if there may be benefit, based on data gathering in the Irish context, for a more *differentiated* and *evidence-based* approach in addressing DV.

Two interrelated steps or focus areas are suggested, as follows.

There should be data gathering and research on DV programme/intervention effectiveness and a consequent evidence-based development of service provision and programme/intervention delivery. Ultimately, understanding what interventions work best and for whom, is vital to protecting victims of DV and a key step to the cessation of violence in the family home.

DV perpetrator programme providers should work in partnership and co-operatively with State and non-State organisations in order to provide most effective, 'joined-up' and complementary intervention.

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Women in Northern Ireland Involved in Prostitution

Emma Hawthorne*

Summary: This paper outlines the research¹ carried out by the Department of Justice into women involved in prostitution in Northern Ireland. It identifies the issues that women involved in prostitution face; this includes local women involved in prostitution and also those women who have been trafficked into Northern Ireland and forced into prostitution. The support and interventions currently in place in Northern Ireland are recognised and are compared to best practice elsewhere. Research from other jurisdictions is drawn upon to provide a more complete picture of the issue.

Keywords: Women, prostitution, human trafficking, exploitation.

Introduction

In October 2010 the Department of Justice (DoJ), in partnership with the Northern Ireland Prison Service (NIPS) and the Probation Board for Northern Ireland (PBNI), published *Women's Offending Behaviour in Northern Ireland: A Strategy to Manage Women Offenders and Those Vulnerable to Offending Behaviour*.² The strategy aims to address the complex issues and vulnerabilities that can lead women to offend, or indeed reoffend, in Northern Ireland. It identifies women involved in prostitution as a potentially vulnerable group that could benefit from supportive interventions, and commits to carrying out research in this area. In response to this commitment, research was conducted to

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¹ Research paper investigating the issues for women in Northern Ireland involved in prostitution and exploring best practice elsewhere. Available from www.dojni.gov.uk

² Available from www.dojni.gov.uk

investigate the issues for women in Northern Ireland involved in prostitution and to explore best practice elsewhere. The research was collated through engagement with relevant organisations and individuals³ and accessing a range of websites, newspapers, academic journals and research papers.

The DoJ, PBNI and NIPS will use this research to identify how best to configure services to meet the needs of the women involved. This paper provides an overview of the research and its key findings.

The issue of human trafficking is included in this paper, recognising that women may be trafficked into Northern Ireland and forced into prostitution. However, women, or indeed men, who have been trafficked are not 'prostitutes', even though they are forced to work in the industry.

Prostitution in Northern Ireland

Prostitution is occurring in towns throughout Northern Ireland. However, Belfast – in particular South Belfast – remains the main problem area for human trafficking for sexual exploitation and prostitution. This is thought to be because the area is easily accessible, is relatively anonymous with a fluid population and has a high number of rented properties available that can be used as brothels.

In 2010, the Police Service of Northern Ireland (PSNI) suggested that there were approximately 40–100 women involved in prostitution at any one time in Northern Ireland. However, the common opinion of those interviewed for this research is that it is extremely difficult to obtain an exact figure for the number of women involved, given the covert nature of the activity. Moreover, street prostitution has declined in Northern Ireland and off-street prostitution has increased, making it harder to track.

The age of those involved in prostitution in Northern Ireland can range from younger than 15 to 50 or more years of age. There is a strong link between children going missing from care and those children who are sexually exploited. Anecdotal evidence suggests that prostitution in Northern Ireland is linked to organised crime gangs and drug use. It is also suggested that women involved in prostitution in Northern Ireland (in particular those who have been trafficked) are commonly subjected to

³ A list of the organisations and individuals contacted is given at the end of this paper.

violence. Research carried out by the Northern Ireland Human Rights Commission and the Equality Commission (2009) suggests that traffickers control the women through threats of violence and of sexual violence, confiscating official documents and passports, isolating them from contacting anyone in the outside world, and through debt bondage. A PSNI officer confirmed that he has worked with cases where the debt bond can be from €40,000 to €60,000. It is also likely that these women will have their movement restricted: research by Zimmerman (2006) indicated that 77% of the women interviewed who had been trafficked had no freedom of movement whatsoever.

Legal position in Northern Ireland

There are laws that make certain behaviour related to prostitution illegal; for example, the Sexual Offences (NI) Order 2008 (Office of Public Sector Information, 2008), which became operational on 2 February 2009, makes it illegal to “kerb crawl” in a vehicle in order to buy sex from a person involved in prostitution. It is also illegal to “solicit” or proposition a person in a street or other public place in order to buy sex. The Sexual Offences (NI) Order stipulated that kerb crawling and soliciting to buy sex must be persistent for it to become an offence (two or more occasions within three months). However, on 1 April 2010 that element of persistence was removed by the commencement of the Policing and Crime Act 2009, which also amalgamated persistent soliciting and kerb crawling into one offence called “soliciting”.

The Policing and Crime Act 2009 also makes it illegal to buy sex from someone who has been subjected to force, with offenders facing up to a £1000 fine and a criminal record. Males buying sex are no longer able to use the excuse that they did not know that a woman had been forced or coerced into the sex industry.

The Sexual Offences (NI) Order 2008 also makes it an offence to persistently loiter or solicit in a public place in order to sell sex. However, the Policing and Crime Act does not remove the need for such actions to be persistent to be an offence. It is also illegal for those involved in prostitution to take money for sex with the intention of not performing the service (clipping) (National Offender Management Service (NOMS)).⁴

⁴ NOMS is an executive agency of the Ministry of Justice, bringing together the headquarters of the Probation Service and HM Prison Service to enable more effective delivery of services.

There are a range of laws against organising prostitution: for example, it is against the law to cause, incite or control prostitution for gain and to keep or manage a brothel used for prostitution. Before the Sexual Offences (NI) Order 2008, the maximum penalty for keeping a brothel was six months; this has been increased to seven years under the new legislation. It is also a serious offence to pay for sex with a person under the age of 18, and this carries a maximum sentence of life imprisonment (Explanatory Guidance to the Sexual Offences (NI) Order 2008).

The Policing and Crime Act 2009 inserts a new section into the Sexual Offences Act 2003 which “grants the courts the power to close, on a temporary basis, premises being used for activities related to certain sexual offences”. Such premises can be closed for up to three months (Office of Public Sector Information).

The Sexual Offences Act (2003) includes laws against trafficking into the UK for sexual exploitation, trafficking out of the UK for sexual exploitation and trafficking within the UK for sexual exploitation. The maximum sentence for these offences is 14 years.

Recorded offences relating to prostitution

PSNI Central Statistics confirmed that between 1 April 2005 and 30 September 2010, PSNI recorded 18 offences involving exercising control over a prostitute, controlling prostitution for gain and paying for the sexual services of a child. In addition, between 1 April 2005 and 30 September 2010 seven offences were recorded involving trafficking for sexual exploitation (figures for the year 2010/11 are provisional and subject to change).

These low figures suggest that perpetrators of such crimes are hard to detect. Turner (2008) argues that “organisers of this vile trade know that the prospects of being caught and convicted are almost zero”. A PSNI officer in 2010 confirmed that arrests are low for trafficking offences because there are various problems including international jurisdiction, victim cooperation and victim identification. To bring charges and obtain convictions against traffickers, the police need evidence and witnesses who are willing to testify in Court. Unfortunately, many of the women recovered choose not to testify and once rescued they simply decide to go home to their families; in other cases witnesses abscond.

There are no figures showing how often a woman involved in prostitution is taken into custody. In many cases if they receive a

custodial sentence it is not for “prostitution” but for another offence, and they may be reluctant to indicate their involvement in prostitution for the fear of being “labelled”. For example, NOMS suggests that the majority of women involved in prostitution who go to prison will be there for drug offences, and that prison staff are unlikely to know that the women have been involved in prostitution. As a result they will receive no support in prison to help them to exit the trade. It is crucial that prison staff be made aware that prostitution can be a hidden problem among the women in their care and given appropriate training to respond to their particular needs.

In Surrey, an NHS Outreach worker runs sessions in the local prison for female sex workers. These sessions are advertised around the prison as, “an information and education course for anyone who has worked in the sex industry”. This helps to reach the women involved in prostitution who are hidden behind other convictions, most likely relating to drugs.

It is likely that some women in prison in Northern Ireland will have been involved in prostitution but this may not be immediately obvious from their prison records. The programme in Surrey could provide a model of best practice in supporting women in prison who have been involved in prostitution in Northern Ireland.

Human trafficking in Northern Ireland

PSNI identified 25 potential victims of human trafficking in 2009/10; five were identified for forced labour, 17 for sexual exploitation, one for domestic servitude and the remaining two victims absconded prior to being interviewed (Organised Crime Task Force, 2011). Research indicates that Northern Ireland is a destination country as well as a transit country for victims of human trafficking for sexual exploitation (Northern Ireland Human Rights Commission and the Equality Commission, 2009). It is common for these victims to be moved across the border from Northern Ireland to the Republic of Ireland and back. Many of the women who have been trafficked into Northern Ireland and forced into prostitution were under the illusion that they would be working as nannies, seamstresses or hairdressers or that they would be receiving an education (UTV News, 2009). These women, who are believed to be predominantly Chinese or from Africa or South America, are commonly subjected to violence and threats (BBC News Wales, 2010; *News Letter*, 2009).

Human trafficking across jurisdictions

At the Joint Committee on Human Rights, Examination of Witnesses, May 2006, Rebecca Dudley, a volunteer with the Women's Aid Federation of Northern Ireland said that she had completed research on human trafficking and found that 'police sources have noted the ease with which the land border can be crossed within Ireland'. It is clear that women trafficked into the Republic of Ireland can easily be moved to Northern Ireland. There are also cases that highlight the links between Northern Ireland and England, Scotland and Wales in relation to human trafficking.

Women involved in non-trafficked prostitution in Northern Ireland

It is important to note that women involved in prostitution in Northern Ireland will not always be trafficked from other countries. Some may be Northern Ireland women who have got caught up in the sex industry because of problems that they have experienced in their lives. FRANKI, a group in Manchester that works with women involved in prostitution, has noted the lack of attention and sympathy for non-trafficked women involved in prostitution and has argued that: 'Because children, and to an extent, trafficked women are seen as prostitution's *real* victims, other adult women are automatically de-prioritised. So long as people can say "we're doing all we can to stamp out the *really* nasty side of the sex industry" meaning sex slavery and child abuse, they can ignore the ones they imagine must be choosing it' (Bindel and Kelly, 2003; emphasis in original). Internal trafficking can also take place where a woman who is a native of the country is sold and trafficked around Northern Ireland.

Support available in Northern Ireland for women involved in prostitution

There are six main projects, initiatives or organisations that provide support to women involved in prostitution in Northern Ireland (trafficked or otherwise).

- *The Police Service of Northern Ireland (PSNI)* is developing policies to address prostitution and human trafficking for sexual exploitation.

- *The Organised Crime Task Force Pilot Project* supports victims of human trafficking in Northern Ireland. This is funded by the Organised Crime Branch of the DoJ.
- *The Blue Blindfold Campaign* aims to raise awareness of human trafficking in Northern Ireland.
- *SEEDS* is a multicultural support agency for ethnic minorities and migrant workers based in Derry.
- *The Belfast Commercial Sex Workers Service* is a public health nurse-led service run by the Belfast Health & Social Care Trust and is the only dedicated service in Northern Ireland that provides support to those involved in prostitution in Northern Ireland.
- *Safe Choices Barnardos* is a service that works with children who go missing from care who have been sexually exploited.

Organisations such as Nexus Institute,⁵ Extern,⁶ the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)⁷ and Women's Centres also have the potential to be involved in providing support to women involved in prostitution.

Prostitution in England, Scotland, Wales and the Republic of Ireland

Research on women involved in prostitution, and their needs, is limited in Northern Ireland. However, substantial research has been conducted in England, Scotland, Wales and the Republic of Ireland. It suggests that women may become involved in prostitution for a variety of reasons. Some will become involved for financial reasons and to pay household expenses (The Home Office, 2004), while others enter prostitution to fund a drug dependency, often with the unfortunate consequence that the more money earned, the more their drug use escalates (Cox and Whitaker, 2008). Ruhama (www.ruhama.ie) suggests that some of the women it has worked with have used drugs to numb themselves so that they can do the work.

⁵ The Nexus Institute offers a therapeutic intervention to adult survivors of historical childhood sexual abuse and adult survivors of current sexual violence, including rape.

⁶ Extern works directly with children, adults and communities affected by social exclusion throughout Ireland.

⁷ NIACRO provides support to help offenders reintegrate into society.

A factually based drama produced by the BBC called *Five Daughters* told the story of five young women involved in prostitution in Ipswich who were murdered in 2006. This focused mainly on drug addiction, and the writer is quoted as stating that the women were 'drug addicts first and sex workers second. Prostitution was a means to an end, and the end was being able to feed their drug habit.' The mothers of three of the murdered women were interviewed by the BBC before the programme was made and all stated that prostitution was not a career choice and that their daughters had become involved simply because of their addiction to drugs. Women's Aid in Northern Ireland suggested that although drug use is an issue for many women involved in prostitution, it isn't usually an issue for trafficked women.

The Home Office (2004) notes that the first step in helping women involved in prostitution is to provide suitable drug treatment. After this issue has been addressed, the service providers can work to link the women to a range of other services such as health, education and employment. The Home Office also reported that up to 95% of those involved in street-based prostitution are addicted to heroin and/or cocaine, suggesting that initiatives to help them to break their drug habit will be instrumental in the success of any exit programmes.

According to the Home Office (2004), the link between prostitution and alcohol abuse must not be overlooked and recent research has shown that a high proportion of women involved in prostitution have binge-drinking problems and many have ended up in hospital.

Research also indicates that exiting prostitution is not an easy process and that women who do exit may re-enter at a later stage, depending on what is happening in their lives (Cox and Whitaker, 2008). Women trying to leave prostitution are often very poor and face barriers in gaining employment as they usually have low levels of educational attainment (Farley, 2003).

The majority of women involved in prostitution have experienced physical or sexual abuse before entering the trade and are subjected to violence while involved in prostitution (Zimmerman, 2006). These women are also likely to have experienced homelessness in their lives (Stewart, 2000). Research indicates that women involved in prostitution might find it difficult to trust a healthcare provider or anyone else offering support; many women won't disclose their involvement in prostitution due to a fear of being stigmatised (Parriott, 1994).

There are strong links between prostitution and domestic violence, where men and women control their partner and force them to work in prostitution (Harding and Hamilton, 2009). ‘There is evidence to show that there are shifting patterns in the way in which prostitution is operating. The trend is away from pimps controlling a number of women and towards “pimp/partner” relationships. In these circumstances the violence which pimps may use to control their partner is properly classed as domestic violence and those involved in prostitution should be afforded the same protection against the perpetrator as any other victim of domestic violence’ (The Home Office, 2004).

It is likely that women involved in prostitution will not report domestic violence that they experience in the ‘pimp–prostitute’ relationship, as they are frightened of the consequences or they believe that the police will not pay any attention to them (Scott, 2002).

O’Connor and Healy (2006) refer to the work of Barnardos, which identified four phases of entrapment into prostitution, as shown in Figure 1. Figure 2 illustrates the cycle of domestic abuse.

