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Editorial

Welcome to the twentieth edition of *Irish Probation Journal (IPJ)*. It is safe to say that the *Irish Probation Journal* has gone from strength to strength over its two decades. Over the past twenty years, *Irish Probation Journal* has become a recognised forum for the sharing of criminal justice research, evaluation, analysis, and discussion on probation and community sanctions. We are confident that the broad range of contributions in this year's edition will further contribute to the richness of this well-established knowledge base.

One of the real strengths of *Irish Probation Journal* has been its willingness to seek and support academic and practitioner-based research and opinion across Europe and beyond, to inform effective practice and achieve our shared goals of safer communities and fewer victims. You will find in this edition contributions from Irish and international academics, Probation Services, the judiciary, the community and voluntary sector and, most notably, contributions by lived experience academics and practitioners informed by their experience in the criminal justice system.

The editorial committee would like to thank all those who have contributed to this year's publication and acknowledge their commitment to sharing knowledge and promoting critical debate on important issues. In January 2023, the editorial committee convened an online workshop for those interested in writing for *IPJ*. This now-annual event encourages future articles and has a track record for planting a seed and supporting first-time authors. The 2023 workshop was attended by over twenty participants. The level of enthusiasm from participants was very encouraging, as was their willingness to collaborate on joint endeavours, which we anticipate will bear fruit in future editions.

Thematically this year's publication features articles focusing on the lived experience of people in contact with the justice system, sexual offending, homelessness, resettlement, youth offending, education for change and social enterprise. Marking its anniversary, there is a reflection on the twenty years of the *Irish Probation Journal*, against the backdrop of the collaboration

between two distinct Probation Services, fittingly co-authored by *IPJ*'s original joint editors.

In keeping with now-established tradition, our flagship article is based on text from the annual Martin Tansey Memorial Lecture organised by the Association for Criminal Justice Research and Development (ACJRD). We are delighted to be able to co-operate with ACJRD in the publication of this important paper and to share it with the *IPJ* audience. Importantly, this edition also has a range of articles and practice notes from practitioners working in probation and across the criminal justice sphere, including social enterprise, as well as academics and recent graduates conducting research.

The Martin Tansey Lecture explores 'The Sentencing of Children in the Irish Youth Justice System'. Providing insights into how the youth justice system might address the justice and welfare dichotomy, the paper reviews the growing scientific knowledge on child development and international court innovations in the sentencing of young offenders, as well as exploring issues in evolving capacity and the age of criminal responsibility.

The theme of youth justice is central in the following article. Our understanding of youth deviance is probed through the case of the Buggy Malones, a delinquent youth subculture that featured prominently in the media in 1970s Dublin. The article examines the challenge of capturing and understanding this phenomenon by looking at pop cultural and personalistic images and public policy, as well as the role of the media.

There is an interesting complementarity in two papers focusing on sexual offending. One explores issues from the perspective of the children of those convicted of downloading images of child sex abuse. The second approaches the complex issue of denial as it relates to sexual offending, examining the literature and research, and exploring the issues arising through treatment and desistance.

It is difficult to overemphasise the increasing importance of the lived experience for probation practice, particularly in its impact on service development, engagement and effectiveness. The cohort of articles in this edition of *IPJ*, based on a wide range of personal experiences and research, is testimony to the growing contribution of lived experience as well as related research and innovation.

In 'A Critical Reflection on Being a Lived Experience Researcher' the author reflects on his own experience on entering higher education in a bid to transform his life, and interviews others with similar experience, to investigate the complexities and possibilities of 'transformation' in this way. The challenges

of living with a criminal record and in setting up the Spéire Nua ('New Horizon') project to establish and validate evidence of positive change are explored in 'Translating Lived Criminal Justice Experience into Policy Innovation'.

In a particularly timely and comprehensive article, 'Emancipatory Pedagogy in Prison', the authors examine the challenges and opportunities in transformative teaching and research practices in university-prison classrooms, and how co-produced learning can dismantle barriers between those affected by the criminal justice system and those who are not. On a related theme, the innovative role that social enterprise can play in addressing employment barriers for those with criminal convictions is highlighted in the contribution on developments at the Cornmarket Project.

The challenges of resettlement and homelessness are examined in two papers. The resettlement needs of foreign national prisoners returning to home, which can sometimes be overlooked, are reviewed in a comparative analysis of two reports which have examined this in Ireland and in the UK. The second paper provides an experienced practitioner's perspective on working with people subject to Probation Service supervision who are experiencing homelessness in rural Ireland.

As *Irish Probation Journal* has reached the special milestone of its twentieth edition, the Probation Board for Northern Ireland (PBNI) and the Probation Service have commissioned a review focusing on the future of the *Irish Probation Journal* as a high-quality criminological and criminal justice journal, reflecting changes in Probation practice and service delivery, and harnessing the benefits from digital content and communications technology developments. If you might wish to contribute to the review, please send your submission as soon as possible to irishprobationjournal@probation.ie. All submissions received before the conclusion of the review will be forwarded to the reviewer.

Our particular appreciation and thanks, this year, are extended to Ursula Fernée, who has recently retired from the Probation Service. Ursula has been a member of the *IPJ* editorial committee since 2011 and has been joint-editor since 2018. Her commitment, knowledge and experience have been invaluable in the continued development of *IPJ* and she will be sincerely missed.

Thanks, also, to the members of our advisory panel, and our anonymous reviewers, who play an important role in advising the editorial committee, reviewing submissions and in providing guidance and feedback. We would also like to express our appreciation to the Probation Service and the Probation Board for Northern Ireland for their continued support.

Finally, to our authors and readers, we want to thank you for continuing to support and champion the *Irish Probation Journal*. As always, if anyone wishes to submit an article proposal for consideration for next year's *IPJ*, please contact the joint-editors at the email addresses on the inside cover of the Journal, or any member of the editorial committee.

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Judicial Discretion and the Justice and Welfare Dichotomy: The Sentencing of Children in the Irish Youth Justice System*

John O'Connor†

Summary: The sentencing of children in juvenile sexual offending cases is a most challenging issue for judges, and research into this area had not previously been done in Ireland. The author's doctoral study placed particular emphasis on practice-based research and praxis to provide a bridge between academic theory and professional practice, thereby providing insights into how the youth justice system might address the justice and welfare dichotomy. This paper reviews the growing scientific knowledge on child development and international court innovations in sentencing of young offenders, as well as exploring issues in evolving capacity and the age of criminal responsibility. The author examines the concepts underpinning the Children Act, 2001 and related strategies, as well as some welfare aspects of sentencing, before outlining key findings from his research.

What is needed is a redefinition of the Irish sentencing model for juvenile sexual offences that is not exclusively wedded to a twentieth-century justice/welfare concept. Sentencing for sexual offences needs to recognise that children's rights and needs are progressing and changing rapidly. This requires recognition of the role of scientific developments and academic research.

The paper concludes by posing a challenge to come up with a bespoke holistic sentence for children that satisfies the demands of the child, the victim and public policy.

Keywords: Children, courts, youth justice, sentencing, discretion, justice, welfare, sexual offences, victims, child development, age of responsibility, public policy.

Introduction

I am honoured to have been asked by the ACJRD to deliver the Annual Martin Tansey Memorial Lecture and I would like to thank Maura Butler and the Committee of the ACJRD for this unique privilege.

* This paper comprises the text of the 16th Annual Martin Tansey Memorial Lecture, delivered at the Criminal Courts of Justice on 20 April 2023.

† His Honour Dr John O'Connor is a Judge of the Circuit Court.

While I did not know Martin Tansey personally, I am only too aware he was Director of the Irish Probation Service, had a long and distinguished service as a public servant and that he inspired an ethos which embraced that rehabilitation of offenders is a supremely rational social objective.

Martin was a West of Ireland man, like myself, and I hope, bearing in mind my research with his beloved Probation Service and the judiciary, that I can do some justice to his name. I am also only too conscious of the distinguished lecturers who have preceded me in the fifteen years since the first Memorial Lecture in 2008.

In the summer of 2016, I read some of the historic ledgers which contained the sentences of children who were sent to industrial homes in the twentieth century. It was not just penal welfarism at the expense of children's rights; it went further and blotted our nation's history. It was a historic neglect where many children were subject to inhumane and degrading treatment. It gave me the impetus to commence my doctorate.

My overall ethos

Child and adolescent crime is not a natural occurring behaviour but a product of human making (Rogers, 2010). Our knowledge of childhood and adolescence is evolving. New issues are constantly emerging. Best interests and rights are not mutually exclusive. This needs to be interpreted and balanced according to international best practice (Liefwaard, 2015) and not in a subjective manner which may involve unconscious bias. Children have a right to be heard in matters that concern them and due weight should be attached to their views in accordance with their age and maturity.

Focus and format

While this paper is concerned with the sentencing of children, there is a heavy focus on juvenile sexual offending sentencing, which was the primary focus of my doctorate. It is regarded as the most challenging area of juvenile justice for judges, and research into this area had not been done before in Ireland.

My doctorate incorporated a heavy emphasis on practice-based research and praxis, in the sense of developing legal practice (O'Connor, 2021). Its aim was to provide a bridge between academic theory and professional practice, by providing insights into how the youth justice system might address the justice and welfare dichotomy in sentencing. It entailed a methodology which respected the existing judicial doctrinal approach to sentencing but also

advocated best practice by reference to international treaties, scientific developments and rights-compliant youth judicial systems. It therefore needed a comprehensive methodology to enable research questions to be addressed, which was achieved by adopting a combination of a legal doctrinal model as its primary model, with socio-legal and comparative analysis as subsidiary or complimentary processes. This methodology recognised that new issues are constantly emerging such as, for example, neuroscientific and behavioural research and also acknowledged that new academic studies and judicial thinking create a greater understanding of child and adolescent behaviour.

The research comprised an extensive literature review, interviews with 22 judges (eighteen practising judges and four retired judges as a pilot study), twelve Young Persons' Probation Officers (YPPOs), and a study of Irish and international case law. My intention was not to rate the work of judges but to observe how judges and others such as probation officers observe themselves and the Irish Youth Justice System.

UN Convention on the Rights of the Child 1989 – A changed world and new neurological research

In doing this, I was cognisant of international best practice. Although the almost universal acceptance of the United Nations Convention on the Rights of the Child (the UNCRC) 1989 and its cross-reference with regional bodies such as the European Convention on Human Rights (ECHR) gives us a template of what a good juvenile justice system should be, the reality is: that was then, and the world has changed dramatically.

Societal changes have meant that twenty-first-century adolescents grow up in a much more mobile and globalised world than we did, amplified by contemporary technologies such as the internet and social media where children can negotiate their social identities, but which can give rise to exposure to extreme exploitation and peer abuse (Sawyer, Azzopardi and Parton, 2018). We now also live in a multi-ethnic, multicultural society.

However, while technology such as phones may be the most visible aspect of recent changes, it is our recent understanding of neurological brain development which is the most dramatic aspect of how we as judges should deal with children. Effectively, changes to the brain can now be accurately detected from magnetic resonance imaging or MRI, which was unknown twenty years ago. It has shown that the prefrontal cortex is developing

dramatically in teenagers and young adults. The implications for assessing risk behaviour, autonomy and the effects of intimacy with peers are profound. MRI imaging takes a snapshot or a photograph, at really high resolution, of inside the living human brain. The prefrontal cortex is proportionally much bigger in humans than in any other species, and it is involved in a whole range of high-level cognitive functions – things like decision-making and inhibiting inappropriate behaviour. It is also involved in social interaction, understanding other people, and self-awareness. In simple terms, it has been compared to a rose bush being pruned away at the start of adolescence and sprouting robustly again.

For my research, it had the practical implications of how we as judges deal with rehabilitation and therapeutic intervention for children in conflict with the law.

It is accepted that the environment and trauma, or in some cases multiple traumas, can and do shape the developing adolescent brain.

Court innovations in youth sentencing: International

US Supreme Court

Of significance are innovations by the US Supreme Court in youth sentencing, starting with the cases of *Roper v. Simmons* US 551 (2001) ('*Roper*'); *Graham v. Florida* 560 US 48 (2010) ('*Graham*'); *Miller v. Alabama* 132 S Ct 2455 (2012) ('*Miller*'), and more recently the decision in *Jones v Mississippi* 141 S Ct 1307 (2021) ('*Jones*').

The US Supreme Court has the potential to inform the Irish Appellate Courts in developing a robust constitutional response to the use of neuroscience developments in youth justice sentencing.

These cases represent a radical assessment of psychological and neurobiological research and the consequent legal implications for sentencing. Thus, *Roper* emphasised that juveniles still struggle to define their own unique identity, which means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character. The *Graham* case took up this theme and emphasised that children are less culpable than adults due to their underdeveloped brains and characters, while *Miller* reasoned that children are constitutionally different from adults for purposes of sentencing.

The emphasis in *Miller* on the transient immaturity has recently been reassessed by the US Supreme Court in *Jones v Mississippi*. It held that the

court need not make a specific finding that a youth is 'permanently incorrigible' or even give a specific *Miller* rationale for sentencing. It is sufficient that the judge understands that they have a discretion in the matter. Arguably, the judicial discretionary nature of this test could give rise to justice by geography depending on the state or judge that the child appears before. On the other hand, shifting the focus from 'permanent incorrigibility' (which cannot be predicted in a scientifically reliable manner) to 'transient immaturity' (which is already established by robust development research and neuroscience) may provide opportunities for counsel and courts at trial or sentencing phases, and upon appellate reviews.¹

Court of Appeal of England and Wales (18–25-year-olds)

Since 2018, the Lord Chief Justice Burnett has brought this further and offered a new approach to the issues concerning a child over 18 years who commits a crime. The importance of the change is that it recognises that young adults between the ages of 18 years and 25 years must be given consideration for special treatment, as opposed to being treated as mature adults. This is now enshrined in the UK sentencing guidelines (Janes *et al.*, 2020). The first case to outline the new sentencing approach, *R v. Clark* [2018] 1 Cr App R(S) 52, involved a teenage boy who kidnapped, falsely imprisoned and threatened the victim with weapons. In the course of his judgment, Lord Chief Justice observed:

Reaching the age of 18 has many legal consequences, but it does not present a cliff edge for the purposes of sentencing. So much has long been clear.... Full maturity and all the attributes of adulthood are not magically conferred on young people on their 18th birthdays. Experience of life reflected in scientific research ... is that young people continue to mature, albeit at different rates, for some time beyond their 18th birthdays. The youth and maturity of an offender will be factors that inform any sentencing decision.

(para. 5)

R v. Clarke was followed by some very serious and savage cases but robustly dealt with by the Court of Appeal. *R v. Hobbs* [2018] 2 Cr App R(S) 36 involved the manslaughter of a man who had burned to death after the

¹ MGH Center for Law, Brain and Behaviour, 'White paper on the science of late adolescence: A Guide for judges' (Harvard Medical School, 2022)

defendants had ignited a flare in the car in which he was sleeping. Holroyd J. observed that the modern approach to sentencing in that case required the court to 'look carefully at the age, maturity and progress of the young offender in each case'. The case significantly outlined that the principles that applied to young offenders under 18 years also applied to young people who offend in early adulthood but are far from the maturity of adults. In *R v. Balogun* [2018] EWCA Crim 2933, the defendant was convicted of a campaign of rape against teenage girls.

Issues which might be regarded as aggravating factors in an adult sentence were put into context in *R v. Quartey* [2019] EWCA Crim 374, which involved a gang murder, an inhumane and savage attack. The Lord Chief Justice drew specific attention to the appellant's background of falling out of mainstream education and into gang-based behaviour, which he interpreted as indicative of immaturity and a lack of strength to resist peer pressure.

Concept of evolving capacity

So, this relatively recent emergence of scientific developments in neuroscience concerning child development and brain development has informed the children's rights framework and international juvenile justice standards. In turn, this has led to a renewed interest in the concept of evolving capacity as envisaged by Article 5 of the UNCRC (Kilkelly, 2020). The net effect is that, internationally, the concept of best interests is now being interpreted in terms of prevailing standards and understanding of developments of children and young people.

In short, it is about balancing rights and best interests of a child within the broader context of child-friendly justice, which in turn stresses the importance of treating children differently from adults. In addition, these instruments emphasise accountability in determination and that sentencing should take account of the vulnerability and immaturity of children who encounter the criminal justice system.

Minimum age of criminal responsibility

Internationally, General Comment 24 of the UNCRC states emphatically that the minimum age of criminal responsibility (MACR) should be not less than 14 (United Nations, 2023). Irish law, which has an MACR of 10 for serious crime and 12 for other crimes, is somewhat illogical when one considers that the law also deems children incapable of consenting to sexual activity until

the age of 17, or even 18 in some cases, and prohibits the drinking of alcohol until 18 years. I accept there are exceptions.

Ireland has been criticised repeatedly by the UNCRC in this respect. Ireland's response is that we have never prosecuted a 10- or 11-year-old and that it is rare for children of 12 and 13 to be prosecuted, though accepting that there are some very recent high-profile cases (Department of Justice, 2021, p. 33). While nearly all judges and YPPOs interviewed would, in my view, correctly believe that age alone is a poor indicator of maturity, the reality is that we must have an MACR for criminal law.

Various research studies relating to the evolving capacities of children noted that children, especially those under the age of 15, are likely not able to exhibit sufficient competency in either children or criminal courts. Furthermore, 'a substantial percentage of children especially those under age 15, lacked legal competency as a defendant due to their own developmental immaturity' (O'Connor, 2021).

More recent results (Rap, 2013) show:

- Children below 14 years of age are less likely to be familiar with trial-related material;
- 15-year-olds and under are more likely to be impaired in their ability to understand criminal proceedings;
- Capacities of 16- to 17-year-olds are like young adults though they do not have the life experiences necessary to enhance their capacity.

While many children can be either behind or ahead in their development, physically, cognitively, emotionally or medically, most children in the criminal justice system also suffer from intellectual and emotional problems, which in turn feeds into the child's capacity to participate.

The Committee on the Rights of the Child has noted that it is not possible for a child to be effectively heard in an intimidating environment or one that is 'hostile, insensitive or inappropriate for her or his age'. Proceedings must be both accessible and child appropriate.

Attention needs to be paid to the provision and delivery of child-friendly information, adequate support for self-advocacy, appropriately trained staff, design of courtrooms, clothing of judges, sight screens, and separate waiting rooms. In addition, the European Court of Human Rights (ECtHR) has held that an accused child must enjoy the right to understand what is happening at the trial and to play an active role in their defence; physical presence alone is not enough.

Certain features have been pointed out as hindering effective participation, such as intense public scrutiny, a tense courtroom, inability to consult with lawyers due to immaturity and disturbed emotional state, inability to contribute to the defence, intimidating formal settings and public hostility. Breaches of the in-camera rule, such as people walking in and out of courtrooms, have been particularly noted by YPOs as very upsetting for children.

Best interests of the child goes beyond dualism

While I acknowledge the effects of dualism and the constitutional obligations on the Oireachtas to change the domestic law, the reality is that best interests are now an integral part of international child law. As Baroness Hale observed, the jurisprudence of the ECHR makes it clear that it expects national authorities to apply Article 3(1) of the UNCRC and treat the best interests of the child as a primary consideration (*ZH (Tanzania) (FC) (Appellant) v. Secretary of State for the Home Department (Respondent)* [2011] UKSC 4). In effect, balancing the rights and best interests of a child should be interpreted around prevailing standards of developments of children and young people.

The Children Act, 2001

The Children Act, 2001 codified juvenile justice law governing interactions between children below the age of 18 years to comply with the UNCRC. It was heavily influenced by international juvenile justice best practice and, in particular, by the family group conference (FGC) trailblazing developments in the field of youth justice in New Zealand. According to the then Minister for Justice, John O'Donoghue, the Act was designed to underpin the future development of the juvenile justice system in Ireland in response to changing circumstances in a way not anticipated at the time. It placed on a statutory basis the diversion programme and probation-led family conferencing, as well as creating a Children Court in Ireland (O'Donoghue, 2000).

Both Tom O'Malley (2016) and Dermot Walsh (2005) state that the principles of the Act are heavily biased towards rehabilitation in 'rehabilitation takes centre stage in the punishment of a child for a criminal offence' (Walsh, 2005, p. 190). This is very much in keeping with the principles of the UNCRC.

Department of Justice Youth Justice Strategy Plan (2021–2027)

I note that Department of Justice Criminal Policy, in line with the Department of Children, is constantly developing regarding children. While I am not dealing with this area here, it is only fair to acknowledge their ongoing work. In my time as a judge in the Children Court, in common with other Irish youth justice agencies then coordinated in policy by Irish Youth Justice Service (IYJS), there was very much a collaborative approach to children and adolescents in conflict with the law. I also welcome the emphasis on Family Conferencing in the Department of Justice *Youth Justice Strategy Plan (2021–2027)*.

Welfare aspect of sentencing – probation and welfare reports

Section 96 of the Act requires:

any penalty imposed on a child for an offence should cause as little interference as possible with the child's legitimate activities and pursuits, should take the form most likely to maintain and promote the development of the child and should take the least restrictive form that is appropriate in the circumstances; a period of detention should be imposed only as a measure of last resort.

Section 96, combined with the principles, such as detention as a measure of last resort (Section 143),² the emphasis in Section 99 on a probation and welfare report before sentencing, the alternatives to detention such as the ten community sanctions,³ collectively create a substantial welfare ethos. The welfare aspect is particularly pronounced for summary and minor indicatable offences in the Children Court where Part 8 of the Act authorises the judge to request the attendance of a representative of the Child and Family Agency (Tusla) to attend court. It also allows a court, for example, to dismiss a case

² Section 143 mirrors Article 37 of the UNCRC which provides inter alia: '(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with law and shall be used only as a measure of last resort and for the shortest appropriate period of time.'

³ Ten community sanctions provided for under sections 115–141 of the Children Act, 2001: 1) Community Service Order; 2) Day Centre Order; 3) Probation Supervision Order; 4) Probation (Training or Activities Programme) Order; 5) Probation (Intensive Supervision) Order, section 125 of the Children Act, 2001; 6) Probation (Residential Supervision) Order; 7) Suitable Person (Care and Supervision) Order; 8) Mentor (Family Support) Order; 9) Restriction on Movement Order; and 10) Dual Order (combination of two orders – for example, Probation and a Restriction of Movement order).

on its merits, analogous to the abolished *doli incapax* presumption for a child under 14 years of age, provided that the judge, having had due regard to the child's age and level of maturity, determines that the child did not have a full understanding of what was involved in the commission of the offence (section 52(3) the Act). Reflecting the crossover between welfare and rights, the Act allows the Children Court judge to direct Tusla under section 77 of the Act to convene a family welfare conference to consider if care and protection orders are needed.

A family welfare conference under section 77 of the Children Act, 2001 represents the interface between welfare and justice. However, it is rarely used in practice. In my own case of *DPP v. AB* [2017] IEDC 12, AB was a child in special care under the inherent jurisdiction of the High Court. The child was a victim of abuse, including sexual offending, and a detention sanction (which was refused) would have resulted in the child losing the benefit of very high therapeutic special care, as criminal detention takes precedence over care orders even if made by the High Court.

Section 78 of the Act is the only reference to a legislative 'Restorative Justice-type' sentence for children. It allows a Children Court judge to direct the Probation and Welfare Service to arrange for the convening of a family conference in respect of the child. This, unlike the conference under section 77, is a type of Restorative Justice conference modelled on the New Zealand model. Court statistics have revealed that family conferences are rarely used by the courts. However, a recent youth strategic plan of the Department of Justice (2021, p. 33) states that 'Family Conferencing could be the catalyst for addressing the personal welfare and circumstances of the child.'

The most significant welfare aspect of sentencing children is the importance of probation and welfare reports. Section 99 of the Act, 2001 permits a court to order a report from a probation and welfare officer in every case. However, it mandates it in the case of a detention order or a community sanction. While obtaining a report is mandatory, irrespective of a child's wishes, the Act is silent on the content of the report. Therefore, a lack of co-operation by a child can result in a meaningless report, and the acceptance of same has been held by the High Court within a court's discretion. It is opined that this view is somewhat at variance with the concept of child-friendly justice, which recognises that participation in proceedings also requires a child's views to be heard on the possible sanctions.

The rights and best interests of the child do not require that the child's views determine the sentence but that the child is aware of the possible

outcomes. While this issue could be alleviated by the child's lawyer assistance, it is also problematic where the lawyer and judges lack appropriate specialised training. In this regard, the court should also consider any additional supports available for a troubled child, which needs to be dealt with in a child-appropriate way.