Figure 1. The cycle of entrapment into prostitution

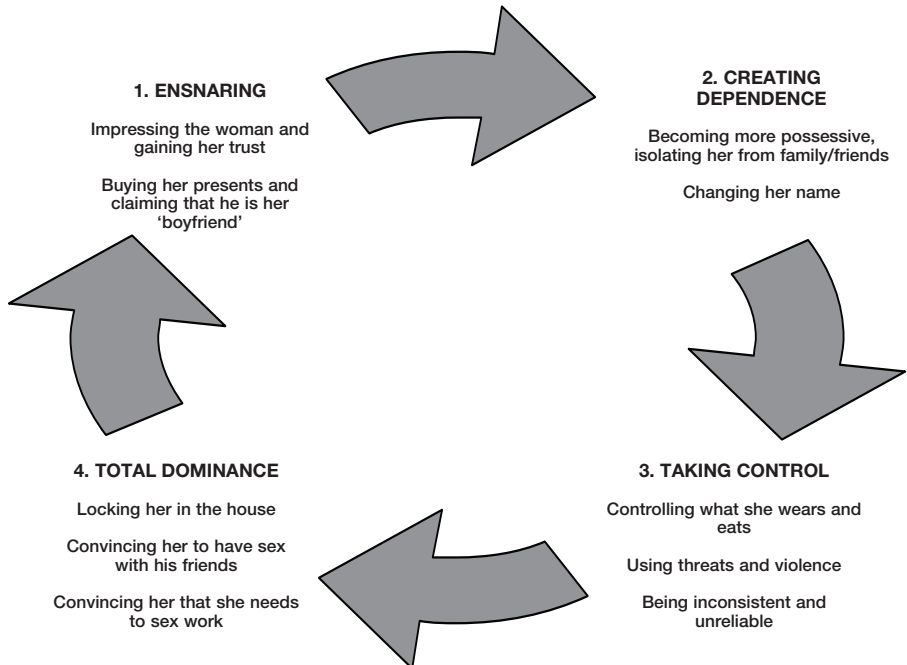
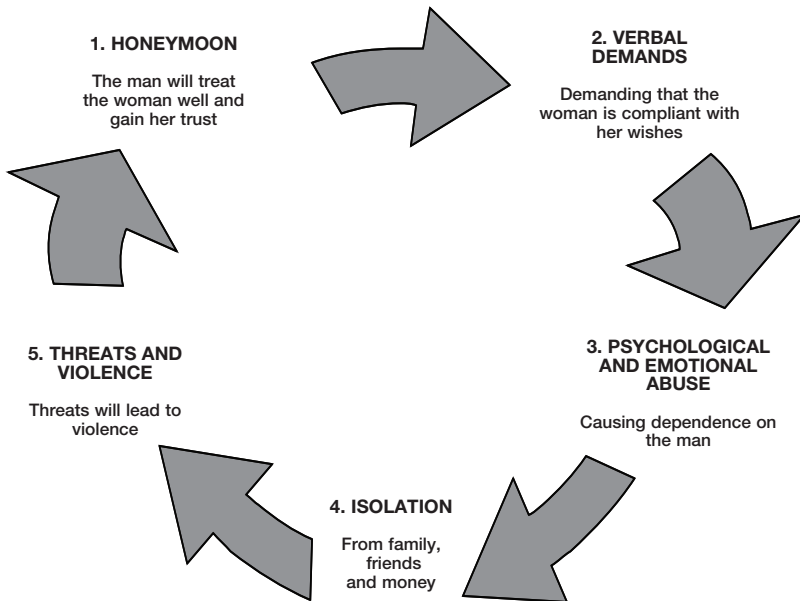


Figure 2. The cycle of domestic abuse (information accessed from NOMS)



Figures 1 and 2 highlight the distinct similarities between the phases of domestic abuse and the phases of entrapping a woman in prostitution. For example, the ‘honeymoon’ phase in the domestic abuse model is congruent with the ‘ensnaring’ phase of the entrapment into prostitution model. During the ‘honeymoon’ period the man will gain the woman’s trust through buying gifts and treating her well. The domestic abuse cycle and cycle of entrapment into prostitution both then move to the man making demands on the woman, isolating her from her friends and family and causing her to be totally dependent on him through psychological and emotional abuse. Both cycles eventually lead to threats and then violence and abuse. Staff from Extern and Ruhama have suggested that same-sex domestic violence is also an issue, where one woman will ‘pimp’ her female partner.

Overall, the similarities between domestic abuse and prostitution are clear, suggesting that any initiative to support women involved in prostitution should have input from experts in the field of domestic violence, and strategies on domestic violence should be consulted to enable a better understanding of its link to prostitution.

Best practice elsewhere

Prostitution appears to be less prevalent in Northern Ireland than in England, Scotland and Wales, where, proportionally, there are substantially more projects to support such women. Examples of projects researched include the Anawim Project in Birmingham, Routes Out/Base 75 in Glasgow, The Bradford Working Women's Service, The Safe Project (Birmingham) and Streetreach (Doncaster). These offer a drop-in centre, an outreach service or both. At present there is no project in Belfast providing an outreach service for women involved in prostitution, although a drop-in centre is available. The drop-in centre in Belfast operates from a sexual health perspective but also aims to deal with other health and life issues that clients experience. Referral pathways and signposting to other appropriate services are available for clients as required.

The provision of an outreach service in Northern Ireland would be useful in reaching those women who are afraid of attending a drop-in clinic or who are prevented from attending by whoever is controlling them. A Sex Workers in Custody and the Community (SWICC) training course, provided by the National Offender Management Service (NOMS), suggested that many women may not be aware that services are available in their community, again highlighting the need for outreach whereby a greater number of women can be alerted to the availability of services. Existing projects in Great Britain show that outreach can be run successfully, though caution needs to be exercised because it can be dangerous for staff or volunteers.

Through outreach and drop-in centres, the best-practice projects mentioned above offer support in housing, education, employment, accessing benefits, child care, drug use, and accessing social services. Child care is an important issue given that many of the women who attend projects such as Anawim are mothers. Therefore they may need help in caring for their children, especially if links with family and friends have broken down. Women who attend the Anawim Project stated that they feel that they are living double lives as their children don't know what they are doing. Consequently support to help the women deal with the emotional trauma of leading 'a double life' needs to be available.

The examples of best practice show that there is a focus on 'prevention', whereby the projects aim to stop women from entering prostitution in the first place. At present there are no projects or campaigns to divert women from entering prostitution in Northern

Ireland, suggesting that a focus on diversion or prevention needs to be developed to bring Northern Ireland in line with the examples of best practice from England, Scotland and Wales.

The projects mentioned above are targeted at harm reduction for women involved in prostitution, but also have a strong focus on helping women to 'exit' prostitution. Countries outside the UK also have projects that focus on harm reduction or exiting for women involved in prostitution, emphasising the need for both types of project in Northern Ireland. For example, in Sweden, social welfare projects take an exiting focus while charities focus on harm reduction, whereas in Spain there are three or four harm reduction projects and three or four exit projects. New Zealand has six harm reduction projects and six exiting projects and the Netherlands has harm reduction projects for those involved in prostitution in all major cities. However, there is a lack of exiting programmes in the Netherlands due to funding issues (Kelly *et al.*, 2010).

The Anawim project works in partnership with prisons and courts to provide support to women regardless of their stage in the criminal justice system. Anawim also has close links with the women's centres in Birmingham, to share expertise and provide women involved in prostitution in the community with the best possible support. In Northern Ireland a similar partnership approach is needed to ensure that a consistent service is offered to all women involved in prostitution. Support should not be restricted to those in the community; there also needs to be a focus on those who are in the criminal justice system, including those in custody or on probation.

In addition to the initiatives mentioned above, Safe Exit, a project that works to develop better services for people involved in prostitution in England, has developed a range of handbooks for women, men and young people involved in prostitution as well as people who have been trafficked into England for sexual exploitation. The handbook for women involved in prostitution contains the following sections.

- Staying safe: tips for women selling sex
- Sexual health
- Drugs and alcohol
- What services are available, e.g. drop-in and outreach
- What to do if you are the victim of a sexual assault or rape
- How to exit prostitution

- Useful websites
- General help lines

There are also a number of projects that provide support specifically for women who have been trafficked for sexual exploitation; for example, the Dignity Project in the Republic of Ireland, the Poppy Project in England, the TARA Project in Scotland and the Diogel Project in South Wales. Many key issues are dealt with by all the projects mentioned above, such as providing secure accommodation; healthcare services; counselling; and legal services. Such issues are also dealt with by the Organised Crime Task Force pilot initiative operating in Northern Ireland, suggesting that support available for women trafficked into Northern Ireland and forced into prostitution broadly conforms with best practice projects run in the Republic of Ireland and England, Scotland and Wales. This consistency of approach reflects standards set by the Council of Europe (2011). An evaluation of the Northern Ireland pilot, while identifying some areas for improvement, concluded that it met the standard set out in the Council of Europe's convention.

There are also a number of projects in England, Scotland and Wales that raise awareness, tackle negative stereotypes of women involved in prostitution and human trafficking and lobby for reform in the law. Projects such as Demand Change!, CROP and the Coalition Against Trafficking in Women all work to promote the issues that women involved in prostitution (trafficked or otherwise) face. These projects will reach out to the general public to help them to change negative stereotypes that they may have relating to women in prostitution as well as lobbying government to ensure that laws relating to prostitution are up to date and effective. In Northern Ireland the Blue Blindfold Campaign works to promote awareness of trafficking and the negative effects it has on the women involved and society in general.

There are currently no organisations working in Northern Ireland to address the issues faced by women involved in prostitution who are not trafficked. Such a campaign would be useful as it might help to change negative stereotypes and deter men in Northern Ireland from using women involved in prostitution. Kelly *et al.* (2010) feel that policy and law enforcement is not enough to protect women involved in prostitution and organisations dedicated to improving laws should work in unison with those who provide support services to empower the women and help them to exit.

Ruhama: Comprehensive example of best practice

Ruhama, a Dublin-based NGO that has been working with women affected by prostitution since the late 1980s, provides a comprehensive example of best practice that supports all women involved in prostitution (trafficked and not trafficked) and also raises awareness and tackles stereotypes of prostitution and human trafficking.

Ruhama's mission is threefold:

- to reach out to and provide support services to women affected by prostitution and other forms of commercial sexual exploitation (e.g. trafficking)
- based on individual need, to offer assistance and opportunities to explore alternatives to prostitution
- to work to change public attitudes, practices and policies that allow the exploitation of women through trafficking and prostitution.

Ruhama supports women currently involved in prostitution including those who have been trafficked, as well as those who have exited prostitution or are at risk of entering. Ruhama also works to publicise issues surrounding trafficking and prostitution and lobbies government to make the necessary changes for the good of the women involved in the trade.

Ruhama provides support through arranging appointment-based visits to its premises, and primarily through outreach. It makes direct contact with women working in prostitution through an outreach van which visits areas where street prostitution takes place. Ruhama also works in partnership with other agencies such as health and drug clinics, Courts, the Garda and prisons so that it can 'reach out' to a larger number of women involved in prostitution. After initial contact is made, outreach workers will agree to meet the women again to provide further support.

Ruhama realises that it is now harder to make direct contact with women on the street as many women work indoors, therefore it provides multilingual pages on its website to help women recognise that support is available and to access it. Although Ruhama has been operating for many years, it appreciates the importance of updating service to meet the changing needs of the market, and its multilingual contact pages reflect the fact that many women operating in the Irish sex trade cannot speak English. Ruhama has also developed multilingual leaflets, distributed to

GP surgeries and health centres to help them reach as many women affected by prostitution in the Republic of Ireland as possible.

Ruhama has a range of one-to-one programmes that focus on the women's personal development. Initially counselling is provided by fully trained and professional counsellors who help women identify their major concerns. Following this Ruhama provides training and education to help women find an alternative means of making money. The women can attend education classes at the Ruhama centre or Ruhama arranges for them to attend education and training classes in their local area. Education includes IT training, English classes to help those who cannot speak English, literacy classes and support for women who wish to obtain a degree. Many women that Ruhama has worked with have been able to enter mainstream employment.

Ruhama also provides support in areas such as housing, healthcare, legal issues, accessing benefits, budgeting and drug addiction and will act as an advocate on behalf of the women to enable them to access any services that they might require. If required it will accompany women when attending healthcare appointments or trying to access housing, as well as to any Court hearings. Through providing this seamless support Ruhama is able to build up a trusting relationship with the women, who will be more likely to avail readily of the support available.

Ruhama recognises that women who exit prostitution may be prone to return to it, and provides long-term aftercare support to those who have exited the trade, to help them integrate into society. While Ruhama encourages women to exit prostitution, it does not discriminate against those who continue in the profession, providing support to all women involved in prostitution. It is important to note that the majority of women with whom Ruhama works show a desire to leave prostitution but need help in doing so.

In addition to the direct services to women that Ruhama provides, it works to raise awareness of the issues that women involved in prostitution might face. This is done through TV campaigns that highlight the growing problem of human trafficking and the needs of women involved in prostitution, and through organising seminars to promote issues surrounding prostitution and trafficking. This action has helped Ruhama to highlight the social and political changes required to eliminate abuse through prostitution and human trafficking. Ruhama also networks with relevant Government Departments and agencies to lobby for better services for women involved in prostitution, and advocates for appropriate legislation and directives.

Potential model of support for Northern Ireland

Overall, the projects or initiatives mentioned above are examples of best practice that have worked effectively in other jurisdictions. From analysing the best practice examples from elsewhere, nine themes emerge.

1. *Support needs to be in place to stop women from entering prostitution in the first instance* (Ruhama in Dublin, Anawim in Birmingham, Potteries Housing Association Working Women's Project in Stoke-on-Trent, Pow! Support and Counselling Services in Nottingham, The Bradford Working Women's Service and Streetreach in Doncaster all work to divert women from becoming involved in prostitution.)
2. *Support needs to be provided to women currently involved in prostitution* (Ruhama, Routes Out/Base 75 in Glasgow, Anawim, the Magdalene Group in Norwich and Streetreach provide a range of support such as legal advice, education, sexual health, employment, health care, accessing benefits, accommodation, drug additions and child care.)
3. *A drop-in centre and outreach, as well as a helpline and website will enable women involved to access support more easily* (Anawim Project and Routes Out/Base 75 provide a drop-in centre and Potteries Housing Association Working Women's Project, the Safe Project in Birmingham and Street Girls in Blackburn provide outreach. The Magdalene Group, Pow! Support and Counselling Services and Ruhama provide a drop-in centre and outreach. Ruhama also has a helpline and a multilingual website.)
4. *Women who have been trafficked need specific support* (The Poppy Project in England, the TARA Project in Scotland and the Diogel Project in South Wales help trafficked women with translations, legal advice, counselling and accommodation services.)
5. *Support guides for women involved in prostitution and for professionals are useful engagement tools* (Safe Exit, a project that works to develop better services for people involved in prostitution in England, has developed a range of handbooks for women, men and young people involved in prostitution, the UKNSWP (UK network of sex work projects) provides a resource pack for those involved in prostitution which includes a directory of services, and Ruhama has developed multilingual leaflets that are distributed to GP surgeries and health centres.)

6. *A partnership approach needs to be adopted* (Anawim and Ruhama work with Courts, prisons, police and Probation to provide support to all women involved in prostitution.)
7. *Issues relating to prostitution and human trafficking need to be promoted and the public educated* (Demand Change!, CROP, the Coalition Against Trafficking in Women and Ruhama all work to promote the issues that women involved in prostitution, trafficked or otherwise, face.)
8. *Support needs to be in place to help women exit prostitution* (Ruhama, Anawim, Routes Out/Base 75, Pow! Support and Counselling Services in Nottingham and the Bradford Working Women's Service all help women to exit prostitution.)
9. *Links need to be maintained with women who have been able to exit prostitution* (Ruhama and the Safe Project provide long-term support to help those who have exited prostitution to avoid re-entering.)

A comprehensive model of support for women involved in prostitution in Northern Ireland might consider the nine themes outlined above. Work is already taking place in relation to some themes; for example, Theme 2 suggests that a drop-in centre should be available but this is already provided by the Belfast Commercial Sex Workers Service, and Theme 4 suggests that specific support for trafficked women is needed, but this is already provided by the OCTF pilot.

Conclusions

There is currently one drop-in centre in Northern Ireland which offers support to all women involved in prostitution, but outreach is not provided. The majority of projects in England, Scotland, Wales and the Republic of Ireland provide outreach services and an expansion of this type of support would be beneficial in Northern Ireland. Nonetheless, providing outreach carries risks, and outreach workers and volunteers need to exercise caution and be aware of the possible dangers.

Ensuring a consistent police response to prostitution and human trafficking in Northern Ireland could be key to reducing the problem. Policies are currently being developed by the PSNI to address this. It is important that the DoJ, PBNI and NIPS work with the PSNI on taking these policies forward.

In addition to a vigilant police force, the public need to be made aware that prostitution and human trafficking for sexual exploitation are occurring in Northern Ireland, and that the majority of these women need help to escape from or exit prostitution. Raising awareness and educating the public to identify indicators of human trafficking or prostitution will facilitate the PSNI in its investigations.

Way forward/next steps

The DoJ, PBNI and NIPS plan to hold a round-table discussion with organisations or individuals that work directly with women involved in prostitution, to identify how best to configure services to meet the needs of the women involved. A follow-up seminar might then be held bringing together all interested parties; and contacts from England, Scotland, Wales and the Republic of Ireland who work with women involved in prostitution will be invited so that we can learn from other jurisdictions and have a wider discussion on the issue.