Therefore, while the purpose of a probation and welfare report is to ensure that the needs of the child are addressed, my research has demonstrated that it is usually not sufficient, particularly in sexual abuse cases where specialised therapeutic interventions and treatments such as the AIM project (see below) are required.

A probation welfare report may need to be supplemented with a psychologist report or psychiatrist report. Indeed, the estate agent's mantra of 'location, location, location' should in the case of children be replaced with 'reports, reports, reports'. I accept that there are practical dangers of obtaining additional welfare-type reports which can reveal information such as other undisclosed potential offences, which would breach a child's presumption of innocence.

Child and adolescent sexual crimes

Few crimes shock as much as sexual assault, and this is particularly disturbing where the victims are also children and young persons. Teenage sex-offenders also create challenges that parents and families, including siblings of abusers, must face in coming to terms with the abuse or where some of the abusers require care and protection as well as welfare interventions.

While it is impossible to determine accurately the true extent of the problem of teenagers who sexually abuse in Ireland, we do know that it is a significant issue. Various Garda pulse records estimated it at 20 per cent of the total number of sexual abuse cases they dealt with. Research and statistics in other countries indicate that it is much higher and that it can vary from a quarter to a third of all sexual abuse that comes to the attention of professionals (Hackett *et al.*, 2014). However, even this figure may be conservative as it does not include unknown cases that have not come to the attention of the criminal justice system or child-protection agencies.

A very diverse group unlike other areas of juvenile justice

What we know from existing research is that children who sexually abuse are a very heterogeneous group in terms of age, personal vulnerabilities and the

risks they present to others (Erooga and Mason, 2006). While there is diversity in motivations, age and victims, existing research also suggests that early adolescence represents the peak of children committing sexual offences against young persons, whereas sexual offending against other teenagers appears to peak in mid to late adolescence. Many children have extensive prior experience of supports from social services, problematic family backgrounds and multiple disadvantages and adversities. Hackett *et al.* (2013) also found that two-thirds of teenage sexual abusers have experienced abuse, rejection, domestic violence or parental rejection, while a prior US research team found in its sample that the rate was as high as 92 per cent (Vizard *et al.*, 2007). Specifically, in relation to prior sexual abuse, Hackett *et al.* found that 31 per cent of young males had been sexually victimised earlier in their childhood, a figure which is replicated in other studies, leading to a view that there may be some parallel between children who are sexually abused and their own sexually abusive behaviour.

However, we also know that teenage sex-offenders rarely grow up to be adult paedophiles, and when treated appropriately, such as on the National Inter-Agency Prevention Programme (NIAPP), the recidivism rate is generally little different from non-offenders. Therefore, we know how to deal with it, but it is very difficult and time-consuming and needs adequate resources and specialisation.

The judges' dilemma and issues arising

In this regard, judges are struggling to understand and define what is harmful and sexually abusive, as opposed to inappropriate, for children in a digital communication age that did not exist when we were teenagers.

This, in turn, raises new and important challenges for judges in understanding what are societal norms around capacity, consent, coercion, sexual identity and sexual agency for children. However, the identification of more homogeneous sub-groups of offenders, such as peer-based sexual abuse and exploitation, co-morbid mental health, non-sexual offending adolescents or offenders who have suffered trauma, children and family dysfunction (Calder *et al.*, 1997; McAlinden, 2018), does, in my view, improve treatment for specific needs of offenders and inform sentencing structures. The statistics suggest that the clear majority are young males, even considering under-reporting and the lack of services for young women.

From a criminal justice point of view, it is accepted that diversion from the traditional court process is the preferred route, and under the Children Act,

2001 it is compulsory to consider it for all crimes, even in the most serious crimes (Kilkelly, 2006). However, in practice, it is not always an option, such as, for example, children in the special care of the State due to their high therapeutic needs. However, exclusion from diversionary treatment should not mean that a child or young adult does not receive adequate therapeutic interventions.

The judges' view of juvenile justice in Ireland

We will now take a step back and observe how Irish judges view the Juvenile Justice System.

Some key findings of my research (O'Connor, 2019) include:

- Only one-fifth (20 per cent) of judges believed that the existing adversarial system was adequate, whereas 27 per cent preferred an inquisitorial system. This might imply a radical solution such as the Barnhus Model found in Scandinavia. However, 53 per cent favoured a combination of adversarial and inquisitorial system for children, and I felt that, overall, we are not going to ditch the existing adversarial system, at least in the short term.
- Nearly all judges (95 per cent) believed that the best interests of the child, public policy and victim interests could be achieved in sentencing. Yet less than half of the judges (43.75 per cent) were positive about the Children Act, 2001, with just over a third (37.5 per cent) feeling that the Act was trying to achieve too much. Lack of resources, particularly outside Dublin, was frequently mentioned.
- All judges were positive about pre-sanction probation reports but two-thirds (66 per cent) of judges felt that Children Court judges should have more discretion in sentencing.
- 75 per cent of judges felt that retribution should not be a factor in sentencing children, which would comply with the principles of the UNCRC. However, significantly, one senior very experienced judge felt that retribution is an integral part of the proportionality principle, even though rehabilitation must also be considered.
- 70 per cent of judges were positive about Restorative Justice, though my research shows it is rarely used in practice and never in sexual offending.
- 100 per cent of judges believed that the age and maturity of the child matter in practice, and all judges, in accordance with international best

practice, disapproved of having two ages of criminal responsibility. However, there was little agreement as to what the minimum age should be. Not surprisingly, therefore, a significant number of judges (38.89 per cent) in this research felt that chronological age alone was not sufficient and that there should be some form of capacity test. Uniquely, Judges of the Children Court have the authority to dismiss a case on its merits for a child under 14 years, under section 76(c) of the Children Act, 2001.

- Regarding the current level of assessment of age and maturity, approximately one-third believed that the current system was adequate, one-third believed it was not and one-third were unsure.
- 100 per cent of judges believed that personal issues such as mental health, severe learning disabilities, e.g. ADHD, were significant factors to be considered in sentencing.
- 90 per cent of judges felt that children who commit sexual offences could be rehabilitated.
- Nearly 60 per cent of judges felt that juvenile sexual offending was transient.
- 95 per cent of judges would welcome guidance on sexual-offending sentencing but only 28 per cent felt that the guidelines should be mandatory.
- 93 per cent of judges believed that the press influence the debate on juvenile sexual offences and 28 per cent believed it had the potential to influence the actual sentence. A more positive way of framing this is that 72 per cent of judges felt that the press did not influence them and referred to their Oath of Office.
- 88 per cent of judges favoured greater specialisation in juvenile justice and 100 per cent of judges believed that there should be a trained panel of judges; 38 per cent of judges favoured specialist regional courts, as opposed to the existing 25 District Courts. In addition, 61 per cent of judges favoured special facilities for children in courts.

Most significant key finding

The need for specialisation and training of judges, which was loud and clear from the judges themselves.

Young Persons' Probation Officers' experiences of working with children who sexually offend

According to my research (O'Connor, 2020), YPPOs' experience of children who sexually offend is that they are few in number compared to those who commit other offences. The numbers rise, however, from single digits to treble digits when the children become young adults. Notwithstanding this, all YPPOs were very experienced in working with children who offend generally, and some Dublin YPPOs worked with NIAPP and had extensive experience. Generally, YPPOs were positive about judges but they wanted judges to take the lead, not just rely on them.

YPP assessments in respect of teenage sexual offending

To contextualise YPP assessment, it is necessary to look at the two assessment tools. First, the Youth Level of Service/Case Management Inventory (YLS/CMI). All YPPOs interviewed were proficient and have considerable experience in general risk assessment for children who offend generally. The second assessment is known as Assessment, Intervention, Moving On (AIM), and is not strictly a risk assessment. It is used for males only and there was a consensus that it is very challenging work. They also referenced the need for additional professional reports, such as medical and psychiatric reports. However, there was a view that judges were not always aware of what is needed in sanctioning children who sexually offend.

Many YPPOs were concerned about a court imposing very difficult supervision conditions such as, for example, restricting the child's movements or prohibiting the child from being in the same room with the victim.

Impact of the developmental needs of male adolescents who sexually offend

All YPPOs agreed with the findings from judges in asserting that age and maturity matter in ascertaining culpability. However, only a third of the judges were prepared to state that the current assessment procedure for children was adequate. In regard to sexual offending, all YPPOs believed that the manner in which the criminal justice system dealt with children was currently problematic.

YPP quotes and perspectives

'In my opinion, all of the boys I dealt with were three or four years behind developmentally. A 15-year-old was roughly compatible with a 10-year-old. So, there are developmental needs but physically/sexually was a 15-year-old.'

(Focus Group 3, Interview 4)

However, while YPPOs interviewed by phone were aware of the problem, YPPOs in Focus Groups 1 and 2 delved much deeper into current YPPO practice:

'We need to be more open to looking at sexually harmful behaviour in young people – the brain isn't fully developed until 24 or 25. All of us around the table know that people can change and do change when treatment is available to them.'

(Focus Group 2)

Research findings – Perspectives of YPPOs

The Focus Groups also suggested that the issues were more complex than just age and maturity; there was a general lack of understanding around the impact of peers on sexual crime. The issue becomes even more acute when children are tried in adult courts.

Use of the internet by young teenagers was a particular cause of concern for all the YPPOs but particularly in the Focus Groups:

'You can have a 13-year-old accessing the wrong stuff on the internet or a 17-year-old who hasn't accessed anything to get the right information on the internet.'

(Focus Group 2)

The impact of inappropriate use of social media is that:

'They are less sexually active and are reliant on online for meeting, dating etc. They have lots of superficial relationships.'

(Focus Group 1)

In turn, this has an effect on sexual offending. The two YPPOs who worked in NIAPP were particularly aware of this:

'We find that early access, unsupervised access, inappropriate images, [creates] opportunity. [Therefore, our job] is helping to understand, re-educate them, helping them to understand their own emerging sexual identity, the world has changed vastly. There seems to be hyper-sensitivity concerning issues of a sexual nature these days.'

(Focus Group 2)

This is compounded by a lack of awareness among parents that their teenagers have sexual needs; this issue has been clearly identified by Finlay, a youth disability rights campaigner (LRC, 2006). As one YPPO who worked with NIAPP pointed out:

'It's about the parents realising that their children are sexual beings and will be interested in sex; some of the parents that we worked with couldn't get to grips with how their children could be interested in sex at such a young age and "why not" was our message to them. There was a lack of knowledge; they still saw their child as a child not as an emerging adult.'

(Focus Group 2)

YPPOs believed that issues such as learning difficulties and child offenders with autism spectrum disorder (ASD) could be dealt with satisfactorily provided that there were adequate resources, such as access to NIAPP, as happens in Dublin:

'From the [Dublin] Northside NIAPP point of view, they do run three groups and one of the groups caters specifically for people who may have learning difficulties or may have ASD and that group works really well, maybe even better than some of the other groups.'

(Focus Group 2)

However, teenagers have access to NIAPP only in Dublin and other large urban areas such as Cork city. Similar to the Child and Mental Health Services (CAMHS), there is no access to NIAPP after a child reaches 18 years. In sharp contrast, the YPP service works with children until the child is at least 21. Sometimes, the child is even older, in cases where the YPP service has been working with the child before the child turned 18 years.

The resulting effect is that the first-time child offender aged under 18 years who commits a sexual offence but is sentenced after 18 years is treated as an adult and will be dealt with by the Adult Probation Service:

'We work with them until they are 21 but other services are gone like NIAPP and CAMHS and sentencing is different. Where it is custodial sentence, it is now a prison sentence ... which is hard because these people won't have committed general offending.... They [first-time offenders over 18 at date of sentence] are not the type of children who have committed a range of offences. They are normally squeaky clean and they come with this 'big bang' of a charge. I had one lad with NIAPP who found himself in Cork Prison on remand. He also found himself all over the papers with his name, address disclosed. That had a massive effect on the child.'

(Focus Group 2)

Loss of welfare benefits such as YPP support, and other agencies such as NIAPP and CAMHS, have not been considered by the courts.

All YPPOs were in agreement with the assertion of Stone (2019) that:

... the classic and central focus for students and practitioners of youth justice rests on young persons who offend and are then convicted and sentenced while remaining juveniles.

(Stone, 2019, p. 158)

In Document 3 of my research (O'Connor, 2019), almost 60 per cent of judges were of the view that much adolescent behaviour is experimental or transient in line with the UK Sentence Council (2017). However, one study has disputed this emphasis (Hackett *et al.*, 2013), while YPPOs suggested that the factors of brain development and exposure to the internet make matters even more complex. Studies have suggested that up to 93 per cent of children in the youth justice system have adverse childhood experiences, such as trauma, which impairs brain development (Evans-Chase, 2014; Williams, 2020). As one YPPO stated:

'I am conscious of trauma to children. If the brain has three or four traumas against non-trauma, that can have a big impact.'

(Focus Group 3)

However, attempts to find solutions to these issues are not straightforward. For example, senior probation officers believed that a multidisciplinary approach to child sexual offending might sound admirable in principle, but great care is required. In this regard, they were of the view that unhelpful blurring of professional roles may occur unless roles are clearly defined:

'Everybody says multidisciplinary, [however], it is based on trust, knowledge, and boundaries ... policemen and probation officers can stray into doing each other's jobs, resulting in information sharing becoming confused.'

(Focus Group 1)

Victims and public opinion

Much juvenile sexual offending is familial, which creates particular distress for parents, and that parental disbelief is often a defence mechanism.

In the conflict between loving their children and protecting them, parents tend to self-blame. In this regard, YPPOs believed that much depends on how a court deals with victim impact statements. They felt it was important that parents believe that the consequences of making a statement should not necessarily mean a harsher sentence for the offending child.

Teenage sexual abuse can also have significant collateral damage for the wider family (who themselves may end up as victims due, for example, to parental neglect):

'NIAPP had a client where the parents were on board, but they were almost over the top. The parents had a safety plan sellotaped in every room and there was an older sibling who was 16 years who was forgotten about. It transpired after a few months that this young person was suffering with suicidal ideation because he was the buffer. It was as if 'ah, he's all right'. They were trying to manage the young person who has harmed, manage the victim, but the older brother of them was ignored and this older child ended up with suicidal ideation.'

(Focus Group 2)

Therefore, there is a disconnect for the child between his behaviour and the trauma caused by the sexual offending to the victim:

'It can be hard for them to fully buy into the victim empathy module because they are victims themselves and there was nothing done about their abuse. It was tied up in the family or nobody knew enough about what happened to them, so it is hard for them to get into that space of empathy.'

(Focus Group 2)

One of the striking factors uncovered in this research relates to the group therapy with NIAPP; children who are referred may also include children referred by Tusla, by the Diversion Programme and by the courts for similar offences. Three different referral systems are therefore evident. The child who is referred by the courts may struggle to understand why he is treated more harshly than the other (non-court) children, particularly if the crime was, in effect, the same.

The media and public opinion and judges taking control

YPPOs accepted that public opinion is much harsher around sexual offending than other more general areas of offending. On the positive side, they also felt it could have an educational benefit, particularly in relation to revealing issues such as sexting by teenagers who are often unaware that they are committing an offence. Significantly, particular concern was expressed about perceived media pressure on the victims – which, they believed, may result in victims being put under pressure to submit a victim impact statement when they do not wish to do so or where too much confidential information is revealed.

YPPOs were unanimous in asserting that sentencing is a matter for the judge who should take control. Breaches of the in-camera rule were frequently mentioned by YPPOs. One child who committed a sexual offence told the YPPO that he was deeply upset by the way lawyers and other people unconnected with his case walked in and out of court without any correction from the judge.

Restorative Justice, sentencing guidelines and judicial training

Restorative Justice

YPPOs have a restorative practice officer who provides information and workshops to schools.

There was a consensus that an apology from a child offender in court is usually drafted by a lawyer and incomprehensible to a child offender and child victim.

Sentencing guidelines

The response of the majority of YPPOs in this study was that guidance rather than strict guidelines for the courts are required. Consistency by judges is important for the child and their legal advisors. A few YPPOs opined that the

potential risk for a child to receive a custodial sentence depended on the judge before whom a child appears.

However, a minority of YPPOs were in favour of mandatory guidelines:

'Judges come from their own background and they may not be aware of all the issues.'

(Focus Group 3)

Training and specialisation

All YPPOs in this study believed that training and specialisation were necessary.

The 'other' child

The most significant challenge for judges is to apply a sentence that promotes rehabilitation and accountability for the child defendant but also provides justice and safety for victims and the public. We know that a significant portion of child sexual offending also involves younger children as victims, including children from the same household as the child offenders. One of the unfortunate side-effects is the idea of what Professor Hackett calls the victim-to-offender cycle, whereby individuals abused in childhood go on to complete the cycle by victimising others. However, the evidence also suggests that most victims of sexual abuse do not go on to abuse others.

Many children who are abused encounter post-traumatic disorder, which may not manifest itself for many years. It will not be rectified solely by a victim impact statement. Indeed, the legal process leading to a sentence can result in more, rather than less, trauma for the victim. As Beijer and Liefwaard (2011) cogently point out, it can lead to 'secondary victimisation i.e., victimisation that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim' (p. 70).

Frequently, the perceived 'safe' approach to sentencing the child is to give a custodial sentence, and thereby remove the child from the family for a period. However, it is not always evaluated whether it is desirable for the victim, the child offender and their families. Child victims are unlikely to be effective self-advocates.

In addition, a victim impact report written by a family member (which is broadly defined⁴), furnishing an assessment of the effects of the offence on

4 A family member can be: spouse or partner; child, grandchild, parent, grandparent, brother, sister, uncle, aunt, niece or nephew of the person; person in loco parentis of the person; dependant of the person; any other person whom the court considers to have close connection with the person.

the victim, may also be furnished to the court before sentencing. While judges take cognisance of victims, there is a dearth of research on how the changing conceptualisation of the role of victims influences the judicial process, including the final sentence, bearing in mind that many children (both victims and perpetrators) have learning and speech and language issues. Tom O'Malley suggests that the sole purpose of victim impact evidence is to assist the sentencing court but it does not obligate the court to increase the sentence because of the impact on the victim.

Sibling Sexual Abuse (SSA)

While empirical research on Sibling Sexual Abuse (SSA) is scarce (Finkelhor *et al.*, 1983), data from the US indicate that it is a significant issue, with at least 2.3 per cent of children victimised by a sibling, compared with 0.12 per cent who were sexually abused by an adult family member (Caffaro, 2021, citing US Department of Health and Human Services, 2016). SSA can also create significant collateral damage for the wider family who themselves may end up as victims. In this regard, many YPPOs interviewed for my research were of the view that much depends on how courts deal with victim impact statements and, in particular, that the consequences of the victim making a statement should not necessarily mean a harsher sentence for the offending child. It should be borne in mind that many child-offenders are themselves victims, which may become apparent only when the child has sexually offended.

The New Zealand approach (Lynch, 2016)

- New Zealand youth justice system – Oranga Tamarika Act, 1989.
- Re-integration, Restorative Justice, Diversion and family empowerment are strong components of its ethos.
- It is primarily achieved through the Family Group Conference (FGC) in the Youth Court.
- Section 282 is a complete and unconditional discharge developed in a welfare ethos by the New Zealand Youth Court judges rather than by legislation.
- Section 283(a) discharge results in a record even though there is no other order or penalty.
- Very serious cases can be included in FGC. This involves a therapeutic process over a period, with constant court supervision followed possibly by a community sanction.

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- Transfer to the New Zealand District Court is rare but emphasis is on rehabilitation, not detention.

Irish judges – A lot of positives

- Judges are largely empathic – 89 per cent of judges felt that children who committed sexual crimes could be rehabilitated and nearly all judges (95 per cent) felt that to consider a child’s welfare needs in sentencing was important.
- Recognition that detention is a last resort evidenced by the low number of children in detention.
- Emergence of specialisation, particularly in some recent high-profile cases in the Central Criminal Court and in the Children Court 55.
- The development of the concept of reviewable sentences and the use of deferred detention orders even for high-end cases is commendable.
- Closure of St Patrick’s Institution. Oberstown is a modern detention centre with heavy emphasis on rehabilitation for under 18-year-olds.
- Successful piloting of Bail Support Scheme in Court 55.
- Judicial Youth Justice Manual

Legislatively, the Children Act, 2001 is in compliance with the UNCRC – in particular, Parts 7 and 8 give extensible powers to the Children Court – but it would appear that it is not used to its full potential. It is anticipated that there will be significant legislative changes in the next few years, according to the most recent 2021–2027 Youth Justice Action Plan, particularly in Family Conferencing.

Key Findings (O’Connor, 2021)

In sentencing children and young persons who commit sexual crimes, judges are obliged to deal with several competing but divergent demands. First, a young offender’s crime, personal life history, risk assessment and rehabilitation compete with the process of repairing harm to victims, many of whom are vulnerable children. Secondly, young victims and young offenders frequently must navigate a life-changing experience, including severe trauma in a largely adult criminal justice system. Thirdly, the political and media agendas frequently demand a robust justice approach, centring on retribution, incapacitation and protection of society. Yet most international studies acknowledge the relatively low rates of sexual recidivism, ‘with non-sexual recidivism being nearly twice as

great' as other offences (Lambie, 2009). However, the Irish Court process has demonstrated considerable nostalgia for a jurisprudence embedded in the twentieth-century working of the Children Act, 1908.

Five key findings have come to the fore in this research, namely:

1. *Absence of court data*

Firstly, the absence of court data from the Courts Service, the Director of Public Prosecutions and the Probation Service make it very difficult to evaluate judicial decisions in sentencing for sexual offences. In addition, the rationale for sentencing needs to be intelligible not just to an appellate court but also to the child defendant, child victim, their families, and the wider public. This, therefore, requires consideration to be given to written sentences such as exist in the New Zealand Youth Courts, which are subject to public scrutiny.

2. *Failure to take account of personal issues, such as scientific insights concerning the development and maturation of adolescents who sexually offend*

A second key finding in this research is that while the age and maturity of the child are recognised, it is within an adult justice status and through an adversarial model. While judges do take the age of the child into consideration as a mitigating factor and promote the development of the child in sentencing, it is frequently done according to the child's chronological age. There is an absence of detailed analysis of personal childhood issues, neuroscientific developments and mental health concerns that may be particularly pertinent to the child in question. This is particularly unfortunate in the case of children who are sentenced for sexual offences. Children who sexually offend are not a homogeneous group but there are defined sub-groups and, unlike other areas of youth crime, children who sexually offend respond particularly well to child-appropriate therapeutic treatment.

Child victims, including siblings, are frequently exposed to revealing their own vulnerability in an adult adversarial court process and in victim impact statements, thus further exacerbating their trauma. Finally, there is currently an over-dependence on probation officer reports, to the detriment of other reports to fill the information gap.

3. *Lack of judicial training and specialisation in youth justice*

Youth justice sentencing is generally largely instinctive judicial analysis, resulting in some inconsistencies in the Children Court. YPPOs have

noted that the absence of specialisation and training is also evident in the poor representation from the lawyers who represent children. This is demonstrated, for example, by their advocacy of inappropriate court sanctions, such as suspended sentences, or the pursuit of fruitless judicial review processes, which creates unnecessary delays for children.

4. *Appropriate sentences hampered by inadequate resources*

As a fourth key finding, my research has demonstrated that the absence of legal aid for children charged with sexual offences and who are offered diversion can have dramatic consequences for a child who refuses diversion.

There is also a wide variation in the facilities available to judges of the Children Court. Dublin is the only district to have a full-time Children Court with trained YPPOs to assess therapeutic interventions and with access to comprehensive facilities such as Day Centres required for community sanctions.

Despite the discretion afforded to Children Court judges under section 75 of the Children Act, 2001, sexual abuse cases are invariably transferred to the Circuit Court for sentencing.

While New Zealand and Northern Ireland experiences may not offer perfect templates, they do afford good comparator examples. This, in turn, calls for robust victim and family supports to enable an effective system, particularly in SSA. The principle that children and young people are best cared for in their own family is also applicable. In SSA, therefore, the orthodoxy that requires all interfamilial abusers to be removed from the home is too prescriptive. Children have a right to be sentenced in an environment that recognises their right to be treated in the least restrictive setting, whilst also recognising the need to acknowledge sibling and community safety.