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Organisations/individuals contacted

Northern Ireland

- **PSNI:** PSNI Central Statistics provided information on current offences relating to prostitution and statistics for these offences. Three PSNI Officers responsible for investigating prostitution and human trafficking in Northern Ireland, two based in Belfast and one in Derry, were interviewed. (A range of statements made by the PSNI in news reports are included throughout the paper.)
- **Northern Ireland Prison Service (NIPS):** NIPS staff working in the women's prison, Ash House (committal staff and staff working on the landings) were interviewed.
- **Probation Board Northern Ireland (PBNI):** A Probation Officer who works with women currently in Ash House was interviewed.
- **Department of Justice (DOJ) Public Protection Unit:** Staff from the Public Protection Unit of the Criminal Justice Development Division in the Department of Justice provided information on terminology in relation to prostitution and advice in relation to laws relating to prostitution in Northern Ireland.
- **Organised Crime Branch, Policing and Community Safety:** The Organised Crime Branch in the Department of Justice fund a pilot project to support victims of human trafficking in Northern Ireland. The Head of Organised Crime Branch and other members of staff within the branch provided information on this pilot project and on characteristics of human trafficking in Northern Ireland.
- **Belfast Commercial Sex Workers Service:** This is a public health nurse-led service run by the Belfast Health & Social Care Trust and is the only dedicated service in Northern Ireland that provides support to those involved in prostitution in Northern Ireland. Staff from this service gave information on the support that they provide to women involved in prostitution in Northern Ireland. They were also able to share knowledge on the scale, location and characteristics of prostitution in Northern Ireland. This knowledge was gained from working with women in prostitution for the past 10 years.

- **Barnardos Safe Choices (NI):** Staff from Barnardos Safe Choices (NI) provided information on the support that they provide to children in care who are susceptible to being sexually exploited. They also shared knowledge on sexual exploitation of young people in Northern Ireland and their pathway into adult prostitution.
- **Researcher investigating child exploitation in Northern Ireland on behalf on Barnardos:** This researcher was able to share information on the research being carried out into children who are sexually exploited in Northern Ireland, which had a degree of overlap with this research paper.
- **Nexus Institute:** The Nexus Institute offers a therapeutic intervention to adult survivors of historical childhood sexual abuse and adult survivors of current sexual violence, including rape. The Clinical Practice Manager of the Nexus Institute was interviewed and shared the organisation's knowledge of prostitution in Northern Ireland.
- **NIACRO:** NIACRO provides support to help offenders reintegrate into society. NIACRO staff were asked to share the experiences of working with women involved in prostitution in Northern Ireland.
- **Extern:** Extern works directly with children, adults and communities affected by social exclusion throughout Ireland. A programme manager provided information on working with women involved in prostitution in Northern Ireland.
- **Women's Aid:** The Area Management Co-ordinator of Foyle Women's Aid, Foyle Women's Aid Refuge Manager and Management Co-ordinator of Belfast and Lisburn Women's Aid provided a detailed description of the service they provide to victims of human trafficking in Northern Ireland.
- **SEEDS:** SEEDS is a multicultural support agency for ethnic minorities and migrant workers based in Derry. The Director of SEEDS provided information on the support they have giving to victims of human trafficking over the past five to six years.
- **Women's Community Support Project:** Members of the Women's Community Support Project (a Women's Support Network representative, a NIACRO representative and staff from the Falls, Shankill and Windsor Women's Centres) were interviewed and shared their knowledge of prostitution in Northern Ireland.
- **Department of Justice (DOJ) Statistics and Research Branch:** The DOJ Statistics and Research Branch provided statistics on

prosecution and conviction offences relating to prostitution in Northern Ireland.

- **NI Law Centre:** Staff from the NI Law Centre provided an overview of the support that they provide when representing victims of human trafficking in Northern Ireland.
- **UK Border Agency UKBA (regional offices):** Staff working for the UKBA in Northern Ireland provided an overview of the work that they do when a potential victim of human trafficking is identified.
- **Department of Health, Social Services and Public Safety (DHSSPS):** Staff from the DHSSPS provided information on the guidance that they are developing for working with individuals who have been trafficked.
- **Northern Ireland Human Rights Commission (NIHRC):** The Head of Legal Services, Policy and Research at the NIHRC provided information on the NIHRC's stance on human trafficking.
- **The Blue Blindfold Campaign launch:** The Blue Blindfold Campaign launch was attended on 23 February 2010. This campaign aims to raise awareness of human trafficking in Northern Ireland. Key speakers at the launch included Anna Lo MLA, Paul Goggins MP, an Assistant Chief Constable in the PSNI and Head of the UK Human Trafficking Centre.

Republic of Ireland

- **Ruhama:** Ruhama is a Dublin-based NGO that has been working with women affected by prostitution since the late 1980s. Staff from Ruhama provided information on the sex industry in the Republic of Ireland and the support that they provide.
- **Dignity Project:** The Dignity Project is a project of transnational partners who will study and document the good practice that is identified in each partner country in services to victims of trafficking. It will then look at how best to replicate such models at the local level. The coordinator of this project was interviewed and shared knowledge of prostitution and human trafficking in the Republic of Ireland.
- **Department of Justice, Equality and Law Reform:** The Department of Justice, Equality and Law Reform in the Republic of Ireland provided a range of research papers relating to prostitution and human trafficking.

England, Scotland and Wales

- **Home Office:** A number of staff from the Home Office provided advice on laws relating to prostitution and terminology. They also provided a range of research papers relating to prostitution in England, Scotland and Wales.
- **NOMS, Women's Team:** Staff from the NOMS Women's Team provided research papers relating to prostitution in England, Scotland and Wales.
- **West Yorkshire Probation:** Staff from West Yorkshire Probation provided further papers on research conducted in England.
- **Bradford Working Women's Service:** Staff from the Bradford Working Women's Service shared their knowledge on local support services.
- **Streetreach, Doncaster:** The manager of Streetreach provided an overview of the work they do to support women involved in prostitution. The project was one of the first in England and is seen nationally as a model of good practice.
- **Anawim Project, Birmingham:** Staff from the Anawim Project provided an overview of the service that they provide to support women involved in prostitution in Birmingham. Staff from the project also attended the Sex Workers in Custody and the Community training, which is described further below. At this event a DVD was shown in which women who attend the Anawim Project were interviewed.
- **Eaves Housing:** Staff from Eaves Housing provided a range of research papers relating to prostitution in England, Scotland and Wales.
- **Safe Exits Partnership:** This partnership develops better services for people in prostitution and reduces the impact of prostitution on communities. Staff from the partnership provided research papers on prostitution.
- **HMPS 'Sex Workers in Custody and the Community' training** was attended in the NOMS Women's Team Office in Burton-upon-Trent.

The National Commission on Restorative Justice: A Review and Plan for Development

David O'Donovan*

Abstract: The National Commission on Restorative Justice operated from 2007 to 2009, with the final report being published in December 2009. In this article the background to the setting up of the Commission is outlined, along with its terms of reference. A synopsis is given of its deliberations and resulting recommendations in the key areas: what restorative justice means, stages in the criminal justice system, criteria for application and preferred models, service delivery, national co-ordinating structure and legislation. An overview is given of proposals for implementation and national roll-out, including estimation of costs, projected offender participation, consequential recidivism and diversion from custodial sentences. Some concluding comments reflect on the place of restorative justice two years on.

Keywords: Restorative justice, Commission, Courts, victims, adult offenders, community, state, mediation, conferencing, reparation.

Background

Interest in restorative justice (RJ) began to 'take off' in Ireland in the second half of the 1990s. The National Crime Forum in its consultation on crime in Ireland heard presentations on RJ and referred to it favourably in its report (National Crime Forum, 1998). Early in 1999 approval was received for payment of grants through the Probation Service for two pilot RJ projects for adults, operated by local committees in conjunction with the Courts, at Nenagh, Co. Tipperary and Tallaght, Co. Dublin. In 2001 the Children Act became law, both putting the Garda Juvenile Diversion Programme¹ on a statutory footing and

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¹ Sections 17–51 of the Children Act 2001.

mandating the Probation Service to organise family conferencing for under-18s at the Courts' request.²

In 2006, the Oireachtas (Irish Parliament) Joint Committee on Justice, Equality, Defence and Women's Rights decided to examine the potential benefits of RJ methods in Ireland. A day of oral hearings was held on 18 October 2006, at which the Committee heard submissions from the two pilot projects, the Secretary-General of the Department of Justice, and senior management in the Probation Service and An Garda Síochána.

The Joint Committee's Report, launched on 3 January 2007 (Oireachtas, 2007), contained 10 recommendations, proposing that RJ be developed as a more regular feature of the Irish criminal justice system and that existing RJ programmes be supported. It argued that increased funding for RJ be viewed as an investment in more progressive methods of dealing with the effects of crime, that members of the judiciary be made more aware of RJ programmes and engage with the services that had been established, and that RJ practice for adult offenders be provided for in legislation. This report garnered cross-party support in the Oireachtas and is an important political reference point. The consensus it articulated on the merits of RJ as an option for the criminal justice system created a momentum for development.

In its presentation to the Committee, the Probation Service argued that expansion of the existing pilots on its own was not the only approach. 'It has been suggested to the Minister and his Department that they commission a working group to review RJ models both in Ireland and internationally and generate proposals for development. A cross-sectoral group, incorporating practitioners, managers and academics should help to build confidence in RJ as the basis for viable community sanctions' (Oireachtas, 2007, p. 42). The Committee endorsed this suggestion and recommended that such a group be created 'to develop a national strategy for RJ that is based on international best practice'. In its view, the group would explore the various approaches to RJ, assess the impacts of specific practices on the parties involved and the added value they might bring to the criminal justice system, and so develop a blueprint for the national roll-out of RJ services that would best suit the Irish culture and have the optimum chance of success.

² Sections 78–87 of the Children Act 2001.

Setting up of the Commission

One hundred years – to the very month – after the passage into law of the Probation of Offenders Act, 1907, the Minister for Justice, Equality and Law Reform, Michael McDowell TD, announced the establishment of the National Commission on Restorative Justice on 11 March 2007. The Minister highlighted the victim and community focus of RJ and how this approach requires the person who committed the crime to face up to the harm done and to repair or make good the damage caused. The Minister was anxious to see how the concept could be expanded in Ireland with appropriate structures and a sound funding base (Department of Justice, Equality and Law Reform (DJELR), 2007).

The Commission was chaired by a Judge of the District Court with members drawn from senior management in the principal criminal justice agencies involved – the Probation Service, the Courts Service, An Garda Síochána and the Director of Public Prosecutions. In addition, there were two ‘lay’ members, one a member of Seanad Éireann and one an experienced employer (DJELR, 2007). The Commission was also supported in its work by a small secretariat of five persons.

The full terms of reference are quite detailed and comprehensive, but can be paraphrased as follows. The core goal of the Commission was to explore the use of RJ with regard to persons brought before the Courts on criminal charges and to make recommendations as to its potential wider application in this jurisdiction. To this end, the Commission was tasked to review:

- the existing models of RJ in this jurisdiction
- contemporary RJ developments in other jurisdictions
- the evaluation, in terms of research-based evidence, of the effectiveness of RJ models, as against other court disposals, from six specified perspectives.

As befits a National Commission, it was required to seek the views of relevant bodies, interest groups and individuals. It was particularly mandated to consider the recommendations in the Joint Oireachtas Committee’s Report on RJ.

Then, in the light of all the above, the Commission was tasked to consider whether RJ models should be further developed in Ireland at a national level. If it concluded that they should, the Commission was to spell out:

- which model or models would be most appropriate and cost-effective
- whether these models should be put on a statutory basis
- the range of offences and Courts to which RJ would be applicable
- the role of the Courts, Probation Service and other key bodies.

Finally, in terms of outcomes, the Commission was to estimate:

- the number of offenders likely to be dealt with by a nationwide system of RJ and the costs per annum
- the number of offenders likely to be diverted from a custodial sentence (DJELR, 2007).

So, in effect the Commission was to put flesh on the bones of the Joint Oireachtas Committee's recommendations, to do the research, evaluate the pros and cons and come up with a clear practical scheme of how these proposals might work.

An interim report was required within six months, with a final report to be submitted within a year.

Work of the Commission

With the release of some members and staff from other duties, the National Commission on Restorative Justice became fully operational in August 2007. Following a public notice in the national press, 26 submissions were received from the public, of which six were supplemented by presentations at meetings of the Commission.

In view of the prominence given to research-based evidence and evaluations of effectiveness in the terms of reference, published studies of the operation of RJ schemes in a variety of different jurisdictions were sourced and examined (Shapland *et al.*, 2004, 2006, 2007, 2008; Sherman and Strang, 2008). In addition, to inform the choice of appropriate and cost-effective applications for this jurisdiction, a special report was commissioned to review and appraise research-based evidence from abroad. The latter study, undertaken by academics from Durham University, was particularly comprehensive, helpful and informative (O'Mahony and Doak, 2008). Two chapters in the final report detail RJ developments in other jurisdictions, based on this material (DJELR, 2009a).

The Commission was also mindful of the legal principles and operational guidelines contained in a number of international instruments.

- *European Union*: Council Framework Decision on the standing of victims in criminal proceedings, especially section 10 (European Union, 2001).
- *United Nations*: Economic and Social Council Resolutions 2000/14 and 2002/12 (United Nations, 2000, 2002). *Handbook on Restorative Justice Programmes* (United Nations, 2006).
- *Council of Europe*: Recommendation No. R (99) 19, Mediation in Penal Matters (Council of Europe, 1999).

Members of the Commission visited the pilot projects and were facilitated in seeing the work of restorative justice at first hand. Detailed consultations were held with the Probation Service and other agencies, relevant conferences were attended and opportunities taken to meet and discuss issues with a number of experts from abroad who were visiting Ireland. The Chairperson also exchanged views with colleagues in the judiciary. As part of finding out the public's perspectives and opinions, five regional consultative workshops were organised during summer 2008, while meetings were also organised to ascertain the views of experts and practitioners in the criminal justice area. Case studies were shared by practitioners and some of these were included in the final report (DJELR, 2009a), to better illustrate what RJ would achieve.

An interim report was furnished to the Minister in March 2008, with five interim recommendations, and was published in May (DJELR, 2008). The final report of the Commission (DJELR, 2009a) was forwarded in July 2009 and published by the Minister in December 2009. The final report is over 130 pages in length and contains 65 recommendations addressing all the Terms of Reference.

Conclusions and recommendations

The following is a summary of the core areas of deliberation of the National Commission on Restorative Justice.

(A) The Commission's understanding of RJ

Reflecting on the diversity of applications and analyses around the world, the Commission sought to consider both process and outcome in an Irish context and arrived at the following definition:

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.

A stakeholder analysis identified four key players in RJ, as follows.

- *Victims* are directly involved in RJ; where their needs are met and concerns addressed in the process, there is strong evidence of their satisfaction.
- *Offenders*, where guilt is admitted, can go on to understand the consequences of the crime, understand and assume responsibility for how their actions have affected the victim and others, and begin to address the factors that led to their behaviour. So participation in RJ affords an opportunity to become reconciled with the victim and to resolve to avoid further offending. There may be a belief that RJ is a soft option for offenders, but the Commission found that research consistently suggests otherwise, as the direct contact between the parties makes it difficult for offenders to hide behind excuses when faced with the consequences of their actions. Facing the victim is often a challenging and emotional experience, in contrast to the traditional court process.³
- *Local communities* can help identify needs and support efforts to change behaviour by participation in local services and programmes. Community disapproval of criminal actions can lead to remorse, reparation and commitment to avoid reoffending (re-integrative shaming).

³ In his address at the launch of the Commission (11 March 2007), the Minister for Justice, Equality and Law Reform, Michael McDowell TD, articulated similar views: 'People have sometimes argued that Restorative Justice is a soft option – I don't agree. It's not appropriate in every circumstance but a system that results in the offender facing up to the consequences in person of what he or she has done and making amends can be extremely challenging, sometimes much more difficult than being processed through the court system. It challenges attitudes and behaviour and can change lives.'

- *The State* is primarily responsible for providing the structures and options for responding to crime, and funds the criminal justice agencies. So it is best placed to initiate and regulate the RJ process. If RJ is to become an effective option in the Irish criminal justice system, it may require a suitable legislative context, as well as the resources necessary to ensure effective delivery to standards consistent with the complex and sensitive considerations involved.

Where an RJ process costs less than other sanctions, there is a considerable dividend to the State. If an offender does not reoffend, savings arise not just to the criminal justice system, but also from the absence of injury and harm to victims and the community.

In comparison with conventional offender sanctions, RJ offers increased levels of participation and positive involvement in the delivery of justice, hence promotes a more democratic engagement with criminal justice. The role of the State therefore should extend to ensuring that victims' issues can be resolved within the criminal justice system through legally sanctioned processes of conflict resolution. The Commission clearly did not see RJ as an alternative to or replacement for the conventional court processes but as an enhancement and extension to them.

It has been held in Irish courts that the public interest is served 'not merely by punishing the offender and showing a deterrent to others, but also by offering a compelling inducement and an opportunity to the offender to reform'.⁴ The Commission concluded that it is very much in the public interest to ensure that victims of crime are given the opportunity to confront issues arising from the crime and if possible to receive restitution. Where offenders take responsibility for their criminal acts, accepting the consequences in terms of sanction, and where the process both addresses the harm done and engages the parties in helping to reduce reoffending, the public interest is also well served.

Arising from all of the above, the Commission was satisfied that RJ is an invaluable cost-effective option for the Irish criminal justice.