5. *Delay and children who age-out*

A fifth finding in this research relates to delays in court processes, which can manifest as a prosecution delay, historical abuse delay, judicial review or in the time required for a child or a victim to come to terms with the offence. Such delay results in cases of child sexual offending being dealt with as adult sexual offending; the child ages-out of childhood and accordingly loses the benefits of the Children Act, 2001. The cliff edge of adulthood at 18 years of age in current sentencing approaches in Ireland might be considered harsh in light of international standards for a young adult irrespective of when the offence was committed.

However, overall, arguably, victim and child offender's needs are not being met in the current sentencing regime in Irish courts. Instead, secondary victimisation is a real possibility due to the adult-like adversarial court criminal justice process for victims and offenders. For example, adult adversarial cross-examination is not suitable for vulnerable children. Furthermore, many child offender rights and victim rights are being disenfranchised because of the delays in the prosecution investigations and the length of the court process. What is needed, therefore, is a redefinition of the Irish sentencing model for juvenile sexual offences that is not exclusively wedded to a twentieth-century justice/welfare concept. Therefore, sentencing for sexual offences needs to recognise that children's rights and needs are progressing and changing rapidly. This means moving beyond the philosophy that underpinned the now-abolished concept of *doli incapax* and embracing the concept of the evolving capacity of children (Article 5, UNCRC). This requires holistic sentences, which should be incorporated into sentencing practice, recognising the role of scientific developments and academic research in the area.

Towards the future

I acknowledge that children in conflict with the law are inherently vulnerable. Courts must, therefore, recognise that children have underdeveloped capacities in comprehending harm, as evidenced in recent developments in neuroscience. These factors must also be borne in mind at sentencing stage. The need for a holistic approach to sentencing is desirable.

While I accept that neuroscience cannot accurately evaluate an age at which this vulnerability of adolescence ceases (Wishart, 2018), one must be forthright in stating that children below the age of 14 years are unable to participate effectively in the juvenile justice system, as a matter of science and of law (Rap, 2013; CRC/C/GC/24).

General Comment No. 24 (2019) also reveals that the UNCRC concept of best interests is now being interpreted in terms of prevailing standards and understanding of developments of children and young people. The relatively recent emergence of scientific developments in neuroscience concerning child development and brain development has informed the children's rights framework and international juvenile justice standards (Liefwaard, 2020). In turn, this has led to a renewed interest in the concept of evolving capacity, as envisaged by Article 5 of the UNCRC (Kilkelly, 2020).

General Comment No. 24 (2019) Article 28 states that children with neurobiological disorders should not be in the criminal justice system and, if not excluded, they should be individually assessed.

Article 40 of the UNCRC refers to the right of a child to a fair trial. However, it goes further and emphasises that the special treatment of children should be in accordance with the age and maturity of the individual child. Therefore, in achieving proportionality, the child's developmental and mental health issues need to be ascertained.

Children have a right to be sentenced in an environment that recognises their right to be treated in the least restrictive setting while also recognising the need to acknowledge sibling and community safety (Banks, 2006; Erooga and Masson, 2006). Overall, the rationale for sentencing needs to be intelligible not just to an appellate court but also to the child defendant, child victim, their families, and the wider public. This, therefore, requires written sentences such as exist in New Zealand Youth Courts (Lynch, 2021) and which are subject to public scrutiny.

In keeping with the spirit of General Comment No. 24 (2019), child justice systems should also extend protection to children over 18 years, in acknowledgement of the developmental and neuroscience evidence that shows that brain development continues into the early twenties.

Conclusion

Therefore, in the spirit of Martin Tansey's commitment to rehabilitation of offenders, and to comply with international best practice, my conclusion is to embrace the UNCRC ethos as expressed by General Comment 24 CRC, and in doing so to challenge us as lawyers and judges to come up with a bespoke holistic sentence for children that satisfies the demands of the child, the victim and public policy. New Zealand has done so, where judges of first instance first took the initiative and the legislature then followed. We owe a historic debt to our children not to make the same mistakes as previous generations by simply ignoring the problem.

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Images of Youth Deviance in the Irish Republic: The Case of the Buggy Malones

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Summary: Youth deviance, namely any appearance, attitude or behaviour which is considered outside the boundaries of acceptable social norms and is associated with youth as either a life stage or a state of mind, is a challenging phenomenon to capture. This article argues that in order to gain a comprehensive understanding of this phenomenon, a triangulated approach, capturing pop cultural, policy and personalistic images, is required. This approach is applied to the case of the Buggy Malones, a delinquent youth subculture that emerged in 1970s Dublin. Drawing on archival and interview data, this article first examines the sensationalised press rhetoric that surrounded the subculture and the deeper symbolism it invoked on a societal level. It then delineates the intersection of moralistic, psychogenic, sociological and state security policy images in response to the subculture. The third section employs personalistic imagery (which places the individual at the heart of the analysis and sheds light on their motivations, emotions and beliefs) to generate an enhanced understanding of the Buggy Malones. The final section considers resurgences and reverberations surrounding youth deviance over time, particularly in relation to a so-called Buggy Malone 'copycat' gang, which allegedly surfaced in June 2001. The article concludes by reflecting on the value of a combined cultural-historical criminology approach to the study of youth deviance.

Keywords: Cultural criminology, historical criminology, Ireland, Buggy Malones, Loughan House, youth subculture, youth deviance.

Introduction

The subfield of cultural criminology, which first emerged with the publication of its inaugural text by Ferrell and Sanders (1995), regards crime as a 'creative human construct' and considers culture a 'site of struggle' between resistance and control (Bevier, 2015, p. 34). Cultural criminology emphasises the socially constructed nature of deviance and is sensitive to the diverse and often contested meanings that surround this phenomenon. Valuable insights into youth deviance, namely any appearance, attitude or behaviour which is

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considered outside the boundaries of acceptable social norms and is associated with youth as either a life stage or a state of mind, can be usefully extracted from a cultural criminology approach. Ferrell's (1995) study of youthful graffiti writers in Denver, Colorado, for instance, highlights the nuanced meanings that emerge when the lived experiences of these writers intersect with legal and political authorities. His study emphasises the context-specific nature of deviance and the importance of capturing a multi-perspectival approach in the study of same.

Inspired by Ferrell's approach, this article similarly adopts a cultural criminology approach to a delinquent youth subculture that emerged in 1970s Dublin, namely the Buggy Malones.¹ A limited literature has surrounded the Buggy Malones to date. They are ambiguously alluded to in Ferriter's (2012, p. 396) study of 1970s Ireland, are mentioned in Williams's (2020, pp 25–7) biography of Gerry 'The Monk' Hutch and are briefly discussed in memoirs by McVerry (2003) and Lonergan (2010). Apart from these works and the popular social history blog *Come Here to Me* (Fallon, 2017), the Buggy Malones have been largely overlooked.

Cultural criminology often positions 'the subculture as the basic unit of criminological analysis' and considers the interplay between subcultural identity and the wider social, political and media constructions that surround it (Ferrell, 1999, p. 403). In order to examine this interplay in relation to the Buggy Malones, this article adopts a triangulated approach, capturing pop cultural, policy and personalistic images. Pop cultural imagery captures the representations of a phenomenon in newspaper articles, plays, documentaries and other forms of media. Policy images capture how political élites understand issues at stake and shape the manner by which solutions are formulated and resources are allocated. Personalistic images place the individual at the heart of the analysis and shed light on their motivations, emotions and beliefs. In line with cultural criminology, this triangulated approach facilitates analysis of representations of the Buggy Malones from various perspectives and allows the layers of meaning surrounding the subculture to be accessed.

The article proceeds as follows. Section I ('Pop cultural images') examines the sensationalised rhetoric that surrounded the Buggy Malones, focusing particularly on press representations of a Spanish holiday, financed by the proceeds of crime, upon which the subculture supposedly embarked. The

¹ It is worth noting that the term 'subculture' is a contested one that has sparked extensive debate; see Blackman (2005). For the purposes of this article, Hodkinson's (2002, p. 360) definition of subculture as 'translocal cultural groups of substance' characterised by high levels of identity, commitment, consistent distinctiveness and autonomy is used.

section also examines the deeper subcultural symbolism invoked by the Bugsy Malones. Section II ('Policy images') analyses the intersection of sociological, psychogenic, moralistic and state security policy images in relation to the Bugsy Malone episode. While elements of all four policy images were evident, the backdrop of the Troubles foregrounded a state security image and engendered the opening of a detention centre called Loughan House in response to the subculture.

Drawing mainly on semi-structured interviews conducted with inner-city residents, priests, politicians and criminal justice practitioners, Section III ('Personalistic images') sheds light on the background and nature of the subculture. Such a perspective, it is argued, humanises the Bugsy Malones and adds a deeper layer of meaning to their story. Section IV ('Temporal dimensions') widens its temporal lens to examine the emergence of a so-called Bugsy Malone copycat gang in June 2001. It also discusses the recurrent nature of institutionalised responses to youth deviance in an Irish context, which indicates continuity rather than change in terms of criminal justice policy. The article concludes by discussing the value of a combined cultural-historical criminology approach to the study of youth deviance.

Section I – Pop cultural images

The term 'Bugsy Malone' came from a 1976 spoof gangster film directed by Alan Parker, which featured a cast of child actors and was loosely based on the careers of Al Capone and Bugs Moran. It was screened in Irish cinemas in December 1976 (*Evening Herald*, 1976, p. 7), and soon afterwards, on 20 January 1977, *Evening Herald* journalist Liam Ryan reported that a Bugsy Malone gang was operating in Dublin. The gang had allegedly carried out a jump-over (a robbery) of a branch of the Northern Bank, in which £1,400 was stolen (*Evening Herald*, 20 January 1977, p. 1). Mafioso discourse was commonly used by the *Herald* and other newspapers in relation to the Bugsy Malones. For instance, members of the subculture were described as 'junior Al Capones' (*Evening Herald*, 26 April 1978, p. 8) while the 13-year-old leader of the gang was alluded to as 'the Godfather' (*Sunday Independent*, 23 January 1977, p. 8).

As this Mafioso discourse suggests, sensationalism was a staple of press coverage surrounding the Bugsy Malones. This sensationalism is best illustrated with reference to a supposed Spanish holiday undertaken by members of the subculture. On 4 September 1978, Liam Ryan reported in the *Irish Independent*:

The black market is paying off so well for the 'Buggy Malone' offenders that 12 of them were recently seen by Gardaí boarding a plane at Dublin Airport bound for a Mediterranean holiday resort.

The implication of Ryan's article was that members of the subculture were using the proceeds of their criminal activities to finance a holiday to Benidorm in Spain. He outlined how these 'Buggy Malone criminals' who occupied the 'Dublin terror ghetto of Seán McDermott Street' were 'not beyond publicly boasting of their life of crime and violence' (*Irish Independent*, 4 September 1978, p. 1), thereby constructing the subculture as enemies of law and order. While such sensationalist rhetoric was shared by other contemporary newspapers – an article on the front page of the *Evening Press* on 4 September 1978 announced, 'Larceny charge kids on Spanish holiday' – Ryan's framing of the episode was nevertheless intended to 'inflame newspaper readers against the children of the Seán McDermott Street–Summerhill area' (*Magill*, October 1978, vol. 2, no. 5, p. 5). Given that a return fare from Dublin to Malaga with Iberia Airlines in August 1978 cost approximately £116 per person (*Sunday Independent*, 19 March 1978, p. 16; €636 in today's money), journalists knew that this episode would incense readers who may not have been able to afford such a journey.

One of the few mediums to debunk the journalistic myth-making surrounding the episode was *Magill*. Journalist J.J. Molloy criticised the headlines surrounding the alleged Buggy Malone Spanish holiday as 'the most disgraceful outburst of journalistic gutter-sniperism seen in Dublin for some time'. Molloy outlined the facts for his readers. The holiday had been organised by various adults in the inner-city area, including a local publican and a priest, and parents had subsidised the cost. In total, 19 people from the Seán McDermott Street–Summerhill area travelled to Benidorm; just five of these were aged under 17, and two of these five did not have a criminal record. This meant that only three actual members of the Buggy Malone gang were on the trip (*Magill*, October 1978, vol. 2, no. 5, pp 4–5). It was therefore not an excursion organised by the Buggy Malone gang on the proceeds of their criminal activities; rather, it was a locally organised holiday for a handful of inner-city kids, under the supervision of responsible adults. Although these three Buggy Malones reportedly sent postcards to gardaí and District Justice Eileen Kennedy boasting of their Spanish holiday (*Irish Times*, 29 May 1985, p. 6; *Irish Press*, 8 January 1992, p. 12; Farrelly, 1989, p. 120; Williams, 2020, p. 26), which verifies their cavalier attitude towards law and order, or simply

showcases the famous north Dublin wit, Ryan's coverage of this episode was premised on sensationalism and thus was neither objective nor particularly well-informed.