(B) Stages of the criminal justice system

RJ can be delivered at any one of four points of progression through the criminal justice system:

⁴ State (Stanbridge) v. Mahon, per Gannon J. (1979) IR 214, following *The People (A.G.) v. O'Driscoll* (1972), per Walsh J. (I Frewen 343).

- *pre-charge*, i.e. diversion from court, e.g. Garda National Diversion Programme
- *pre-conviction*, i.e. diversion during a case before court, but before a finding of guilt, e.g. Family Conferencing operated by the Probation Service
- *pre-sanction*, i.e. after a finding of guilt but before a sanction is determined
- *post-sentence*, i.e. during or after a custodial sentence served in a prison or a place of detention.

The Commission's terms of reference specifically focus on 'persons brought before the courts on criminal charges', so it determined that priority be given to wider application of RJ by means of court referral at pre-sanction stage. The Joint Oireachtas Committee urged the expansion of RJ to adult offenders given that juvenile arrangements are already in place in statute and on the ground, but nothing comparable other than the two pilot schemes exists at adult level. The Commission shared this view. When court referral arrangements for adults have been put in place on a nationwide basis, adults might also be referred, in the light of this experience, to an RJ process other than by the courts.

(C) Criteria for application of RJ

Offences. The Commission did not deem it necessary to adopt a definitive range of offences that could ground a reference to RJ. So no specific offences would be ruled out, apart from very serious crimes where custodial sentences are normal, such as murder and rape. Initially, cases should be eligible for referral where a court is considering custodial sentences of up to three years, with the exception however during the initial phases of implementation of certain serious offences such as domestic violence and sexual assaults, pending the further development of good practice and growth of public confidence in RJ. The Terms of Reference emphasize diversion from custody. Targeting offences for which up to three years' custody is being considered would enhance the prospects of such diversion.

While giving priority to diversion from custody, however, the Commission considered that the application of RJ was not dependent on its use in this way. The intrinsic value of the process to both victim and offender is well established and should not be underestimated. Therefore

courts should also be able to apply RJ options in appropriate non-custodial cases. The Commission warned however that only those cases before the courts where RJ will add value to the criminal justice system should be considered. There is little to be gained by applying a time- and resource-intensive RJ process where a fine or other less costly non-custodial sanction would be just as suitable.

Courts. RJ should be available in respect of persons guilty of criminal charges before the District and Circuit Courts.

Victims. It is essential that participation by the victim be voluntary. They must be fully informed of what the process involves and the greatest latitude possible should be extended to them to facilitate their participation. If a victim is unable or does not wish to participate, other means should be considered to effect a victim input, including where appropriate the participation of a suitable surrogate victim. This may be a family member of the victim, or someone who has previous victim experience of a similar offence, who can contribute effectively to the process. What is important is that the offender is given a clear insight into the impact of the crime and the harm suffered by the victim.

Victims should be clearly identifiable persons. Without a direct victim, such as in some public order crimes, offences may be suitable for inclusion where it is worth while or beneficial to the community, but in general the lack of an identifiable victim reduces the restorative potential of the process.

Offenders. A fundamental condition of eligibility for referral to RJ must be that the offenders accept responsibility for their criminal actions. The potential for reparation to a victim and rehabilitation of the offender are also key considerations in the selection of suitable cases for RJ. Offenders must be willing to engage actively with victims in a mutually respectful process, under supervision. They should be at significant risk of reoffending in particular circumstances, demonstrate a willingness to avoid further criminal activity and be assessed as having the capacity to take the steps necessary to achieve this. As well as first offenders, recidivists or repeat offenders should also be included, if they are deemed suitable for participation.

(D) Models of RJ

The Commission considered that there were three RJ models that warranted close consideration for Irish circumstances, namely:

- *victim-offender mediation* (face-to-face meeting between victim and offender)
- *restorative conferencing* (i.e. the Family Group Conferencing model, adapted to the needs of adult offenders)
- *reparation panels* (representatives of criminal justice agencies and of the local community meet face to face with offenders).

All three model options should be available to a Court, so that the nature of the offence, the circumstances of the case and above all the needs of the parties can guide the Court as to which might be most suitable. Since RJ is intrinsically a people-centred approach, this means consideration of victim needs (repair harm), offender needs (change behaviour) and community needs (prevent recurrence).

Both victim-offender mediation and restorative conferences involve victims and offenders, so are the Commission's preferred forms of RJ intervention. The Reparation Panel model, however, may be appropriate where a strong community engagement is desirable. Even then, however, every effort should be made to involve victims, where they are identified and agree to participate, albeit indirectly.

(E) Service delivery

The Commission concluded that the most cost-effective structure for providing RJ interventions in Ireland was the use of existing criminal justice agencies. The staff of these agencies already have experience and expertise in dealing with both victims and offenders. It did not favour following the example of other jurisdictions where a separate agency was created, to which staff would be seconded or 'poached' from existing services, particularly in the current economic climate.

Based on its involvement in family conferencing and with the pilot projects, the Probation Service should continue to be the lead agency in implementing any wider application of RJ for adults before the courts. Funding for RJ should continue to be provided through the Probation Service. It should co-ordinate available resources to best effect, including the provision of staff to facilitate the development of RJ interventions to the appropriate standards. The Commission considered it crucial that RJ operates to accepted standards, to ensure that offenders contribute effectively while protecting their rights to fair procedures. This concern for standards encompasses the need for accredited training of staff delivering RJ and the auditing of processes regarding the safeguards

being applied, the resources used and the outcomes achieved. The centrality of training and practice standards was highlighted to the Commission by workshop participants and experts consulted. As the lead agency, it was proposed that the Probation Service should establish the criteria and standards that need to be met, and be in a position to monitor the recruitment, training and performance of the staff and volunteers of non-governmental organisations engaged in restorative justice.

A notable feature of the Probation Service's RJ work with adults was the involvement of NGO staff and local volunteer panels. The Commission believed that there was merit in retaining access to this range of expertise, given its breadth of experience and flexibility of provision. The mix of criminal justice agencies, NGOs and local community sources encapsulated for the Commission a valuable combination of stakeholders in a collaborative criminal justice venture, from which all can benefit and to which all have a worthwhile contribution to make. Probation was tasked to ensure ongoing NGO and community involvement.

The interim report highlighted shortcomings in respect of data collection and evaluation. Both the Probation Service and the Garda Síochána, as lead agencies responsible for the delivery of programmes and accountable for the resources employed, must prioritise the acquisition of what data are needed to ensure ongoing value for money. Funding made available to NGOs or voluntary bodies should be conditional on the recording and return of required data. Ongoing internal reviews must be put in place, together with periodic independent external evaluation as an integral element of RJ provision.

(F) Co-ordinating structure

The Commission was strongly of the view that a multi-agency approach is needed if RJ is to be implemented successfully on a wider basis in Ireland. This requires close co-operation between criminal justice agencies as well as the relevant health, education, employment, training and welfare services, and allied community-based groups.

To ensure co-ordination in planning, delivery and evaluation, the Commission recommended that a National Restorative Justice Committee be established, independently chaired and representative of the key interests involved. Its membership should include sufficiently senior level representatives from criminal justice agencies to bring about

meaningful oversight, focus and cohesiveness of RJ inputs. Consideration should also be given to including representatives from the legal professions and RJ providers.

Judges have a key role in the application of RJ, so appropriate liaison should be maintained with the judiciary. It was recommended that the Committee should consult with the Presidents of the relevant Courts, to brief them on developments and so that the observations of judges from their experience of RJ can be taken into consideration. It was proposed that the Committee would meet at least four times a year, be supported by the relevant policy division in the Department, and should report annually to the Minister for Justice, Equality and Law Reform. The work of the Committee would be to advise on the:

- establishment of new venues and the selection of authorised service providers
- recruitment and training of workers and volunteers with the service providers
- standards of training and service delivery.

The Committee would also oversee the ongoing monitoring and evaluations of RJ interventions, which in time should provide robust information on value for money of different models and projects.

(G) Legislation

The importance of a formal structure was a theme repeatedly encountered by the Commission in its regional consultations. Victims and community representatives felt that RJ programmes should have a firm base in statute, to accord them the status of legitimacy that could not be achieved otherwise. The clear experience of the pilot projects was that without a statutory base, difficulties can be encountered in securing a consistent flow of referrals. Voluntary schemes are dependent on the goodwill of court authorities. If personnel change or interest wanes, under-utilization results and an effective scheme can wither. This can undermine public confidence and the support that projects need to become sustainable options in the criminal justice system.

The Commission concluded that grounding RJ in statute would confer regularity on the process, and that legislation would provide a continuity of operation and consistency of application that would not be available from ad hoc arrangements.

- Courts could make referrals to RJ without fear of exceeding their authority.
- Each participant's role would be specified, safeguarding fundamental rights.
- A clear legal framework would be provided, specifying criteria for eligibility, referral procedures, stage of the process, type(s) of models or measures to be available, etc.
- Mechanisms for monitoring adherence to guiding principles and values of RJ might be laid out in statute, so that practices on the ground will reflect these principles and values.

Legislation could also make it mandatory to consider the use of RJ in particular situations, so that it will not become an option rarely availed of. The experience of many jurisdictions suggests that where mandatory consideration is not provided for in legislation, RJ often fails to be used or is used in an inconsistent manner. Judges would be obliged simply to consider its use; the decision to refer or not would still rest with the Court. In the Commission's view, the Court would be assisted by an assessment of suitability from the Probation Service, and consultations by Probation and the authorised service provider with the parties to the process to propose which model of RJ would best suit. This choice of model would have to be approved by the Court.

When courts apply RJ as sanctions for criminal offences, how RJ interlinks with the criminal law is critical because RJ becomes part of criminal procedure. With potentially coercive penalties as an alternative, RJ programmes must be recognised and overseen by official bodies. Legislation would specify the standing of RJ programmes, defining links with relevant parts of the criminal justice system. It would provide a framework so that programmes operate in a predictable and accountable manner, while ensuring that cases referred are appropriate and well targeted according to criteria laid down. Most of all, a statutory obligation to have RJ programmes available to all District and Circuit Courts necessarily predicates an appropriate level of provision throughout the State and so a secure funding base.

The Commission accordingly recommended that the wider application of RJ be given a statutory base. Some of the detailed guidelines (e.g. on training and process standards) could be specified in secondary legislation or in non-statutory codes of practice. Primary legislation should be enabling, with sufficient flexibility to allow for

adoption of different models. It could also allow for the later addition of new offences to the list of those eligible for an RJ process, as experience and resources allow.

(H) Potential numbers of Rj disposals

The Commission was tasked to come up with an estimate of the number of offenders likely to be dealt with in the event of a national roll-out of RJ. Attention has been drawn to the absence of research-based evidence on the outcomes of RJ inputs in Ireland, and the limited operations in just two District Court Districts of the non-statutory-based pilot schemes for adults. Estimates of the potential wider application across the State were prepared using Court data, but adopting cautious assumptions on the volume of cases likely to be referred and their outcomes. For these reasons, the Commission's projections are presented as a range between highest and lowest rather than a precise figure.

Using Court Service data for 2007, and assuming referral rates of from 5% to 10% of adults guilty of offences that could be eligible for RJ, it was estimated that from 5,000 to 10,000 cases might be referred annually. Based on Irish experience to date, 25% of these will be considered for mediation or conferencing and 75% for reparation panels. However, not all cases will be found suitable or will progress to an RJ outcome. Again, for mediation or conferencing, the percentage so progressing could be as low as 50%, while for reparation panel cases it could be as high as 80%.

In summary, the Commission estimated that between 3,625 and 7,250 cases a year could be satisfactorily dealt with by means of an RJ option. It would expect, however, that with greater experience, more expertise would be gained in the use of RJ and increasing legitimacy would be conferred on this response to crime. The results should be higher volumes of referrals, reflecting greater RJ usage by courts. It should also herald greater willingness by victims and offenders to participate in RJ. As they become more familiar and comfortable with the processes, the mix and completion rates of victim participation schemes and panel referrals may change. Hence the projections would need to be kept under close review.

(J) Costs, cost-effectiveness, reoffending

Such evidence as is available on these topics is from abroad, where the wide variety of models and delivery structures, disparate cost factors, and

different research approaches in a range of studies frustrated the Commission's capacity to make comparative assessments of cost-effectiveness within and between jurisdictions.

Firstly basic information on the costs and outcomes of the two pilot projects were garnered. The low numbers dealt with in Nenagh produced a cost per referral of €6,364. In Tallaght, with much higher numbers, and combining mediation and panel cases, the cost per referral worked out at €3,250. Costs were also looked at in youth RJ provision in Ireland, but measurement here was in terms of the duration of staff time per case. The Commission also looked at findings from research studies on costs associated with RJ in other jurisdictions. A four-year study of three schemes in the UK computed costs per case referred but also costs per case completed, where the variation was from £3,261 to £4,666 (Shapland *et al.*, 2004, 2006, 2007, 2008; Sherman and Strang, 2008).

The costs and cost-effectiveness of RJ should not be considered apart from other sanctions that might have been imposed. Without getting into a complex analysis to try to compare like with like, the Commission noted that the average annual cost of keeping an offender in custody in 2007 was €97,700, while the 2007 estimated costs of probation intervention ranged from €2,025 per Community Service Order to just over €8,000 per Probation Order.

The Commission concluded that the diverse sources of data on costs proved difficult to harness for comparative analysis. However, it is clear that RJ interventions are among the least expensive sanctions in the criminal justice system. So RJ represents a better value for money option in appropriate cases. The challenge therefore is to ensure that RJ resources are not deployed in inappropriate cases, where there is little likelihood of a suitable outcome or where a less costly disposal could have been effectively deployed.

In research studies (O'Mahony and Doak, 2008) around the world, the commonest measure of effectiveness against which RJ is assessed is recorded reoffending, usually within two years of completion of the process. The same measure is applied to most studies of offenders at different stages of the system, or undergoing other sanctions. Caution must be exercised, however, as control groups may not be directly comparable or findings, even if positive, may not prove statistically significant, especially where samples researched are small, as is often the case with the early experience of new programmes. Above all, if there has been a recorded reduction in reoffending, to what extent was this due to

participation in the programme/experience of the sanction, apart from other desistance factors? Might the reduction have occurred for other reasons?

The Commission none the less was specifically tasked to review 'offenders and their recidivism' in different RJ models. Meta-analyses of multiple studies have found positive results. A 2007 appraisal of 36 studies (Shapland *et al.*, 2004, 2006, 2007, 2008; Sherman and Strang, 2008) found that the majority of RJ programmes had a positive effect on reducing reoffending, particularly in the case of violent offences. A 2008 UK study concluded that offenders who participated in RJ committed statistically significant fewer offences in the subsequent two years compared to offenders in control groups (Shapland *et al.*, 2004, 2006, 2007, 2008; Sherman and Strang, 2008). Across available studies, the balance of findings demonstrates that RJ measures are indeed effective at reducing reoffending. In the Commission's considered view, the benefits found in RJ processes abroad can be replicated here.

In addition, reoffending is not the only indication of the effectiveness of a criminal sanction: other intended outcomes must be evaluated. There is strong evidence from international studies that RJ is effective at meeting the needs of victims and at inducing offenders to accept responsibility for and acknowledge the harm done to victims. This impact on offenders is an indication of their willingness to change behaviour and avoid reoffending in the future.

(K) Diversion from custody

Given the lack of evidence-based research on the subject, any assessment of the number of offenders who could be dealt with by RJ instead of a custodial sentence must be tentative. Cautious assumptions were applied, this time to Prison Service data, which revealed 5,794 committals to custody in 2007 to serve sentences of less than three years. From this, it was estimated that 210 to 420 offenders could instead have been placed on an RJ programme by the court. Having regard to the duration that those sentenced actually spend in custody, it was projected that these levels of diversion would free up between 42 and 85 prison spaces per annum.

Applying this to the average annual cost of a prison space (€97,700 in 2007), notional prison cost savings would arise in the range of €4.1 million to €8.3 million a year, before offsetting the cost of providing nationwide RJ interventions. The prison spaces freed up may well be

instead used to increase the average duration in custody of more serious offenders, serving longer sentences. Nevertheless, more offenders would be effectively managed in the community, and better value for money would be obtained from escalating penal expenditure.

In addition, regard must be had to significant savings that would arise from reduced reoffending, as well as the considerable benefits to be derived for victims and the community from offenders addressing the harm caused by crime rather than just spending unproductive periods in custody.

(L) Implementation and national roll-out

The Commission strongly believed that the wider application of RJ for adults in Ireland needed to be progressed as a matter of priority.

The current projects were each to be developed within their current resource capacity. Expansion nationwide of the two projects was not suggested; rather they were to be put on an improved footing, with more and more serious offenders being referred, and the range of RJ models available being increased. The Probation Service was also to review the management of existing resources to ensure more cost-effective results, and work with the projects to bring about better continuity in caseload levels.

To test RJ responses in other parts of the State and the application of the three recommended RJ models in a range of situations, the Commission recommended the provision of RJ programmes in at least six new venues by 2013. Suggested criteria for selecting locations were:

- adequacy of population served
- appropriate range and frequency of offences dealt with in the local Court
- potential for active community engagement with the project.

The provision of programmes at the new venues would be subject to detailed ongoing monitoring leading to a more effective evaluation of benefits to the stakeholders.

The Commission also urged that early consideration be given to placing RJ for adults on a statutory footing. The preparation of the legislation should proceed in parallel with the introduction of new venues, where programmes would initially be offered on a non-statutory basis.

The goal set by the Commission was to have nationwide implementation by 2015 at the latest. It considered that this gave adequate time for the relevant authorities and agencies to have the requisite resources allocated and effectiveness appropriately tested. As noted above, information on costs available to the Commission was too varied to support a reliable estimate for the national roll-out with the projected level of cases. When RJ has been implemented at the additional venues, then costs can be more accurately assessed. In the meantime, the Commission recommended that the Department, in consultation with the relevant agencies, should immediately review expenditure commitments for 2011 to 2014, to source funding for the additional venues. However, since the potential benefits of RJ, especially reduction in reoffending and diversion from custodial sentences, apply across the wider criminal justice system, the Commission recommended that reallocation of funding should not come exclusively from the Probation Service.

Finally, the Commission emphasized the importance of ongoing monitoring of resource use, outcomes and effectiveness across all venues. Apart from costs, it should also provide feedback on the involvement of victims, offenders and others and the level of compliance with agreements and action plans. Building on this monitoring, the Probation Service should arrange for an independent expert evaluation of all venues before the end of 2013. This evaluation should include a suitable costing model for the national roll-out, to assist the Department in assessing the additional resources needed.

Two years later

The final report was completed in mid-2009. Since then, economic constraints have increased and in the light of significant reductions in Government expenditure, it seems unlikely that there will be much scope for new spending initiatives. So the timescale envisaged by the Commission will likely be delayed by three years at least, but this is not to suggest that planning and preparation cannot proceed in the interim.

In Dáil Éireann on 25 November 2010 the Minister for Justice, Equality and Law Reform, Dermot Ahern TD, announced 'a scheme ... to test a range of restorative interventions for adult offenders based on the recommendations contained in the report'. He went on to say: 'The objective of the scheme is to build the foundation for the implementation

of a robust restorative justice model of practice providing an alternative to a prison sentence of less than 12 months' duration'. The Probation Service was given responsibility to monitor, oversee, and evaluate the implementation of a restorative justice scheme and to report on the effectiveness and value for money of the model after a 12-month operational period (Dáil Éireann, 2010). In practice this pilot initiative comprises the expansion of Restorative Justice Services Tallaght to most of the Dublin District Court area and the extension of the work of Nenagh Reparation Project to include the District Court in Limerick city. The evaluation and report are anticipated in 2012.

The bulk of the Commission's other deliberations still stand, particularly its examination of the value and concepts of RJ, the merits of different models, criteria for selection of RJ, delivery structures and the need for a legislative base. The survey of RJ in other jurisdictions would benefit from updating in due course as new developments and research studies are reported. The projections made by the Commission of intended outcomes (numbers, costs, diversion from custody) were based on 2007. These will need to be updated, using the same methodology but utilising more specific costs from reduced budgets of agencies and organisations.

The Ministerial welcome and endorsement at the time of the launch of the Commission's final report was a most important step in recognising that 'Restorative Justice serves as a real alternative to locking offenders up, reduces reoffending and allows victims a sense that they are at the centre of the justice system' (DJELR, 2009b).

The implementation of the pilot scheme is a significant indication of willingness to initiate a development agenda for restorative justice as part of the Irish criminal justice system. It is also an acknowledgement of the work of the National Commission on Restorative Justice and its recommendations. Restorative justice clearly has a future in Ireland. However, much work remains to be done in defining the most appropriate place and role.

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Perceptions of Restorative Justice in Ireland: The Challenges of the Way Forward

Shane McCarthy*

Summary: The understanding of restorative justice (RJ) among legal practitioners in the modern Irish criminal justice system is explored, beginning with a definition of the meaning of RJ, its relevance among current legal practitioners and its prevalence in Ireland. The outcomes from a brief survey on RJ among legal practitioners are reviewed. This paper considers the potential of RJ in the mainstream criminal justice system and concludes by offering suggestions as to how RJ might be incorporated and developed.

Keywords: Restorative justice, Ireland, Courts, sentencing, offenders, crime, prison, victims, reparation, victim-offender mediation, Nenagh Reparation Project, RJS Tallaght.

Introduction

With Irish prisons apparently at full capacity and the number of prisoners on temporary release having increased from an average of 208 in 2008 to 885 this year to relieve pressure on places (Department of Justice and Equality (DJE), 2011), it appears that the Irish criminal justice system is straining at the seams. This has led to increased calls for reform of the entire system, including consideration of the use of custody by Courts, the availability of alternative community sanctions and, particularly, what best serves the interests of communities and victims.

Partly as a result of this crisis but also as a result of international developments, the concept of restorative justice (RJ) has attracted particular interest. This paper examines the definition of RJ and explores

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the extent of knowledge and understanding that key legal figures in the District Court have of RJ. Finally, it examines some of the issues and potential barriers in the introduction of a comprehensive RJ programme in Ireland and steps required to ensure the success of such an undertaking.

Firstly it is necessary to explore briefly what RJ is.

What is restorative justice?

Restorative justice as a concept is governed by key principles and is implemented across jurisdictions using processes and practices consistent with local legal and cultural frameworks. In Ireland it is therefore important to understand the context within which the debate on RJ is sited.

In March 2007 the Minister for Justice, Equality and Law Reform, Michael McDowell TD, announcing the appointment of a National Commission on Restorative Justice, said:

Restorative Justice is a victim and community oriented approach which requires the perpetrator to face up to the harm that he or she has caused and repair or make good the damage done. Restorative Justice puts the victim at the centre of the process. I want to see how it can be expanded in Ireland with appropriate structures and a sound funding base. (Department of Justice, Equality and Law Reform (DJELR), 2007)

The Commission in its final report (DJELR, 2009, p. 46), in considering how RJ might best suit an Irish context, agreed that the general principles of RJ included:

1. that crime is a violation
2. that this violation creates an obligation
3. that RJ can fulfil this obligation.

The Commission also agreed that programmes generally involved a process based on face-to-face interactions between victim, offender and the community (DJELR, 2009). The National Commission on Restorative Justice defined RJ as:

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 into society. (DJELR, 2009a)

On 17 December 2009 the Minister for Justice, Equality and Law Reform, Dermot Ahern TD, published the Final Report of the National Commission on Restorative Justice. Thanking the Commission, the Minister said:

We need to be responsive to the needs of victims and use the criminal justice resources effectively to provide protection, redress and rehabilitation ... The experience elsewhere and from the two pilot projects indicate that restorative justice serves as a real alternative to locking offenders up, reduces reoffending and allows victims a sense that they are at the centre of the justice system. (DJELR, 2009b)

In Dáil Éireann on 25 November 2010 the Minister announced ‘a scheme ... to test a range of restorative interventions for adult offenders based on the recommendations contained in the report’. He went on to say: ‘The objective of the scheme is to build the foundation for the implementation of a robust restorative justice model of practice providing an alternative to a prison sentence of less than 12 months’ duration’. The Probation Service was given responsibility to monitor, oversee and evaluate the implementation of an RJ scheme and to report on the effectiveness and value for money of the model after a 12-month operational period (Dáil Éireann, 2010).

The Minister has clearly indicated his Department’s interest in and commitment to a role for RJ in the Irish criminal justice system; so, what exactly do people – and, in particular, practitioners in criminal law work – know about RJ?

What do legal practitioners in a District Court know about restorative justice?

During 2010 I conducted a limited interview-based survey among 12 defence solicitors representing defendants in criminal law proceedings at a District Court in a provincial town. The survey was designed to measure knowledge and understanding of the principles of RJ. In

addition I later interviewed an experienced District Judge using the same survey structure, and a solicitor experienced in RJ practice.

The first question enquired as to whether the solicitors knew what RJ entailed. The responses were extremely varied, ranging from a complete lack of awareness of the subject to people saying 'I have a vague idea – it is to do with compensation' to 'Yes, I have been involved in a case in which the principles of it were applied'. The most notable feature was that 75% of those questioned did not know what RJ involved.

It is significant that so many of these practitioners did not know about the basic concepts of RJ – a system that is established in other jurisdictions and is the subject of a recent National Commission Report, and is part of the Irish criminal justice system having been operated as pilot schemes by Nenagh Community Reparation Programme since June 1999 and Restorative Justice Services in Tallaght since 2000.

This gap in the knowledge of legal practitioners and possibly also among other key players and stakeholders within the Irish criminal justice system with regard to this entire area of law represents a major challenge in the effective establishment of a RJ system. It could be argued that, as in many professions, lack of knowledge and enthusiasm for a potential development is influenced by a narrow focus on the status quo, and a disinclination to consider change.

A further possible dampener of the appetite for change could be that criminal defence law, as currently structured, can be a lucrative area of practice and that change could threaten livelihoods. Self-interest is not limited to lawyers; it is a charge also frequently made against other professions, memorably by George Bernard Shaw when he wrote that 'All professions are conspiracies against the laity' (Shaw, 1906).

Responsibility for lack of progress in the expansion of the RJ in Ireland cannot be laid solely at the door of the legal profession. It is however logical that this current situation will endure until there is real momentum from the Government and associated incentives to carry through on the Minister's stated intention to expand this concept.

Victims

After identifying a lack of awareness of RJ among a sizeable majority of the solicitors interviewed, I proceeded to explain RJ as a process in which the offender and the victim can be brought together in a supervised, structured setting. I asked whether or not those practitioners thought

benefit could arise from such a meeting. The answers to this question revealed myriad considerations from 'One advantage is that the victim would know the outcome of the process. At the moment the victim can often not know the progress of their case' to the extremely upbeat 'Yes. I have first hand experience and I have seen it work. I found it unbelievably positive.' This positive approach was counterbalanced with the view 'Victims can be very vulnerable. Their consent would be vital' and also with negative sentiments such as 'I think it would be just a bad idea' and 'It would be lunacy, there would be murder.'

The answers to this question reveal a very interesting dichotomy of views. One of the principal aims of RJ is to empower victims to face the offender, highlight the hurt and injury the offender's behaviour has caused and seek answers. This is in contrast to the general criminal justice system, where it is usual for the victim to have little or no role in the process. Victims are reported to feel frequently that they have no say and to feel neglected as their role is reduced to that of a witness, at best. This is illustrated in the answer above, where it was stated that victims often are not even aware of the progress of their case through Court. The lack of input of the victim into the traditional criminal law process was seen in another answer when the respondent stated that 'Normally the victim doesn't get a word in edgeways in Court'.

One respondent pointed out a benefit of the RJ system: 'It would allow them information, for example why they were attacked etc.' This respondent identified a criticism of the current criminal justice system in Ireland in that the focus is very much on the offender.

In RJ the victim is in a position to seek explanations and assurances from the offender. The process may include an apology, which many victims greatly value, or it may allow the victim to receive some form of material and psychological reparation. A recent study reported that 89% of the victims who participated in an RJ system received an apology, compared to only 19% of the victims whose cases were dealt with in Court (Wright, 2010) Victims whose cases were dealt with under the RJ scheme were also found to be much more likely to feel that the apology was sincere (Wright, 2010, p. 27). Furthermore, in the same study it was found that the victims who had engaged in the RJ programme were much less likely to be fearful of being re-victimised: 10% of those who had been through an RJ programme feared re-victimisation, compared to 25% of those whose cases had been through the traditional criminal justice process (Graef, 2001, p. 30).

Analysis of 35 studies has found significantly higher levels of satisfaction among victim and offender participants with RJ than with other justice system alternatives (de Beus and Rodriguez, 2007). As an RJ process can be more satisfying to victims than retributive criminal justice, the introduction of an RJ system would be justified for that reason alone even if it made no difference to the reconviction rate.

Victim participation

A relevant point regarding the importance of the victim's consent was made by one respondent: 'Victims can be very vulnerable. Their consent would be vital.' This consent is not always forthcoming.

The Victim–Offender Mediation service operated by the Restorative Justice Service in Tallaght shows that of 51 referrals in the period 2004–2007, the completion rate was only 45%, largely as a result of the choice by victims not to engage in the process (DJELR, 2009a, p. 47). This reflects international experience and is a comparatively good participation rate in that context. In the Thames Valley police-led RJ scheme, only 16% of victims participated (O'Mahony and Doak, 2008). A similar scheme in Northern Ireland found that victims participated in only 20% of cases (O'Mahony and Doak, 2008).

In my interview with a District Court Judge I enquired why he felt there was such a low participation rate in these RJ schemes. He responded: 'I am not sure if I was a victim of an unprovoked assault that I would be terribly concerned about the offender, about where they are coming from and their disadvantaged background. I'm not sure I would even want to sit in the same room and say "There, there, let me hear your pain. Let me hear your tragedy and misfortunate background."' This comment reflects the views of many who simply choose not to participate in these programmes.

A positive feature in international RJ research is the benefit to victims (O'Mahony and Doak, 2008). Victims in some cases are not primarily concerned about money or even punishment and do welcome reassurance, explanation and reduction in the risk of re-victimisation, or of other victims in the future (O'Mahony and Doak, 2008). On occasion, victims use RJ to prompt the offender to make better use of his/her life and the notion of punishment is secondary to meeting the young person and receiving an explanation for their actions. A significant number of victims (79%) who participated in an RJ process attended because they wanted to help the young person (Wright, 2010).

Offenders

It is frequently stated that the RJ process is also more effective for the offender, who has the chance to tell his or her side of the story (DJELR, 2009a, p. 36). The impact of the offender telling his/her story and listening to the victim can be profound.

The RJ-experienced solicitor interviewed stressed that they were unable to recall a case where an offender came to the District Court on fresh charges having been through the RJ process (personal communication). It is noteworthy that, in my survey, the three solicitors with knowledge of the principles of RJ were three of the four respondents who were most prepared not to limit the RJ to minor crimes/offenders.

A radio programme broadcast from Mountjoy Prison a number of years ago (*Liveline*, RTÉ Radio 1) featured six victims of crime and six prisoners brought together to discuss and debate crime. Several of the prisoners admitted that the thought of their victims had never even crossed their minds as they committed their crimes. For them the show was the first occasion when they had been confronted directly by the people their crimes had hurt, and the first time they had heard about the cruel consequences of their behaviour. Equally, the victims saw the prisoners as individuals and were able to differentiate between their criminal behaviour and the normal human beings they were. The Governor of Mountjoy Prison said that he found the experience most revealing and that it showed the potential benefits of having direct communication between victims and offenders (Lonergan, 2010, p. 158).

Similarly, a study of an RJ programme in Northern Ireland found that 98% of young offenders who went through the programme felt that people had listened to what they had to say at the RJ conference (O'Mahony and Doak, 2008). It was also reported that most young offenders appeared to listen to the victim when they explained their perspective and the impact of the offence. This was also apparent through much of their body language. Moreover, 97% of the offenders accepted responsibility for their actions.

RJ programmes may be more successful at addressing low self-esteem, poor family bonding, and weak social attachments that often, for example, lead juveniles to participate in reckless behaviour (Sampson and Lamb, 1993). Face-to-face interaction with the victim and community members may lead to reduced recidivism (Braithwaite, 1989), while providing a structured forum where juveniles and family members can receive services and education regarding normative family function.

The recent White Paper on Crime consultations (DJELR, 2009c) revealed that submissions received from the public and others were generally in favour of more use of non-custodial sanctions. The absence of a hardline approach to the issue of sanctions by the public in the White Paper consultations is in direct contrast to the hysteria of the media in relation to “soft touch” sentencing. It was also said in the consultations that effective non-custodial sanctions could be more likely than imprisonment to achieve the aim of public protection, particularly for young or first-time offenders.

From my own experience I am aware of an instance in which the RJ process was effective in identifying issues for an offender in a case. Addiction and psychological issues were identified in the course of the RJ process and it was possible, arising from that meeting, to arrange appropriate treatment. If this matter had been dealt with on a plea basis in the local District Court these underlying problems would not have been addressed with the individual until a much later stage, with potentially more serious consequences.

Offences suitable for restorative justice

In concluding the survey I enquired of the respondents as to what type of offences they considered would appropriately be dealt with by an RJ system. Two-thirds replied that this system of justice should be limited to minor offences or public order offences. The other four respondents felt that RJ should apply to a very wide range of offences, including violence and sexual offences, depending on the offender.