Underneath this sensationalist rhetoric, however, lay a deeper societal fear symbolised by the Buggy Malones, namely the fear of ghettofication. Whereas gentrification refers to the arrival of more affluent citizens into an impoverished urban area, which changes the character of the neighbourhood, its antonym, ghettofication, refers to the arrival of individuals from a deprived part of the urban district to a more affluent one, which devalues property prices (Atkinson and Bridge, 2005). In the case of the Buggy Malones, ghettofication captured the symbolic incursion of the subculture to the (middle-class) heart of Dublin, O'Connell Street.

As mentioned above, the first reference to the Buggy Malone gang in Dublin was in the *Evening Herald* on 20 January 1977, which described a jump-over in the Northern Bank, located on O'Connell Street. O'Connell Street represented the commercial and tourist heart of the city, and the subculture's infiltration of this thoroughfare catapulted its members to a national spotlight (or certainly to the front pages of the *Herald*). While the physical presence on O'Connell Street of inhabitants of the north inner city was nothing new, the Buggy Malones also symbolised the incursion of a seemingly brazen (if youthful) criminality. As journalist Gene Kerrigan scathingly wrote, this concern over juvenile crime was based

... on the fear that the little buggers are coming out of the ghettos to rip apart the fragile fabric of civilised society. Somehow the problem wasn't so pressing before it spilled onto O'Connell Street.

(*Magill*, October 1977, vol. 1, no. 1, p. 17)

This fear of ghettofication was one of the deeper symbolic concerns sparked by the Buggy Malone episode.

Section II – Policy images

There were four main policy images which shaped political responses to the Buggy Malone episode, namely moralistic, psychogenic, sociological and state security. Moralistic images regarded crime as a sin and regarded religion as the main solution to deviance. In accordance with this image, local priests of Seán McDermott Street parish were amongst the supporters of custodial care

for young offenders such as the Buggy Malones. On 17 May 1977, Fathers Morgan Costelloe, Gerard McGuire, Paul Lavelle and Peter McVerry sent an open letter to Taoiseach Liam Cosgrave, highlighting 'the breakdown of law and order in this area in relation to young offenders under sixteen years of age'. They emphasised the 'uncontrollable lawlessness' of these young people who 'rob, terrorise and destroy property with complete disregard for human life', and called for 'immediate emergency legislation introducing enlightened custodial care' (An Open Letter to the Taoiseach, Mr Liam Cosgrave, 17 May 1977). The emphasis on 'enlightened' care is noteworthy and indicates that imprisonment cannot be construed purely as a punitive measure. Cosgrave promised the priests that 'the Government are prepared to take whatever steps are necessary to safeguard members of the public' (Letter from Liam Cosgrave to Father Costelloe, 10 June 1977). On 26 August, Fr Costelloe sent a follow-up letter to Taoiseach Jack Lynch, warning that the problem of young offenders seemed 'to be out of control again' (Letter from Morgan Costelloe to the Taoiseach, 26 August 1977). No written response to Costelloe, however, appears in the Department of the Taoiseach files in the National Archives of Ireland (NAI). A comprehensive analysis of the impact of the moralistic image on the Buggy Malone episode is inhibited by this dearth of surviving archival material.

Similar to the moralistic image, the psychogenic image also fed into discourses surrounding the Buggy Malone episode. Psychogenic imagery outlined that deviance was caused by mental or emotional disturbance and psychological or psychiatric treatment was required to remedy it. The Royal College of Psychiatry (child section) and the Psychological Society of Ireland were among the organisations that campaigned against the opening of Loughan House (a place of detention established in response to the sub-culture; *Irish Times*, 2 May 1978, p. 1). The National Youth Council of Ireland (NYCI) claimed that while Loughan House was not suitable for those with 'normal personalities' who became involved in crime, it did support use of the institution for the 'aggressive sociopath' who was 'severely disturbed' (NYCI, 19 April 1978 – Statement on Loughan House). A meeting was held on 11 May 1978 between Department of Justice officials and the representatives of six organisations opposed to Loughan House. At the meeting, Principal Officer of the Department of Justice Risteard MacConchradha gave assurances that Loughan House was intended for 'sociopathically disturbed boys' (Group Consisting of Persons Presiding over Various Organisations, p. 2). Minister for Justice Gerry Collins similarly confirmed that the institution was intended for

'behaviourally difficult boys' (Letter from Gerry Collins to Taoiseach Jack Lynch, 19 April 1978), and pledged to ensure that psychological and psychiatric services would be made available to detainees (Group Consisting of Persons Presiding over Various Organisations, p. 8). This demonstrates the impact of psychogenic imagery in shaping the discourse surrounding Loughan House and highlights the role of élites and interest groups in the construction of deviance.

Sociological policy images were embraced by the Campaign for the Care of Deprived Children (CARE), an interest group established in 1970 to campaign for improved childcare services (Sargent, 2014, p. 29). These images identified a dysfunctional family environment or structural factors such as inadequate housing as the origins of deviant behaviour. On 28 February 1978, CARE published a 40-page booklet entitled *Who Wants a Children's Prison in Ireland?* The booklet criticised the staffing of Loughan House by prison officers and its unsuitable location in the remote environs of Blacklion, Co. Cavan. It suggested alternatives to Loughan House that accorded with the sociological image, including the provision of hostels for deprived youths, the extension of neighbourhood youth projects and the establishment of day attendance centres (CARE, 1978; *Irish Press*, 1 March 1978, p. 7). According to social worker and member of CARE, Níav O'Daly (1979, p. 484), Loughan House represented a backlash to the sociological image and pandered to a 'hysterical chorus', which called for 'troublesome children' to be locked up. It is worth noting that members of CARE had a vested interest in espousing a sociological image of youth deviance. As O'Sullivan (1979, p. 225) has argued, through 'moral exhortations concerning child care provisions', such organisations seek to 'extend [...] employment opportunities' for their members.

CARE availed of international experts such as Dr Masud Houghugi to cast aspersions on Loughan House. Houghugi was Principal of Aycliffe School, an assessment and treatment centre for 'severely disordered youngsters', located in northeast England. Although Aycliffe was a residential institution, its approach to young offenders resonated with a sociological image, which regarded delinquency as a product of environmental factors (Houghugi, 1979, p. 384). On 25 February 1978, CARE organised a seminar (chaired by President of the High Court Mr Justice Finlay) in which Houghugi delivered a talk on 'Secure Accommodation and Disordered Youngsters'. A Thames TV film about Aycliffe was also shown to the seminar attendees (CARE Seminar, 25 February 1978). Houghugi was interviewed on *The Late Late Show* later that evening, which generated further public awareness surrounding his holistic approach to young offenders. The Department expressed concern

that Houghugi was 'helping to discredit the Loughan House project' and evinced alarm at a suggestion made by Houghugi to a Principal Officer of the Department that 'he (the Principal [Officer]) could create difficulties, go slow and thus frustrate the [Loughan House] project' (Memorandum for the Government, 11 April 1978, p. 8). Houghugi, however, was perhaps easy to dismiss as a foreign doctor, and may not have been particularly effective in promoting the sociological policy image.

The entrenchment of the state security image within the Department further inhibited the receptiveness of policymakers towards sociological policy images. The state security image emerged in response to the threat of paramilitary violence during the Troubles and led to a suspicious and secretive mindset on the part of the Department of Justice. It meant that 'crisis management' characterised policymaking within the Department during the 1970s. According to Rogan (2011, p. 147), 'the Department of Justice was forced to act reactively to the unfolding, volatile events, and furthermore to do so in a state of uncertainty and some fear'. Similar crisis policymaking applied to the opening of Loughan House. Following the victory of Fianna Fáil in the June 1977 general election, Taoiseach Jack Lynch established a project team in September 1977 to consider the recommendations of the Henchy and Task Force Reports (published in 1974 and 1975 respectively, and which advocated establishing a place of detention for young offenders aged under sixteen; Sargent, 2014). Risteard MacConchradha, a Principal Officer in the Department of Justice, was appointed to the project team on 12 October 1977. MacConchradha informed the team that Minister for Justice Gerry Collins and Parliamentary Secretary to the Minister for Education James Tunney wanted the issue addressed with the 'utmost urgency' and a decision would have to be made within a fortnight (Commission to Inquire into Child Abuse, 2009, para. 350).

Nick (a senior politician during the 1970s, interviewed as part of the author's research on the Buggy Malones; see Section III) attributed this urgency to Eileen Kennedy, Justice of the Metropolitan Children's Court, who had informed the Department of Justice that 'the number of juvenile criminals appearing on charges had soared' compared to previous years. He claimed that the courts placed pressure on the Department to 'alleviate the problem as quickly as possible', but this overlooks the fact that a deficit had existed in the youth justice system since 1973 with the closure of St Conleth's Reformatory. It was during the sixth meeting, on 2 November 1977, that MacConchradha suggested Loughan House as a place of detention for young offenders. He provided no explanation for his suggestion (Commission to

Inquire into Child Abuse, 2009, paras 353–4), and it seemed a particularly unsuitable location given its distance from Dublin (approximately 174km) and lack of public transportation links (which made it difficult for family members to visit detainees). Crisis policymaking may have been understandable given the backdrop of the Troubles, but it did not lend itself to thoughtful or evidence-based policy responses.

Section III – Personalistic images

The ideal method of gathering personalistic imagery is through interviews with members of the deviant and/or marginalised population under study. Unfortunately, few members of the Buggy Malones have survived, which renders it difficult to capture their lived experiences (*Sunday World*, 29 June 1997, p. 5; Williams, 2020, p. 63; *Irish Times*, 2 September 1987, p. 8). As a result, an alternative approach to personalistic imagery was adopted whereby proximate voices were captured. This involved interviewing individuals who had encountered the Buggy Malones during the 1970s on a personal or professional basis. Between April 2019 and September 2021, n=10 participants were interviewed, comprising criminal justice practitioners, youth workers, journalists, priests, politicians and local residents of Dublin's north inner city. Snowball sampling was used to identify and recruit participants, and all were anonymised for ethical reasons. The insights provided by these proximate voices, in addition to the methodological issues in capturing same, have been addressed in a separate work (Molloy, forthcoming). For the purposes of this article, two themes which emerged from the interview data will be explored, namely gender and the phenomenology of crime. These will be discussed in turn.

Gender

Bearing in mind the fluidity of gender identities, norms traditionally designated as 'masculine', such as violence and toughness, have often been used to explain gang behaviour (Davies, 1998). Interview participants similarly aligned the criminality of the Buggy Malones with a performance of masculinity. For instance, Gareth, an inner-city priest, described how he had a 'run-in' with one of the Buggy Malones 'over an admission to a youth club'. When the youth was denied entry to the club, he 'broke a bottle, and he put it up to me'. Gareth, however, 'was absolutely certain this was just macho and they weren't going to [use it]'. Gareth's assertion that he was not afraid when

faced with a youth dangerously brandishing a broken bottle – ‘I had no fear at all’ – may have been an attempt to convey his own ‘masculine’ attributes such as courage in the face of danger. Nevertheless, he believed that the threat of violence displayed by the Buggy Malone was merely a macho display of toughness that lacked any intent of follow-through.

Similarly, Larry, an employee of Loughan House, recalled instances where the Buggy Malones fought violently against staff members who were trying to enforce curfews. According to Larry, ‘they said you know we have to fight when the staff go to remove us. ‘Cause if we don’t fight, well, we lose street cred’. This signalled the Buggy Malones’ desire to gain respect and status among their peers through displays of physical aggression, and it aligns with King and Swain’s (2022) research on ‘street masculinity’, which is partially characterised by a preparedness for violence at all times. Furthermore, Jack, a youth worker in inner-city Dublin during the 1970s, recalled that among the Buggy Malones and their peers it was considered

‘... acceptable to grow up in the community and to go to your Clonmels [St Joseph’s Industrial School, Ferryhouse], to go to your St Patrick’s Institution, to go to Mountjoy, it was a progression, and it was seen as a macho.’

This graduation from one place of detention to another signals the role of masculine norms in shaping the actions of the Buggy Malones.

Their performance of masculine norms such as violence and toughness extended to a negativistic view of women, who were regarded as either targets of crime or sex objects. Regarding the former, the Buggy Malones developed a handbag-snatching scheme at the junction of Summerhill and Gardiner Street whereby when cars stopped at the traffic lights, a Buggy Malone would smash the passenger window to grab any handbag inside (Nick; see also McVerry, 2003, p. 15). Handbag snatching was a distinctly gendered crime, with lone female drivers pinpointed by the Buggy Malones as vulnerable and therefore easy targets (Larry). Regarding the latter, Larry described the Buggy Malones’ attitude to women: ‘Respect like for recognition of the role of women? Brutal. Saw women as nothing more than sex – have sex with. A terrible attitude about women’ (Larry). It should be emphasised that this was a third-party interpretation of the Buggy Malones, and if their own voices were captured, a different perspective could emerge. Nevertheless, Larry’s recollections connote a form of hegemonic masculinity among the Buggy Malones that relegated women to a subordinate role (Connell, 2005).

Phenomenology of crime

Cultural criminologists such as Ferrell (1999) have emphasised the importance of examining emotions such as exhilaration, fear and excitement that shape subcultural participation (see also Hayward and Young, 2004). Similarly, Hector, a youth worker, described how the Buggy Malones' handbag snatching and jump-overs were viewed as 'exciting and fun for as long as they weren't going to get caught'. Max, an inner-city priest, resided near the flats where several Buggy Malones lived. He described how 'halfway through the night, you'd hear all this racket [...] there were the kids up on the roof throwing slates off at the cars going by. Dangerous stuff'. Their desire for excitement and risk-taking extended to an attitude of recklessness towards the welfare of others.

According to Gareth, the Buggy Malones engaged in joyriding, and would often 'pass out a Garda car and they would beep the horn just to get a chase', which indicates their pursuit of thrills. Gareth further commented that 'having a car and driving fast is, was and is, a status symbol in society [...] these kids could never own a car [...] in a month of Sundays. So they took to robbing cars'. In this way, Gareth invoked an illegitimate opportunity structure whereby the Buggy Malones embraced the culturally approved goals of society but pursued illegitimate means of obtaining them (Cloward and Ohlin, 1960). From this perspective, it was not merely the internal characteristics of the Buggy Malones but also their external social environment that lent itself to risk-taking behaviours (Lyng, 1990).

Youth workers tried to replace the excitement and thrill the Buggy Malones derived from criminality with more acceptable pursuits. Hector described how as part of local neighbourhood youth projects, young people were brought horse-riding as a fun and diversionary activity. It did not go exactly according to plan, though. Hector recalled:

'... we were supposed to go horse-riding for an hour, it took around four hours, we just galloped off on all the mountains, we couldn't stop the horses.'

Analogous to Hector, Shane (an employee of Trinity House, which opened in 1983 and replaced Loughan House) described how physical recreation in the gym was used to give the Buggy Malones 'a buzz' and replace their criminal pursuits with more constructive activities. It is worth noting that the above-

mentioned emotions such as excitement and thrill are 'masculinised' in participant accounts (Naegler and Salman, 2016). While such emotions may also be present within female subcultures, the male-dominated composition of the Buggy Malones renders such analysis beyond the bounds of this article.

Section IV – Temporal dimensions

While the original subculture appeared to have dissipated by the early 1980s, the term 'Buggy Malone' continued to be used by the press in relation to various instances of youth deviance. An article in the *Evening Herald* in August 1983 (p. 9) described how 'up to twenty female "Buggy Malones" are at large in the Dublin area and although convicted of various crimes, the courts are powerless to impose sentence on them'. In 1985, a group of young people who carried off a 'daring night time raid' on McCambridge's Warehouse in Bowling Green in Co. Galway and stole 'minerals, sweets and crisps' were described as 'apprentice Buggy Malones' (*City Tribune*, 4 October 1978, p. 1). In 1997, in Co. Kerry, two youths aged 12 and 14 who were operating a financial scam on the elderly were described as 'Buggy Malone' criminals (*Kerryman*, 18 July 1977, p. 15). The above examples indicate how the term 'Buggy Malone' became broadly applied by the press to refer to a variety of forms of youth deviance across gender, geographic and temporal boundaries.

In June 2001, a number of robberies carried out in Dublin city centre by a group of young people led the *Evening Herald* (23 June 2001, p. 6) to assert that a Buggy Malone copycat gang was in operation. According to journalist Michael Mulqueen, these 'teenagers tearaways [sic] from the north city have carried out several "spectacular" crimes copying the Buggy gang which terrorised Dublin in the 1980s', namely 'heists' on the Planet Gold Jewellery Shop and Eircell phone shop in the city centre. They copied tactics such as 'walking the rooftops of city streets in search of a lucrative target' (ostensibly a reference to the handbag-snatching scheme of the original Buggy Malones; *Evening Herald*, 23 June 2001, p. 6). Mulqueen wrote in a follow-up article that these youths were 'mimicking the antics of the legendary gang, the Buggy Malones' (*Evening Herald*, 6 July 2002, p. 22), conveniently overlooking the fact that the main reason why the Buggy Malone gang had become 'legendary' during the late 1970s was the antics of newspapers such as the *Evening Herald*.

The summer 2001 episode was not a verifiable case of copycat crime. There are seven indicators of same, namely time order and time proximity, theme

consistency, scene specificity, repetitive viewing, self-editing, offender statements, and second-party statements (Surette, 2016). At best, Mulqueen's articles contain one of these indicators, namely second-party statements – he cited a senior Garda officer who commented that 'we haven't seen this sort of crime since the 70s or the 80s during the days of the Buggy Malones' (*Evening Herald*, 23 June 2001, p. 6). This ambiguous comment, however, did not clearly confirm the existence of a second wave of the subculture. It seems that the claim of a revivalist Buggy Malone subculture was largely an invention of the *Evening Herald*. Moreover, sensationalist and playful rhetoric was used to describe the group. For instance, Mulqueen described how a 'dirty half dozen are the ringleaders of the outfit' (*Evening Herald*, 23 June 2001, p. 6), which mirrored discourses used in 1970s press coverage. Although copycat Buggy Malones did not exist, copycat journalism did. Indeed, as recently as January 2020, a group of youths who assaulted two 13-year-olds in Lucan, Co. Dublin, were alluded to by a Sinn Féin councillor as a bunch of 'Buggy Malone wannabe[s]' (O'Callaghan, 2020). This continued usage of the Buggy Malone term indicates the recurrent (and repetitive) nature of media coverage surrounding deviant youths.

In similar fashion, institutionalised responses to youth deviance have also proven recurrent in an Irish context. For instance, in March 1985, Minister for Justice Michael Noonan announced that Spike Island in Co. Cork would be converted to a prison in response to the activities of young joyriders. Ó Cadhla has argued that the opening of the prison was the product of a 'moral panic in the media' (Ó Cadhla, 2001, p. 93), and likewise Jesuit priest Fr Peter McVerry (1985, p. 42) described the Minister's decision as 'being much more influenced by the *Evening Herald* than by considered reflection'.

Such institutional responses to deviance have a long lineage. Coercive confinement alludes to a network of institutions, including Magdalene Laundries, mother and baby homes, psychiatric institutions, and industrial and reformatory schools, which were used extensively in twentieth-century Ireland to control deviant populations. At the peak of coercive confinement in the 1950s, the rate was approximately 1,000 per 100,000 population (far in excess of the current rate of imprisonment in the United States, for instance, which was 629 per 100,000 as of October 2021, according to the World Prison Brief (2021)). Even though, on a surface level, these institutions sometimes appeared welfarist in principle, they were experienced as coercive by the individuals detained in them (O'Sullivan and O'Donnell, 2012). O'Donnell and O'Sullivan (2020) have argued that direct provision centres (places of accommodation

for asylum seekers awaiting the processing of their international protection applications) represent a new form of coercive confinement. The authors note:

It is difficult to imagine that spending years with strangers in a rural location, unwelcomed in some cases by the locals, prohibited, until very recently [...] from seeking employment, with a paltry weekly allowance, a poor diet and a lack of amenities, feels anything but coercive.

(O'Donnell and O'Sullivan, 2020, p. 12)

This demonstrates the continuation of a long trajectory embracing institutional responses to perceived social problems.

The use of institutional responses to deviant and/or marginalised populations is a convenient political solution, which negates addressing deeper structural and socio-economic inequalities. An Irish Penal Reform Trust (2012, p. 1) position paper articulated that 'investing in communities and preventing the marginalisation associated with offending behaviour would have greater positive effects in reducing offending, as well as producing wider social benefits, than imprisonment'. Despite this, a continued recourse to institutionalisation persists in Ireland, which indicates continuity rather than change in policy terms.

Conclusion

It is worth briefly reflecting on the value of a combined cultural-historical criminology approach to the study of youth deviance. Ferrell (2013, p. 261) has written that cultural criminology is composed of various 'theatres of meaning', namely subcultures, subjective experiences and media/pop cultural perspectives. It seeks to capture not merely meaning within each theatre, but also the layers of meanings across these theatres. Similarly, this article has adopted a multi-perspectival approach to the case of the Buggy Malones to enhance understanding of the myriad representations of the subculture over time.

Pop cultural imagery has contributed insight into the powerful ability of the press both to distort and to challenge the 'facts' surrounding an episode such as the Buggy Malones' supposed Spanish holiday in 1978. It has also emphasised that pop culture can function as a lens through which the *Zeitgeist* of a society at a particular point in time can be examined. Policy imagery has demonstrated the competing policy images which underpinned political

decision-making during the 1970s, and the indirect ripple effects of the Troubles on the Irish youth justice landscape. Personalistic imagery has delineated the value that accrues by placing the individual at the heart of the lens through which crime and deviance are analysed. The proximate voices captured by this research have shed additional light on the perceived nature and motivations of the Bugsy Malones.

While pop cultural, policy and personalistic imagery portray the Bugsy Malone subculture from different methodological and conceptual perspectives, their underlying power dynamics serve as a unifying factor. Whether depicting clashes between the *Evening Herald* and *Magill*, competing policy images, or physical confrontations between the Bugsy Malones and inner-city priests, these images all position culture 'as arena: the symbolic space in which constructed meanings compete for the power of legitimacy' (Bevier, 2015, p. 38). A cultural criminology approach therefore highlights the need to look beyond surface-level appearances to unearth the deeper tensions and contradictions evoked by criminal justice episodes.

In addition to demonstrating the value of a cultural criminology approach to youth deviance, this article has incorporated a historical criminology approach. Churchill *et al.* (2022, p. 6) have emphasised that historical criminology is not a 'niche sub-field', but rather is 'one of a handful of basic approaches to scholarship on crime and related matters' that can be incorporated as part of various research topics. A historical criminology approach helps to shed light on contemporary criminal justice arrangements, highlights the 'emotional and ethical issues' raised by the study of crime and punishment in the past (Channing, 2022, p. 5), and facilitates a more nuanced exploration of change and continuity on both macro and micro levels (Lawrence, 2019). This article adopted a historical approach in methodological terms, by drawing on archival research, and also in chronological terms, by examining a youth subculture that emerged in the 1970s.

The foregrounding of temporality is central to historical criminology and, accordingly, Section IV expanded its temporal lens to draw resonances between the incarceration of the Bugsy Malones and institutionalised responses to other marginalised populations such as asylum seekers in the present day. This insight challenges the assumption of presentism that often underpins criminological research, namely the 'tendency to position the present as both unique and uniquely problematic' (Yeomans, 2019, p. 457). The current problems Ireland faces in dealing with deviant and/or marginalised populations are not unprecedented, but rather have a long (and rather

unimaginative) lineage. Historical case studies such as the Buggy Malones are therefore not merely a matter of antiquarian interest. Rather, they enable the development of a 'three-dimensional criminology' that incorporates historical context, and social structure, as well as personal biography (Yeomans, 2019).

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‘The Children Are Victims, They Are Not in Any Way an Extension of the Crime’: Caregiver Perceptions About the Experiences of Children Whose Father Downloaded Child Sexual Abuse Material (CSAM)

Elaine Kavanagh, Elaine Kinsella and Patrick Ryan*

Summary: Sexual crime represents one of the most vilified and stigmatised crimes. As a result, there are repercussions for non-offending family members, including children, due to their kin relationship with the offender. This evidence-based report, including analysis of new empirical findings from a larger qualitative research study with adult family members of Child Sexual Abuse Material (CSAM) offenders, contributes to the limited knowledge about the experiences of children of CSAM offenders. Specifically, the data signals to children’s experiences of trauma and secondary stigma emanating from their father’s behaviour, and their interactions with members of their community and statutory services. The available evidence supports the need to recognise that children of men who downloaded CSAM need to be awarded ‘victim status’ and receive appropriate support. The clinical and policy implications of these findings are discussed therein.