One respondent expressed the view that RJ could be very valuable in crimes of violence, burglary, robbing with violence and even rape. This respondent felt that RJ would be most beneficial to the victim where there was a sense of being violated or their security being invaded in some way. This view was echoed by the District Court Judge’s view that RJ was best suited to cases where there was a clear victim; for example, a person who had been a victim of a personal assault or criminal damage.

Research has addressed the appropriateness of certain types of offender in RJ programmes (Latimer *et al.*, 2001). Findings from research on juvenile offenders in Arizona (de Beus and Rodriguez, 2007) indicated that property offenders were less likely to recidivate than similar offenders in the comparison group.

Restorative justice and change in offenders' behaviour

I enquired whether survey participants believed a system of RJ could cause offenders to change their behaviour. The answers reflected a disparity of opinion among practitioners; remarkably, some of those who had previously seen no merit in the concept of RJ identified some circumstances in which it might be successful in causing offenders to change their behaviour.

One respondent stated that in his view a lot of crimes were committed by persons when under the influence of drink or drugs. These people, in his opinion, when they are sober and confronted with the damage they have caused could be motivated to change. This comment is particularly relevant when one considers that alcohol consumption is a major factor in many cases processed by the Restorative Justice Services reparation panel programme in Tallaght: 85% of offenders there undertook some form of alcohol awareness programme arising from meeting with the reparation panel (DJELR, 2009a, p. 47). International studies have found that offenders who have participated in RJ programmes have a 12% lower recidivism rate than offenders who did not participate in such programmes (O'Mahony and Doak, 2008).

An alternative viewpoint was given by the District Court Judge interviewed, who felt that it was unrealistic to expect drinking alcoholics or persons addicted to hard drugs to engage fully in an RJ programme while they are still addicted.

Restorative justice in practice

25% of solicitors in the survey thought that bringing the offender and victim together in a supervised setting was a bad idea, stating that 'There would be war' and 'I think it would be just a bad idea'. This seemed to ignore the fact that in many Court cases, apart from criminal law but including family law and commercial disputes, the respective sides may meet. Mediation and arbitration meetings are seen as commonplace and are not significantly different from the principles of RJ. A further notable feature in the answers is that the three solicitors who had a pre-existing good knowledge of what RJ entailed all expressed positive views of the benefits of a process of RJ meetings between the parties.

In my interview with a District Court Judge I asked what he felt were the barriers to RJ being incorporated into the mainstream criminal

justice system in Ireland. In his view, District Court Judges are normally approximately 50 years of age and appointed to the bench with considerable life experience from legal practice, and a healthy dose of cynicism and scepticism for subjects such as RJ, which can be seen as ‘a tad woolly, namby-pamby, excessively liberal, genteel, well meaning but ineffective’. The Judge stated that there would need to be a great faith and confidence in the RJ procedure before Judges would send cases to such a scheme. In his view it is a ‘catch-22’ situation, as the only way Judges will get the necessary faith and confidence in RJ is by referring cases to it.

I enquired whether the Judge had received training in the principles of RJ in preparation for the possibility of presiding in Nenagh or Tullaght District Courts, where RJ is an option. I was informed that no such training was provided.

Use of restorative justice

Overall a positive approach was shared by most respondents to the prospect of offenders and victims being brought together in a managed RJ setting. The answers varied from the negative view that such meetings would make no difference to offenders to an expression that such an approach would be worth trying. Other respondents stated that it would be vital for both parties to be willing participants; one stressed that he felt that if the intervention was early enough it would have a good chance. All of the other respondents, including the three respondents with knowledge of RJ, stated that they felt it would work with certain offenders only and make no difference to others.

The District Court Judge in interview echoed the views of the majority of the practitioners, saying that there were some offenders for whom such a scheme would be a monumental waste of time but that RJ could be a fit for others.

Restorative justice in Ireland

Nenagh Community Reparation Project

This project, established in 1999, provides a Reparation Panel and is one of two adult RJ programmes currently operating in Ireland. It deals with:

- drug and alcohol abuse leading to violence and criminal damage

- assaults due to poor self-control or being under the influence of drugs or alcohol
- criminal damage arising from poor self-control or being under the influence of drugs or alcohol
- neighbourhood disputes (fracas) leading to violence and assault charges.

An evaluation was carried out in 2004 (Nenagh Community Reparation Project, 2004), with feedback from key stakeholders including the Judiciary, An Garda Síochána and solicitors. All the feedback received was positive. Eighty-four per cent of first-time offenders who participated in the project had not reoffended. In other research, juveniles who completed an RJ programme were less likely to reoffend than juveniles who did not (de Beus and Rodriguez, 2007).

Of the 105 cases dealt with by the Nenagh Community Reparation Programme between 1999 and 2007, contracts of reparation were completed in 86% of cases. Only one in four of these offenders was found to have reoffended in a review of PULSE records by Gardai in 2009 (DJELR, 2009a, p. 46). However caution is needed in applying data from the Irish experience of RJ, as the case volumes are not sufficiently large for robust statistical analysis and comparison. A further note of caution in terms of recidivism figures for participants in these schemes is that many are hand-picked as suitable candidates.

Restorative Justice Services Tallaght

RJS Tallaght operates two RJ models, the Victim–Offender Mediation Programme and the Reparation Panel, through which victims of crime and those who committed the offence can communicate with each other through a voluntary, safe, non-threatening, facilitated process. It provides an opportunity for individuals involved to address the damage and hurt caused by the offending behaviour.

Victims can seek an apology and/or some form of reparation from the offender. They can seek more information around the circumstance of the offence, which may assist them with closure. Offenders can demonstrate remorse for their actions by offering an apology and/or providing information to the victims regarding the offence. They also have an opportunity to hear how their behaviour has affected the victim.

In the period from 2004 to 2007, RJS received 51 Victim–Offender Mediation (VOM) referrals, of which two-thirds were progressed to a substantial level of engagement, resulting mostly in an agreed outcome. This involved the provision by offenders of written or verbal apologies, financial reparation or charitable donations (DJELR, 2010, p. 10).

The RJS reparation panel dealt with 89 cases in 2007, with 75 processed to completion. Two-thirds of offenders were between 18 and 25 years of age, and alcohol consumption was a notable factor in many cases. Over 95% of those referred were male. In 2007 RJS dealt with 81 referrals to the Offender Reparation Programme and 75 offenders successfully completed their contracts (DJELR, 2009a, p. 47).

The Reparation Panel was established to deal with cases including relatively serious offences of criminal damage, theft, assault and public order (DJELR, 2009a, p. 47). In practice, however, the situation is a little different. It appears that in almost all of the cases where the Reparation Panel was used offenders had pleaded guilty to public order offending of a summary nature and had no previous convictions (personal communication). This contrasts with RJ programmes in New Zealand which have accepted serious and persistent offenders successfully (Graef, 2001, p. 25). In fact, studies (de Beus and Rodriguez, 2007) have found that violent offenders in RJ programmes were less likely to recidivate than offenders in a control group.

The introduction of restorative justice: A challenge in practice

The Courts system as currently structured places a huge workload on District Court Judges. In 2010 District Courts dealt with 498,672 criminal offences and 252,782 offenders as well as a vast number of civil cases, family law cases and licensing matters, etc. (Courts Service of Ireland, 2010, pp. 62–64).

Some Judges deal with cases using only established legislation-based sanctions. It is therefore difficult, without clear underpinning legislation, for RJ initiatives to become established where the sitting Judge is not already familiar with and committed to RJ.

There is a considerable potential dividend to the State, as RJ programmes cost less than other sanctions – custody in particular. Detailed information on how this potential saving could be achieved is given in the report of the National Commission on Restorative Justice (DJELR, 2009a). I will not repeat it here, but the conclusion follows that

an RJ process, successfully implemented, can reduce trial costs and lead to a need for fewer expensive prison places. Benefits include not only saving in criminal justice resources needed to arrest, prosecute, defend, convict and imprison or otherwise sanction the offender, but also the absence of injury and harm to victims and the community.

One factor meriting attention in considering value for money is that if RJ is deemed appropriate only for minor offences, then it is unlikely to produce a significant cost saving in, for example, prison accommodation. Less serious offenders are unlikely to be committed to custody in most cases. Use of significant resources in processing a less serious case through RJ could be seen as uneconomical where such cases could be more economically dealt with through fines, compensation orders, etc. In such cases what would be lost is the impact of the RJ process.

Restorative justice is not formally established in Court practice in Ireland except in the Nenagh and Tallaght catchment areas. Nevertheless, versions of RJ practice are, informally, a feature of daily life in the Irish Courts. For example, in my experience one of the deciding factors considered by Judges in sentencing is whether or not the offender has compensated the victim for any loss suffered. Judges enquire as to whether or not an apology has been offered for the offending behaviour. The timing of the apology can have a significant bearing on sentencing, with close scrutiny given to whether the apology was offered before the issuing of the summons and whether it was done on legal advice to lessen the likelihood of a custodial sentence. Such ad hoc and informal 'RJ', in my view, makes the implementation of a transparent and comprehensive RJ system on a nationwide basis more necessary, but also a more complex challenge to implement.

Without legislation, it is not easy for practitioners to advise clients whether a restorative-type programme is appropriate or exceeding the Court's authority. Consistency is difficult to ensure if a scheme is operated on an ad hoc basis by individual Judges without structure. If a judicial process has neither clear authority nor consistency in application, independent overview is impossible and problems inevitably arise.

There is a need, in such circumstances, for legislation and guidelines. The establishment of local RJ programmes without supporting legislation can create problems of consistency and equity, as the same options are not available in other Courts in neighbouring areas. It may feed doubts over the authority and status of 'free-standing' initiatives and schemes.

For an RJ process to be effective, a major information strategy needs to be implemented including seminars for Judges, politicians, legal professionals, defendants and the media, as well as information for the wider community. This is needed in order to share awareness and understanding of RJ. This empowerment through information provision is necessary to generate momentum for positive change.

Conclusion

The survey among legal practitioners reveals limitations and gaps in information and understanding of RJ among key personnel. The National Commission on Restorative Justice has made a strong case for the expansion of RJ, but to do so presents a major challenge in terms of making significant change to long-established practice and embedded systems.

If RJ is to be successfully introduced in the Irish criminal justice system, four key actions need to be undertaken.

1. Efforts must be made to raise the profile of RJ among all the key criminal justice stakeholders. An RJ champion is needed to lead this rather than leaving it to 'someone else' and thereby consigning RJ to be another legal museum piece on the margins of the Irish criminal justice system.
2. An RJ education strategy is needed to inform and to ensure that all key stakeholders understand RJ approaches, the benefits to them and the unique contribution each stakeholder can make in the development of RJ in the criminal justice system.
3. The implementation of the key recommendations of the National Commission on Restorative Justice Final Report should be prioritised to expand RJ as part of mainstream practice across the criminal justice system. This should include legislation, if possible.
4. Ongoing evaluation of the efficacy and effectiveness of RJ as an alternative sanction should underpin and monitor its implementation in practice. It is essential that introduction of RJ be evidence-based, measured and evaluated to establish the most appropriate models of RJ in our criminal justice system.

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An Assessment, Monitoring and Outcome Measurement System for Offender Rehabilitation and Reintegration Programmes: A Description of a Model at Work in the Cornmarket Project, Wexford

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Summary: The development of community-based services for offenders has not always been marked by adherence to best practice based on empirical evidence. Expediency, personal conviction and a sincere desire to do ‘something’ to respond to antisocial behaviour and criminality in our communities are historically more common drivers. This article explores some of the contemporary research and evidence relating to the efficacy of various approaches used in implementing offender rehabilitation programmes. The authors outline a particular model at work in the Cornmarket Project. Mindful of current economic constraints and the increased reporting requirements placed on organisations in receipt of state funds, the article emphasises the importance of having in place an easy-to-use, valid and reliable outcome measurement system for programmes dealing with offender reintegration and rehabilitation.

Keywords: Cornmarket, COAIM, Change Tree, logic model, offenders, outcome measurement, rehabilitation, recidivism, criminogenic factors, behaviour change, efficacy, motivation.

Introduction

The Cornmarket Project was established in 1999 as a multiagency response to criminality and substance misuse issues. The project is based in the county of Wexford, which has a population of 132,000 people and

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is located in the south-east corner of Ireland, about 120 km south of Dublin. The project deals with approximately 200 individual clients per year, 150 of whom on average will be direct referrals from the Probation Service. The project is under the umbrella of Wexford Local Development (WLD),¹ the local development company in Wexford mandated to deliver rural development, social inclusion and community development programmes on behalf of the Irish government.

The Cornmarket Project receives core funding from the Department of Justice and Equality, through the Probation Service. Additional funding is provided by FÁS, the Irish state training agency, through the Community Employment Programme,² the Department of Education through the local Vocational Education Committee,³ the Department of Health through the HSE,⁴ the Department of the Environment, Community and Local Government⁵ through the WLD, and other state agencies and departments. The steering committee comprises representatives from the funders, An Garda Síochána, local authorities and the local community.

Cornmarket has a multidisciplinary approach in providing a continuum of services for medium- to high-risk offenders. The programmes delivered include one-to-one behaviour change counselling based on individualised action plans, a targeted offender outreach service, a daily structured low-threshold intervention drop-in service dealing with advocacy and case work, a six-month stabilisation and BTEI (back to education initiative⁶) programme and a 12-month training, rehabilitation and reintegration programme. The programmes are delivered in the four main urban areas of Co. Wexford: Wexford Town, Gorey, Enniscorthy and New Ross. The Cornmarket Project operates six days a week and also provides two late-night services to facilitate those on probation, in employment or engaged in mainstream training or education.

The services are managed by the project coordinator and delivered by a team of 12 qualified staff members with additional support from part-

¹ www.wld.ie

² www.fas.ie

³ www.cowexfordvec.ie

⁴ www.hse.ie

⁵ www.environment.ie

www.welfare.ie

⁶ www.education.ie

time sessional workers recruited on the basis of programme needs. Financial management and governance are provided by WLD. Because Cornmarket is under the aegis of WLD, clients have access to other WLD services such as guidance and employment services, early school leaver supports, traveller community services, further training and education opportunities, grant aid and child care provision.

The context of the project

The project has an outcomes-focused, community-facing and client-centred approach. Cornmarket's primary goal is to work in collaboration with the Probation Service and other partners to ensure positive change in offenders and a reduction in recidivism. The methodologies used are underpinned by evidence-based behavioural interventions to enhance client motivation for successful participation in the rehabilitation and reintegration programmes delivered by the project. This approach acknowledges individual difference in terms of age, gender, ethnicity and culture, problem severity, recovery stage, and level of supervision needed. Offenders also respond differently to different treatment and rehabilitation approaches.

A review of the first 10 years of the project (Cornmarket Project, 2010) emphasised the importance of a strong professional working relationship between the project and the Probation Service. This relationship is reinforced by regular joint meetings to discuss and monitor each offender's progress using a case-management approach. Cornmarket adds value to the work of the Probation Service by addressing issues of offender motivation, problem solving and skill-building to diminish criminal behaviour and enhance resistance to substance misuse.

Only a small percentage of those requiring intervention for drug- and alcohol-related problems seek help voluntarily (Chandler *et al.*, 2009). In light of this, the Criminal Justice System provides a unique opportunity to intervene and disrupt the cycle of substance misuse and crime in a cost-effective manner. Findings (Pearson and Lipton, 1999; Leukefeld *et al.*, 2002; Knight and Farabee, 2004; McCollister *et al.*, 2004) show that providing comprehensive substance misuse treatment and rehabilitation for criminal offenders works, reducing both substance abuse and recidivism.

Given the increasing prison population, attributable in large part (O'Mahony, 2008) to substance misuse-related offences accompanied by high rates of recidivism (Wexler and Fletcher, 2007), it is a matter of public health and safety to continue to make substance misuse treatment and rehabilitation a key component of the criminal justice system. Furthermore, addressing the reintegration needs of substance misusing offenders is critical to reducing overall crime and other drug-related societal burdens, such as primary health care costs and dealing with the consequences of antisocial behaviour in communities. Research has shown that substance misuse treatment and rehabilitation can be effective even when an individual enters it under legal mandate (National Institute on Drug Abuse, 2007)

Key operating principles

The work of the Cornmarket project is underpinned by empirically validated, evidence-based methodologies. In particular, the use of motivational interviewing (Miller and Rollnick, 2002), cognitive behavioural therapy (Milkman and Wanberg, 2007) the Stages of Change Model (Prochaska and DiClemente, 1984) and structured relapse and recidivism prevention techniques (adapted from Herrie and Watkin-Merek, 2006) are important in promoting positive behavioural change and reducing recidivism. In their work on effective responses to offending, Brown *et al.* (2011) make the point that critiques of recent and past intervention programmes for offenders have repeatedly commented on the uneven and poor quality of implementation, the ambiguity or absence of a theoretical rationale and conceptual base, and flawed evaluations. They further state that the lack of a clear rationale makes it likely that a programme will become a disconnected set of activities, with problems such as:

- services provided, sanctions and incentives used, and community resources tapped, all in an ad hoc and fragmented fashion
- individual staff pursuing their own direction and inclinations
- target-group criteria referrals and selection not matched to the most appropriate programme or person
- a lack of coherence and continuity between programme components, features and processes

- offenders' major difficulties or needs not being met, leaving gaps in service or wasted opportunities (Brown *et al.*, 2011).

Brown and her colleagues also identify a series of principles guiding the design of effective programmes and interventions. These are integral to the work of the Cornmarket Project and include the following.

1. That the level of service intervention should match not only the client's risk level i.e. medium to high, but also their stage of readiness and willingness to change.
2. Interventions should focus on those modifiable aspects that contribute most highly to the client's continued offending behaviour based on the ten criminogenic factors or dynamic risk areas listed later on in this article.
3. It is imperative to match programmes to the learning style and capability of the client so as to increase the likelihood that he or she will respond in a positive fashion.
4. Programmes located in the community yield more effective outcomes. This is not to dismiss institutional or residential based work, but reflects the need to apply the skills learnt in real life.
5. Programmes should (a) be multimodal – focusing on more than one antecedent to problematic behaviours, (b) be skills-oriented – such as problem solving and developing social and coping skills and (c) utilise approaches which draw on empirically validated research. This is known as the treatment and rehabilitation modality principle.
6. Programmes should adhere to best practice methods by including monitoring and review during and after programme delivery. This is to ensure consistency, and to maintain quality assurance (the fidelity principle).

Outcome measurement

Over the past few years there has been an increased emphasis on having effective assessment, monitoring and outcome measurement systems in place for organisations in receipt of state funds (Comptroller and Auditor General, 2004; Probation Service, 2011). Although these are worthy and necessary, the implementation of such requirements presents a real challenge to many organisations including those delivering rehabilitation and reintegration programmes for offenders. Most organisations, both

statutory and non-statutory, are accustomed to evaluating programmes and recording outputs but are relatively new to the concept of outcome measurement. The integration of a workable, valid and reliable system into their current working environment poses a distinct challenge to many services. However, no single assessment or outcome measurement system is universally accepted as the best (Penna, 2011). While acknowledging the need for thorough and accurate information, research literature (Madan, 2007) on this topic suggests that comprehensiveness needs to be balanced by brevity to ensure routine application and compliance (Madan, 2007).

The literature points out that the process of measurement is as important as the outcome measure itself (Hatry *et al.*, 1996). In accepting this premise we need to be mindful of:

1. using an approach that involves clients in a meaningful way in a system that can potentially have a significant impact on their lives
2. ensuring that the chosen approach can be used in an easy and consistent way by staff and facilitators
3. putting in place a system that can be relied on to satisfy the informational needs of funders and a range of other stakeholders (Delaney, 2006).

In considering the overall effectiveness of assessment and outcome measurement systems, we also need to be mindful of the need for the non-statutory sector to integrate its efforts more closely with statutory providers of services. For this to work, we need to develop an integrated case-management approach to our work. This presents a particular challenge that must be discussed and overcome at a local level. The COAIM system can help to facilitate this development.

The COAIM system

COAIM (Change Outcome and Indicator Mapping) is a locally developed assessment and outcome measurement process. CO is a prefix meaning 'with, together, in association', and AIM in this context means 'to attempt to achieve something'. The COAIM system emphasises the fostering of a collaborative approach between the facilitator and client. It uses the generic terms 'client' to indicate programme participant, service user, substance misuser, customer, offender, drug abuser,

alcoholic, patient, etc., and ‘facilitator’ to mean key worker, project worker, housing officer, counsellor, therapist, drugs worker, case manager, probation officer, social worker, doctor, nurse, outreach worker, psychologist etc.

The COAIM system comprises a set of tools for assessment, monitoring and outcome measurement incorporating theory of change (Anderson, 2004; MacKinnon *et al.*, 2006) and logic model (W.K. Kellogg Foundation, 2004) methodologies with motivational interviewing (Miller and Rollnick, 2002) and the stages of change model (Prochaska and DiClemente, 1984) to provide a user-friendly, reliable system. Through the use of motivational interviewing strategies, the COAIM system facilitates and enhances the development of positive change with clients.

We can describe outcome measurement as a process that involves: *Who* receives *what* from *whom* at what *cost* and with what *effect*. However, why develop an outcome measurement system that only meets informational needs? Why not ensure that such a system can also be used for assessment and monitoring while enhancing the likelihood of positive change with our clients?

With this challenging brief as the blueprint, the COAIM system was developed in 2006 (Delaney, 2006) based on a set of graphic and easy-to-use tools to assess, monitor and measure outcomes while enhancing the likelihood of a reduction in recidivism among offenders.

A strong driver for reliable assessment, monitoring and outcome measurement systems has been to satisfy funders and other decision makers. The COAIM system also recognises the importance of the client perspective and involvement in the measurement of their participation in rehabilitation and reintegration programmes. It is hard to ignore the issue of system integrity if client input to the measurement of programme efficacy is excluded. Therefore, the COAIM system challenges conventional methods of measuring programme outcomes where the client is the passive recipient of programmes and services and the facilitator decides how beneficial those services are or were for the client (Delaney, 2006).

The COAIM system ensures consistency and maximises effectiveness, by stipulating the use of motivational interviewing by facilitators (Delaney and Weir, 2004, McMurrin, 2009). In addition, all problem areas or antecedents for the client are connected and worked on, ensuring a genuine holistic approach. The COAIM system promotes a

case-management approach; a “joined up” way of working among the programmes, agencies and departments dealing with offenders. It provides the facilitator with a framework within which to engage the client in a planned, collaborative yet directive manner. This approach optimises the potential for positive outcomes and ensures effective mapping and measurement of programme and service delivery. Properly implemented, using the tools of motivational interviewing, the approach creates the circumstances whereby the client develops the self-efficacy necessary to ultimately take ownership of continuing positive change at an individual level (Miller and Rollnick, 2002; McMurrans, 2009).

Background to the COAIM system tools

All organisations in receipt of state funds are now, or will be, required to base their service level agreements and business plans on some version of the logic model approach, i.e. they are expected to set out how an intervention such as a project is intended to produce particular results. The development of the COAIM system in 2006 as a way of measuring outcomes was based on the use of a programme theory (Anderson, 2004; Rossi *et al.*, 2004) approach to working with offenders and substance misusers. Programme theory identifies the link between an intervention and the intended or observed outcomes (Funnell and Rogers, 2011).

Using programme theory (Rossi *et al.*, 2004) as a way of ensuring effective measurement of outcomes is not a new concept. Programme theory or logic models set out how an intervention (such as a project, a program or a policy) is understood and is intended to produce particular results.

The United Way, a non-profit organisation in the USA, published a guide to developing and using models for outcome measurement (Hatry *et al.*) in 1996. Moreover, the W.K. Kellogg Foundation (2004) produced a logic model guide in which it described a linear template of five components: inputs, activities, outputs, outcomes and impacts. This particular five component logic model provides the framework for the COAIM system approach, as shown in Table 1.

The COAIM system is particularly effective in mapping and measuring the three stages of the model dealing with programme activities, outputs and outcomes. The resources and impact areas are often more difficult to predict with any great degree of certainty.

The tools of the COAIM system are predicated on assessing, targeting and measuring factors that *can* be changed in the lives of offenders,

Table 1. COAIM five-stage logic model

<i>Programme resources or inputs</i>	<i>Programme activities</i>	<i>Programme outputs</i>	<i>Programme outcomes</i>	<i>Programme impact</i>
Resources needed to operate the programme	Processes, tools, events, technology and actions that are an intentional part of the programme implementation	Types, levels and targets of service delivered	Specific changes in programme participants' behaviour, knowledge, skills, status and level of functioning	Changes to organisations, communities, or systems as a result of programme activities within seven to ten years

known as *dynamic factors*. Those that cannot be changed are *static factors* and include prior record or family criminality. Early onset of criminal behaviour is a very good predictor of future behaviour, and it is a risk factor that cannot be changed: if you were first arrested at age 10 you will always have been first arrested at age 10.

Synthesising the findings of Lipsey and Wilson's (1993) meta-analysis and the research outcomes of Latessa (2004) and Andrews *et al.* (2006), the COAIM system concentrates on the following known criminogenic or dynamic risk factor areas (Andrews *et al.*, 2006) which are listed as the 10 primary areas in the COAIM system that need to be addressed with offenders:

1. attitudes and cognitive style
2. offending behaviour
3. pro-social activities
4. anger and emotion management
5. drug and alcohol misuse
6. lifestyle and associates
7. training and employability
8. accommodation
9. financial issues and debt
- 10 relationships and family issues.

Andrews and his colleagues in their research point out that focus on non-criminogenic factors such as self-esteem, fear of punishment, physical

conditioning (such as outdoor pursuits) and developing offenders' creative abilities through art and music will not have a significant effect on recidivism rates (Andrews and Bonta 1994, 2010). Studies have shown that programmes that target four to six criminogenic risk factors more than non-criminogenic risk factors can have a 30% or more effect on recidivism, while programmes that target more non-criminogenic risk factors have virtually no effect (Gendreau *et al.*, 2002). A lot of programmes targeting non-criminogenic needs are not producing significant effect on recidivism.

Lipsey and Wilson (1993) conducted a systematic review of the evidence for effective intervention with those whose offending behaviour was deemed to be serious. They reviewed more than 200 studies relating to offenders and looked at the evidence in relation to those who were non-institutionalised and institutionalised. A summary of their findings (Brown *et al.*, 2011) highlights the most and least effective types of treatment and interventions measured by recidivism rates for non-institutionalised younger people, outlined in Table 2.

This research suggests that community-based programmes that demonstrate good evidence of effectiveness include behavioural therapies, intensive case management, a multi-systemic approach and interpersonal skills training.

Table 2. Type of treatment or intervention used with non-institutionalised offenders

<i>Positive effects – consistent evidence</i>	<i>Positive effects – less consistent evidence</i>	<i>Mixed, but generally positive effects</i>	<i>Weak or no effects</i>
<ul style="list-style-type: none"> • Individual counselling • Interpersonal skills: attitudes and cognitive style, pro-social activities, anger and emotion management, relationships and family issues, substance misuse, etc. 	<ul style="list-style-type: none"> • Multiple/continuum of services • Advocacy casework • Restitution/probation 	<ul style="list-style-type: none"> • Employment-related programmes • Academic programmes • Group counselling programmes 	<ul style="list-style-type: none"> • Outdoor pursuits, physical fitness • Deterrence programmes • Vocational skills programmes: car fixing, carpentry, artwork, music, painting, gardening, etc.

Methodology

The COAIM system uses what is referred to as the Change Tree instrument, which is both a motivational and a measurement tool developed to enhance positive change in collaboration with the client. The facilitator uses this tool to engage with the client in scoring and recording how they experience and see their situation:

- (a) at commencement with the service
- (b) during the programme
- (c) at the conclusion of engagement with the service.

This is done by the facilitator and client jointly using the COAIM Rating and Mapping Guide to map progress on the Change Tree. Each main dynamic risk factor (criminogenic area) is allocated a separate branch on the tree. The scores for each branch or area of concern are computed by reference to the COAIM Rating and Mapping Guide.

At the start of the offender's engagement with the programme or service an assessment with reference to the 10 main criminogenic or risk factor areas is carried out by the facilitator with the client. The facilitator uses the Change Tree instrument with the COAIM Rating and Mapping Guide to allocate a numerical value or 'score' to each of the ten areas or issues and to map the current situation. The completion of this initial Change Tree Instrument or assessment forms the baseline against which future client progress will be measured.

The indicators or scores are aggregated to become part of an overall score on the main 'tree trunk'. Following completion of the Change Tree instrument the computed scores and indicators are used to inform the COAIM Assessment and Action Plan Instrument which looks at each main area or risk factor separately. During the process the facilitator, using the strategies of motivational interviewing, discusses with the client a realistic set of steps to determine what areas need to be worked on first and what activities need to be prioritised.

It is not unusual to have a discrepancy between the client's perception of where they consider themselves to be on the Change Tree scale and the reality of their current behaviour and situation as assessed with the facilitator. A facilitator skilled in motivational interviewing will use this situation as an opportunity to further resolve ambivalence, deal with resistance and increase client motivation for positive change.

Where progress already exists in relation to one or more of the 10 risk factor areas, the facilitator works with the client to cement and enhance this situation through the use of structured relapse and recidivism prevention techniques (adapted from Herrie and Watkin-Merek, 2006).

During the time that the client is engaged with the programme or service, the Change Tree is again periodically completed mapping progress towards achieving the overall goals and outcomes. This serves two main purposes. Firstly, it serves as a motivational enhancement tool by showing in a graphic manner the client's progress. Secondly, it enables the facilitator to continue to map and score the various areas and issues and make changes to the Assessment and Action Plan, if necessary.

At completion or disengagement from the programme or service the Change Tree is used as a final or exit assessment. The results of this are compared with the initial baseline and interim assessments. The information derived from this comparison informs the COAIM Data Table Instrument and is then used to compute change across the main areas originally established as priorities at first engagement. In addition, the numerical data concerning the 10 risk factor areas are collated and aggregated and used to measure change and progress relative to the overall desired goals and outcomes as established by the client and facilitator. This approach is in contrast to other outcome measurement systems that consider problem areas in isolation and not in this holistic manner.

The COAIM data table as shown in Table 3 (Cornmarket Project, 2010) is used to illustrate a three-year sample period recording client outcomes using the COAIM system. It indicates whether a client has made a positive progression, maintained their stability or had a negative change in each area. It is based on a sample of 289 clients who engaged in structured programmes of the Cornmarket Project from 1 January 2007 to 31 December 2009.

Implementing the COAIM system and improving practice

The Cornmarket Project has trained and developed facilitators to equip them with the necessary knowledge, skills and attitudes to implement the COAIM system effectively. The training includes:

- understanding the client outcome and indicator mapping system and an overview of theory of change and logic model approaches

Table 3. Sample COAIM data table

<i>Outcome area</i>	<i>Positive change</i>	<i>Maintained stability</i>	<i>Relapsed, regression, no change</i>
Offending behaviour	63%	30%	7%
Accommodation	30%	66%	4%
Pro-social skills	61%	36%	3%
Anger and emotion management	47%	44%	9%
Attitudes and cognitive style	51%	45%	4%
Drug and alcohol misuse	64%	32%	4%
Lifestyle and associates	59%	33%	8%
Relationships and family issues	56%	39%	5%
Training and employability	42%	54%	4%
Financial issues and debt	46%	49%	5%
Average overall client change at the end of their participation on the programmes relative to their stated goal at commencement, i.e. <i>to live a life free from criminality and substance misuse</i>	52%	43%	5%

- integrating the stages of change model and the COAIM Rating and Mapping Guide
- how to assess, record, map and measure change and outcomes using the various instruments specific to the COAIM system
- using motivational interviewing to enhance positive engagement and to ensure uniformity of approach in assessment and outcome measurement with offenders
- effective use of the tools of structured relapse and recidivism prevention.

Facilitators are guided in practice by the COAIM Implementation Manual (Delaney, 2006). During their training, each facilitator develops the knowledge and skills required to use the manual effectively. The manual contains all the materials and instruments needed to deliver the programme. It also contains clearly written sections on: using the COAIM system, developing an effective logic model, the stages of change model, motivational interviewing, and relapse and recidivism prevention strategies. The manual is used on an

ongoing basis post-training to ensure consistency and quality control in programme delivery.

Strengths of the COAIM system

The COAIM system is first and foremost a practical, graphic and user-friendly method for mapping and measuring the impact of service delivery on clients, i.e. measuring outcomes. Through the use of motivational interviewing as the medium, the COAIM system facilitates meaningful engagement with clients and enhances motivation for sustained positive change.

The COAIM system enables introduction of monitoring and evaluation considerations at the planning stage of a programme, linking them to the implementation and management of the programme. It helps a programme to be specific about the clients it targets, the changes it expects to see, and the strategies it employs and, hence, to be more effective in the results it achieves. It is particularly valuable for monitoring and evaluating programmes whose results and achievements cannot easily be understood with quantitative indicators alone and require deeper insights of a qualitative, contextualised story of the change process.

Because the COAIM system can extract and compile data on an individual client or whole programme it can also be used to indicate trends and highlight emerging issues for organisations. Such data can help inform future strategic and business plans by assisting in identifying priority areas for reducing recidivism.

The COAIM system can also be beneficial at a number of levels in helping to improve practice, i.e.:

- having more effective interventions and improved interaction with clients
- improving communication among those involved in the delivery of different services
- benchmarking between services and programmes
- assisting policy making, enabling research and securing funding.

The COAIM system does not stop at measuring outputs but maps clients' progress from assessment, through engagement, to conclusion on the programme and measures change and outcomes.

Challenges of the COAIM system

In order for the COAIM system to function well, resources are required, such as well-trained staff, systems, equipment and space. If a programme has an insufficient number of staff trained in motivational interviewing to operate the COAIM system or if the staff members do not have the appropriate knowledge and skills in implementing the stages of change and structured relapse and recidivism prevention models, it will be difficult for the programme to achieve the objectives established.

Even though an organisation may have existing data collation systems in place, the data gathering must be carried out as specified by the COAIM system implementation manual, i.e. within a logic model framework, for the final evaluation to be able to attribute outcomes to the system.

Furthermore, as the interim and final evaluations collect data based on the actual activities implemented, substantial differences between the stated design and the actual activities, i.e. programmes without a logic model framework, will undermine the assessment process. If the programme activities being implemented are different from those planned, then what is being evaluated is essentially a different programme from that initially proposed. While the evaluation can assess the activities implemented, it cannot assess the programme itself, since the logical connection between activities and goals and objectives has been broken.

Process and outcome evaluations require organisations to produce a great deal of data. It is crucial that organisations document the activities of their clients and staff/key workers and the services provided using the COAIM system instruments (COAIM Assessment and Action Plan, the Change Tree Instrument, the COAIM Rating and Mapping Guide and the COAIM Data Table instrument). Organisations must develop the initial and overarching measures to assess their progress in achieving goals and objectives, and must systematically measure changes in the clients through the laying down of a logic frame module. The programme must have in place, or have the capacity to develop, procedures to generate the data required for the COAIM system. The initial assessment and interim evaluations cannot commence until these data collection procedures are in place.

Finally, it is often said that *impacts* are what we hope for but *outcomes* are what we work for. Further developmental work remains to be done

on the COAIM System model to provide a reliable system for measuring long-term impact of programmes using the COAIM System.

Conclusion

Government departments, funders and other stakeholders are increasingly insisting that creditable and validated outcome measuring systems be in place as a prerequisite to continued funding. We hope this article will be a positive contribution to the debate on outcome measurement.

Policy development in Ireland concerning offender reintegration strategies seeks an increasing use of community options rather than custodial interventions while also seeking a reduction in expenditure. We are now in a new era that presents both challenges and opportunities. We must develop new approaches and ways of working to meet the needs of today for the users of the services, the funders and the communities in which we all live.

Those charged with effecting positive change in areas such as offender reintegration and rehabilitation are asked to demonstrate programme efficacy, value for money and evidence in relation to client outcomes. We suggest that the COAIM system together with its range of tools can assist in meeting these requirements and thus enhance quality of service delivery.

We conclude with this quote:

Any mechanic, artisan or skilled do-it-yourselfer will tell you that the first step in doing a job right is to have the right tools. Any accomplished cook will tell you the same thing. Yes, there are workshop basics – a hammer, a screwdriver, a wrench – just as there are kitchen basics – a saucepan, a pot, and a paring knife. But as essential as these implements are, none suffice for all jobs. In the workshop, drills, saws, levels and cramps add to the ability of someone to do a job properly. In the kitchen, blenders, sieves, whisks and rollers add to the proper preparation of a meal. Beyond this there are specialised variations on the basic tools – a dizzying array of different screwdrivers, wrenches, and knives that professionals and skilled amateurs use to do a job the right way. The key to success is to have and to *use* the right tool for the job, whether it is part of the official implements for a given task, whether it came in the same kit as the

other tools you are using, and whether it is the same brand. If it works, a skilled professional will tell you, use it. (Penna, 2011)

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Book Reviews

Offenders or Citizens? Readings in Rehabilitation*

Edited by Philip Priestley and Maurice Vanstone

Cullompton, UK: Willan Publishing, 2010

ISBN: 978-1-84392-529-3, 340 pages, paperback, £29.95

This is a splendid collection of readings that takes the reader on a metaphorical journey through 120 years of rehabilitation within the criminal justice system.

The readings explore the gamut of arguments and debate that have taken place and continue to be had on the merits of rehabilitation as opposed to punishment. This is timely in Northern Ireland: at the time of writing this review, there was to be a ‘consultation on the review of community sentencing’ and one question was surely to arise: where should rehabilitation sit within the rationale of sentencing?

The book is divided into three distinct sections: historical roots (looking at first experiences of rehabilitation and nineteenth-century philanthropy), modern trends (punishment and punitive manners in the late twentieth century and rehabilitation as a ‘subversive’ activity), and the future (explores evidence-based innovations, restorative principles and ‘citizen theory’). Each section starts with an introduction and overview from the editors which helpfully sets the scene for the reader and gives a brief context to each reading and the authors.

The authorship of the readings is from a broad base including probation, social work, psychology, philosophy and political science. Each reading has a reference to the origins of the writing in the informative footnotes. I might have liked a little more information in

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regard to the authors of the readings, but this does not detract from the quality of the book.

In the first section, I would draw readers to the illuminating insight into our rehabilitation ancestry through two examples; “Work in the Courts” (1907) describes Thomas Holmes’s work in the North London Police Courts – heartwarming! “Difficult Cases” (1921) conveys the inspirational belief of the Probation Officer in their clientele. This first section provides the reader with a historical perspective of the choice between punishment and rehabilitation, and the tensions that have existed between these two strands of criminal justice. The extracts allow the reader to reconsider the place for punishment, the purpose of incarceration, what rehabilitation is and how these issues have contributed to a response to criminality.

A number of esteemed authors appear in Section 2, including Martin Davies, Philip Priestley, Jimmy Boyle, Anthony Bottoms and Bill McWilliams, to name a handful – names that will resonate with colleagues and their training. This section gives the reader a chance to reflect on the issues related to the steady rise in the prison population both in England and Wales and in the United States through the latter part of the twentieth century, and how policy makers, academics and criminal justice agencies have endeavoured to tackle the impact of this. The section also looks at the development of ‘offending behaviour programmes’ and the ‘what works’ debate.

In the last section some innovative and fundamental ideas around rehabilitation in twenty-first-century criminal justice emerge. The reader is given an opportunity to consider the role of the Probation Service and community-based organisations in the delivery of community-based justice with a rehabilitative rationale. The extracts allow the reader to consider the concept of offenders as citizens.

This selection of readings will, I believe, infuse and fuel debate. It offers encouragement that rehabilitation remains a key factor in protecting communities and changing behaviours and attitudes of offenders, and that it requires a collaborative approach that involves a range of individuals and groups – not least the offender.

Highly recommended and an enjoyable, inspirational read.

Offender Supervision: New Directions in Theory, Research and Practice*

Edited by Fergus McNeill, Peter Raynor and Chris Trotter

Cullompton, UK: Willan Publishing, 2010

ISBN 978-1-84392-935-2, 584 pages, paperback, £29.95

Academics often agonize over terminology, and this book is no exception. Only four pages in, the editors wonder whether the term ‘offender supervision’ is appropriate. They worry that designating people as ‘offenders’ will set in stone the very identities that people should be trying to cast off; and they speculate as to whether the term ‘supervision’ has negative connotations of surveillance. On balance, they prefer the term ‘offenders’ because it underlines that those serving a court order are not just ‘clients’, and they opt for ‘supervision’ because it is preferable to the term ‘management’, which seems devoid of any positive agenda.

While all this deliberation over terminology might seem like an academic luxury, it is perhaps indicative that the book consciously asks the reader to think hard about the concepts and practices that are customarily endorsed. The book seeks to broaden the debate about what works in the field of community corrections, in particular by asking what is left out from those practices informed by the principles of risk, need and responsivity (RNR). Judging by the length of the book, at over 550 pages, and with 26 chapters allocated to sections such as ‘Improving Offender Supervision’, ‘Significant Others and Social Networks’ and ‘Offenders’ Compliance with Supervision’, one might presume that quite a lot is. In a short review, it is impossible to do justice to all the fine pieces of research collected here, so I will just try to highlight what appear to me to be some of the most significant themes and chapters.

The first section, entitled ‘New Directions in Theory’, begins with a review by Bonta and Andrews on the principles underlying the RNR model which has been translated into practice as the LSI-R risk assessment tool, used by, among others, the Probation Service in Ireland. They caution that these tools are not just about assessing risk but have been revised to take account of and often facilitate dynamic behavioural change. Incorporating both need and responsivity into interventions delivered in a community setting can lower recidivism by as much as

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35%. Practitioners will be well aware of these findings but they are worth labouring since the following chapter is by the New Zealand based psychologist Tony Ward, who has been prominent in outlining what he considers to be a distinct alternative to RNR-inspired practice, namely the Good Lives Model. He considers that adhering to the RNR triad means that issues surrounding the motivation to desist from offending are obscured and it is difficult to know how these kinds of programmes generate change. Because the former offender is mainly viewed as a bearer of risk, the task of interventions is to manage this risk. In contrast, the GLM model seeks to enquire of offenders what are their ultimate concerns that could turn them away from crime; in other words, what do ex-offenders conceive the good life to consist of? Supervisors should then try to ‘tailor an intervention plan around an offender’s core values and associated practical identities’ (p. 55). Ward claims that the GLM model can, more readily than RNR, incorporate recent research emanating from desistance studies which emphasise the importance of personal agency oriented toward the future.

Marun and Lebel take up this last theme by arguing that we should give less priority to programmes, which have little impact, and more to the actual lives of offenders to understand why rehabilitation succeeds and more often fails. Nowadays, many evaluation studies insist that it is not an intervention *per se* that produces change; instead, a programme might offer reasons and resources for a person to make the change that must ultimately come from himself or herself. They argue that one of the greatest resources for change derives from the high expectations of others as former offenders draw strength from the positive beliefs of others.

These ideas might seem to form the basis of what Chris Trotter has termed ‘pro-social modelling’, discussed here in a chapter with Philippa Evans. He suggests that thinking more intensively about the routine supervision skills used in community-based orders can yield beneficial results. Discussing his research, he argues that personnel were strong on rewarding pro-social actions through praise but were more reticent in terms of challenging pro-criminal behaviour. What this model seems to omit is consideration of how to get offenders to take the first step in thinking and acting in a more socially considerate manner.

In an interesting chapter by Pauline Durrance and others, they take up this issue. In their work in London, they introduced what they call a structured supervision programme into those interventions where there is no group-work requirement. It was hoped the former offenders could

develop a capacity for self-reflection by participating in various modules that explore their autobiographical path, what goals they have, empathy with victims and how to avoid relapsing. In line with the findings of someone like Maruna, they argue that 'helping offenders unravel how their different experiences have brought them to their current position holds out the hope of a new, reconstituted future' (p. 209). Such an approach combines the individual focus of case-work with the structured format of group-work. In another twist, Ugwudike's chapter suggests that supervisors first have to build relationships before having any chance of having a positive effect on those in their charge.

In one of the most interesting chapters, Robinson and McNeill probe into what lies behind the dynamics of offender compliance, drawing an important distinction between two different kinds. Formal compliance relates to behaviour that meets the specific requirements of a sanction, such as turning up for appointments at the designated times. Substantive compliance refers to the active engagement and cooperation of the offender with the requirements of his or her order which can eventually extend into long-term compliance as the person 'desists' from crime. Many jurisdictions privilege formal compliance, partly because it can be easily audited. However, this kind of compliance can mask an underlying posture of defiance and cannot be construed as an indicator of low risk. In fact, it may confirm some criminogenic tendencies as it encourages individuals to 'phone-in' a performance, to use a sports term, without any lasting commitment. They argue that those entrusted with the management of community sanctions should learn from regulators who operate a flexible enforcement style which seeks to elicit moral commitment while keeping a big stick visibly in the background.

In the conclusion, the editors put it best when they write that current research is no longer confined to the correctional focus on what works but has expanded to investigate the 'processes of supervision, the legitimacy of supervising agencies, the skills and qualities of practitioners, the impact of politics, the roles of families and communities and many other broader questions' (p. 544). By drawing attention to this broader context, they hope to avoid a centralising implementation process which views success purely in terms of adherence to programs. They are aware that in generating criticisms of this process, they may still find themselves lagging in terms of generating substantive suggestions for service improvement. To address this last issue, they 'still need a better understanding of what goes right and

wrong in implementation, and why' (p. 544). To accomplish this requires substantive engagement from practitioners, who should be willing to explore and extrapolate from the diversity of valuable findings contained in this book.

Prison Policy in Ireland: Politics, Penal-Welfarism and Political Imprisonment*

Mary Rogan

London: Routledge, 2011

ISBN: 978-0-415-61619-5, 264 pages, paperback, £47.95

This book on Irish penal policy spans the period from the foundation of the Irish state in 1922 to the present. Rogan identifies three central motifs of Irish penal policy: political imprisonment, penal-welfarism and politics.

The manner in which the prison system and penal policies have been shaped by the legacy of political conflict, specifically the Civil War and latterly the Troubles, is well illustrated. In fact the context of wider stagnation, political conflict and the response to this seems to have provided the main impetus for change within the prison system. For example, the Prison Rules introduced in 1947 came after the death of a Republican hunger striker, and movements towards securitisation were primarily motivated by political conflict. Indeed the breadth of the historical analysis within this book allows for a wider view of the role that prisons have played in state security. The prison system was utilised to contain and manage political dissent in both symbolic and very real terms. Here the parallels with the situation in Northern Ireland in later years is striking.

Apart from periodic crises the picture painted is one of stagnation and state neglect. One of the reasons posited for this is the fact that for much of the twentieth century the numbers detained within the Irish prison system were relatively low. In 1955, for example, the daily average population was 356 – contrasted with 3,881 in 2009. The relatively low penal population in that period has to be set against the high numbers of people ‘coercively confined’ in a range of other institutions, including industrial and reformatory schools, borstals, Magdalene homes and psychiatric hospitals – more than 1% of the total population in 1951 (O’Sullivan & O’Donnell, 2007).

A consideration of the wider social policy context is therefore particularly apposite in this case, and Rogan rightly links the inertia in

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penal policy with the lack of attention given to other social policy areas – health is one example. Using the analytical lens of ‘culture’ (derived from the work of David Garland, but not particularly well defined in the original), Rogan also tries to link penal policy to the wider cultural context. For example, she argues that the lack of long-term policy for the Irish penal system is a particular feature of Irish political culture characterised by middle-of-the-road pragmatism rather than any particular political ideology. Perhaps lacking from this analysis is the extent to which social class is also a significant issue. The research that does exist on the Irish prison system and those that it processes paints a consistent picture of a population largely drawn from the most socially deprived areas and scoring highly on most indices of social need (drug misuse, illiteracy, poverty, etc.) (e.g. O’Mahony, 2000; O’Donnell *et al.*, 2007). Part of the reason for state neglect of this area is precisely the constituent population.

The extent to which Irish prison policy and practice can be characterised as *penal-welfarist* is a second major theme of this book. Penal-welfarism, again derived from the work of David Garland (1985), is understood as the range of strategies and techniques targeted towards the rehabilitation of the individual offender. Given that this book demonstrates that articulations of the aims and purposes of the penal system, not to mention strategies, were fairly thin on the ground, the extent to which penal-welfarism can be said to apply is also limited. Some examples are given – in the 1960s rehabilitation is articulated as an explicit aim of penal policy; however, even then the gaps between policy and practice are demonstrated throughout.

Rogan approaches the historical material dealt with here (including records from the National Archives, contemporary media coverage and Dáil Debates) through periodisation. Each chapter deals with a specific period – the ‘Emergency’, the 1950s, 1960s and so on. The 1960s and 2000s are identified as particularly dynamic periods. This dynamism is attributed in large part to individual Ministers for Justice – most notably Charles Haughey and Michael McDowell. Haughey for example played a large part in the establishment of the Inter-Departmental Committee on Juvenile Delinquency, the Probation System, the Institutional Treatment of Offenders and their Aftercare in 1962 – the first Government committee to look at the aims and purposes of the criminal justice system including the prison system in any sustained way. McDowell was the Minister responsible for instigating the largest prison-

building scheme in the State – Thornton Hall, a scheme that has now run aground on the rocks of fiscal rectitude.

This book demonstrates the extent to which penal policy and indeed criminal justice policy more broadly do not appear to be driven by particular ideology. None the less the prison estate has continued to expand. In a similar vein to Kilcommins *et al.* (2004), Rogan highlights the limitations of explanatory frameworks based on analyses of criminal justice policy and practice in other jurisdictions. Her book is an important contribution to the growing canon of criminological research in Ireland. It also provides a fascinating historical overview that reminds one of the relevance of history to the present.

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IPJ, a joint initiative of the PS and the PBNI, aims to:

- Provide a forum for sharing good theory and practice, increasing co-operation and learning between the two jurisdictions and developing debate about work with offenders.
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Submissions (in MS Word attachment) should be sent to either of the co-editors.

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