Keywords: CSAM, non-offending family, trauma, secondary stigma, secondary victims.

Introduction

An Irish broadsheet newspaper recently reported information about a ‘father of three caught in possession of images and videos of child pornography’ (Dodd, 2022). The associated reporting identified both the name and address of the individual concerned. This highlights a paradox: while naming individuals accused and/or convicted of downloading Child Sexual Abuse Material (CSAM) might represent commercial importance for those with business

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interests in mind for a public fascinated with crime (Burgason, 2021; Fitzgerald O'Reilly, 2018), the implications of how the publicised information would potentially identify the 'three children' and psychologically affect those children and the wider family unit are often not considered (Condry, 2007; Kilmer and Leon, 2017). The experiences of children whose father has been convicted of a CSAM crime and its psychological impact are the focus of this report.

Background information

Sexual crime as a 'special category'

It has been argued that sex offenders face greater public stigma than individuals who have committed other types of serious crime, for example, homicide offences (Jahnke *et al.*, 2015; Tovey *et al.*, 2022). There are countless stories concerning the nature of sex offenders (Burgason, 2021) and, collectively, these accounts have resulted in an outcome where, in the eyes of the public, the label 'sex offender' carries an immutable presumption of dangerousness (Fitzgerald O'Reilly, 2018). Indeed, in most western societies there is a public acceptance that individuals convicted of non-sexual crimes can be reintegrated into society and become law-abiding citizens; however, this may not apply to those convicted of sexual offences (Hanson *et al.*, 2014; Harper and Hogue, 2015). The stigma associated with the label is powerful and provides a useful lens to examine how control is exerted upon the 'incurable' and how stigma ensures that punishment endures long after formal punishment ends (Fitzgerald O'Reilly, 2018, p. 205).

Non-offending family members

Public aversion toward sexual crime does not stop with a focus on those accused and/or convicted of such crimes but often radiates out to include all family members (Condry, 2007). The importance of 'family' is a discourse located in many disciplines, and all point to a family's responsibility to uphold moral values and ensure adherence to societal norms, with the failure of any member to maintain the 'ideal' reflecting negatively on the collective (Chambers, 2001; Condry, 2013). In this context, associations via kinship ties have resulted in relatives being perceived in the same way as the offender; they are 'tarred with the same brush' (Condry, 2010, p. 232; Condry *et al.*, 2016, p. 8) and confronted with a societal belief that criminals are 'made' by the family (Condry *et al.*, 2016, p. 8). Causality for a family member's crime can be placed on their family. Mothers are frequently blamed for the crimes

of their children (Azzopardi *et al.*, 2018; Condry *et al.*, 2016). Siblings and children are often blamed and/or shunned in case they have inherited their offending relatives' criminal traits or are in possession of the 'crime gene' (Condry *et al.*, 2016, p. 8; Sample *et al.*, 2018, p. 4262). Grandparents are blamed for their failure to act in assisting parents in preventing the commission of the crime, and partners are blamed and shamed for not being aware that the offence might occur, and if they continue to support the offender (Condry, 2007; Goffman, 1963; Sample *et al.*, 2018). Recent research has investigated the psychological impact on wives, partners and mothers of sexual offenders (Kavanagh *et al.*, 2022), and the harm arising from a kin association was found to have far-reaching consequences for non-offending family members, both at the point of discovery and frequently for many years thereafter (Kavanagh *et al.*, 2022).

The combination of society's collective abhorrence of sexual crime and the blame kinship ties attract places non-offending family members in the precarious position of being socially shamed and rejected for a crime they did not commit (Condry, 2010). The prevalence of sexual crime, specifically, the rapid increase in CSAM offences (Bouhours and Broadhurst, 2012; Brown and Bricknell, 2018; Wolak *et al.*, 2011) suggests that the numbers of non-offending family members becoming affected are also increasing substantially (Jones *et al.*, 2022).

Research has found that the consequences for family members of being blamed and stigmatised for the criminal actions of one family member can be severe (Evans *et al.*, 2023; Farkas and Miller, 2007; Kavanagh *et al.*, 2022; Levenson and Tewksbury, 2009). Friendships were lost, family members were ostracised by other relatives and by their community, some lost their employment, resulting in increased financial burdens (Evans *et al.*, 2023), and family members' accounts reflected experiences of being subjected to physical violence for a crime committed by another (Condry *et al.*, 2016; Evans *et al.*, 2023; Kavanagh *et al.*, 2022; Levenson and Tewksbury, 2009). Notably, such findings were replicated across different populations and in different legislative jurisdictions (Armitage *et al.*, 2023; Duncan *et al.*, 2022; Evans *et al.*, 2023; Farkas and Miller, 2007; Levenson and Tewksbury, 2009; Sample *et al.*, 2018).

Children of Offenders

There is little available empirical research that has considered the impact of a parent's association with a CSAM crime on their children. In one study,

conducted in the United States (US), Levenson and Tewksbury (2009) used a survey methodology to ascertain the reactions of 584 family members of registered sex offenders and found that a significant amount of stress was experienced by non-offending family members. Specifically in relation to children, 29 per cent of respondents identified as parents who outlined the impact of having a registered sex offender in the family on children in that family (Levenson and Tewksbury, 2009), with all parents reporting unfavourable outcomes for their children. More than half of the sample reported disrupted friendships (78 per cent), different treatment by teachers (63 per cent), depression (77 per cent), anxiety (73 per cent), harassment (47 per cent) and suicidal ideation (13 per cent) (Levenson and Tewksbury, 2009). These findings highlight some of the negative psychological experiences of children related to a registered sex offender.

In addition, Kilmer and Leon (2017) conducted a qualitative web-based survey ($N=58$) and open-ended interviews ($N=19$) to explore the impact that sex offender laws had on family members, including children, in the US. The authors noted the paradox that legislation (such as sex offender registries) designed to protect children appeared to have been designed with little thought regarding how they affected the children of sex offenders or the relationships that sex offenders have with their families. Offering further evidence to support previous findings from Levenson and Tewksbury (2009), family members reported feelings of shame and stigma. Furthermore, they found that children of sex offenders were often limited in relation to experiencing a 'normal childhood' because of limitations and restrictions placed on their parent, such as supervised-only access (Kilmer and Leon, 2017). While many factors might contribute to an individual's experience of distress, these studies highlight the negative psychological consequences for family members, including minor children, who are affected in much the same way as the offender by the stigma associated with the crime. The data indicate that these psychological consequences are related to widely held societal attitudes towards sex offenders and, in particular, how family members are unable to escape the stigma and shame associated with sexual crime, despite their own innocence.

Stigma experiences in context

Recently, we qualitatively explored the experiences of fifteen non-offending family members (mothers, spouses and partners). Participants were recruited from across Ireland and the United Kingdom (UK), via four gatekeeper

agencies, and were required to be aged 18 years or over. All participants identified as having had or as continuing to have an association with a relative accused and/or convicted of a CSAM crime (Kavanagh *et al.*, 2022). Self-selecting participant interviews yielded a very rich source of data about their experiences for analysis. Seven of these family members identified as parents with minor children. While acknowledging the possibility of participant selection bias (Kavanagh *et al.*, 2022), our work uncovered powerful stigma experiences for families, including minor children, which began with considerable distress experienced at the point of offence discovery (Kavanagh *et al.*, 2022). Subsequent changes in family structure, changes in children's ability to interact with friends, the need to interact with external agencies, such as the police and social services, collectively resulted in adverse experiences for which there was little available support, accounts similar to those previously noted in the literature (Armitage *et al.*, 2023; Bailey, 2018; Condry, 2007; Duncan *et al.*, 2022; Evans *et al.*, 2023; Farkas and Miller, 2007; Levenson and Tewksbury, 2009; Sample *et al.*, 2018). In addition, our research highlighted the very broad reach of non-offending family's secondary stigma experiences, including ongoing repercussions for those who no longer had an association with the offending family member, such as ex-partners, and evidence about how adverse consequences continued over time, in some cases for many years following discovery (Kavanagh *et al.*, 2022).

While our research did not intend to capture children's experiences specifically, parental accounts highlighted issues about how discovery of a father's CSAM offence affected their children both at the time of discovery and thereafter. While parents' views may not reflect children's experiences in ways that children might describe them, their narratives offer some important points of information for consideration. Therefore, we summarise the key findings relating to children's experiences here with reference to supporting quotations. Through use of reflexive thematic analysis (Braun and Clarke, 2021) in our broader study, the following three key areas were identified as pertinent to children of CSAM offenders: children's experiences at the familial, community and institutional levels. Parental accounts highlighted these as particularly impactful on their children, with the information presented below representing an important contribution to the relatively sparse literature about the children of CSAM offenders across Ireland and the UK.

Children's experiences at familial level

At the familial level, parents discussed how discovery of the offence was a moment of intense shock, and they expressed a profound sense of loss for themselves and their children. Children were no longer permitted to remain alone with their father. Our participants emphasised how children experienced considerable emotional distress because they were not permitted to meet with their offending parent and witnessed the remaining primary carer's deep suffering as a result of the accusation/conviction. One participant explained:

'You know, the children cope to begin with, but then when they can't see daddy and then mums are crying all the time ... It gets really tough around three months and you can't tell anybody why your child is crying all the time, withdrawn or has bad behaviour, you know, unless "you know".'

In this quote, the remaining safeguarding parent felt unable to speak openly about their child's upset. This is consistent with the view that sexual offending is a highly stigmatised crime (Fitzgerald O'Reilly, 2018; Jahnke *et al.*, 2015; Tovey *et al.*, 2022), and those associated with a person accused and/or convicted of a sexual crime will be blamed and shamed for its occurrence (Condry *et al.*, 2016; Sample *et al.*, 2018), thus information about their circumstances is withheld from others (Armitage *et al.*, 2023; Condry, 2007; Duncan *et al.*, 2022). Indeed, a participant emphasised how the power of the stigma experience was sufficient to cause harm to the lives, and futures, of innocent family members, including minor children:

'The families that have got young children involved, it ruins their life. They have all that baggage to carry around with them for the rest of their life.'

This description of baggage is indicative of an inescapable burden that the children must carry for the remainder of their lives. The participant's emphasis on the long suffering caused to innocent family members is made clear by the statement: 'it ruins their life'.

Moreover, changes in family structures resulted in some, but not all, non-offending parents choosing to leave the relationship. However, for those who left relationships, the circumstances of their separation did not allow the children to have 'sleepovers' with their offending father, rendering the separation experience different from that of other separated couples:

'If you decide to leave your partner because of something they've done this big, it's not like a normal divorce. It's not, you know, 'cos access to children is hugely complicated.'

A further complicating factor in situations of separation was in relation to what to tell children. Non-offending parents struggled with decisions about how and what to tell young pre-teenage children about their father's crime and explain why sleepovers were not permitted without supervision ('Do you tell your children why or not?'). Their struggle was confounded by stigma and a desire to protect their children from the crime as it might 'ruin their life'.

Children's experiences at community level

Parental accounts highlighted significant experiences of stigma for children at the community level. Our research found that knowledge about a father's crime reached communities via media exposure, including social media, and due to vigilantism, an aspect found to occur with increasing frequency (Cubellis et al., 2019). One participant, whose partner had been live streamed by a vigilante group, spoke about her house being attacked while her children were located inside (Kavanagh et al., 2022). Following media reporting, another spoke about how her young child was no longer invited to playdates or sleepovers because of their father's crime, a finding in line with past research findings in the US (Kilmer and Leon, 2017; Levenson and Tewksbury, 2009).

A notable aspect for some, in circumstances where knowledge about a father's offence had yet to enter the public sphere, occurred when statutory agencies such as social services made teachers in schools aware of the child's circumstances. In these situations, participants spoke about how their children experienced different treatment by teachers, as one participant explained:

'So, everybody else met with this class teacher apart from [child]. So, it kind of singled [child] out.... And that was when I thought, Oh God, [child] knows [child's] been singled out because of this ... kids need nurturing, and they need love and care, they need support ... they're the victims, they are not in any way an extension of the crime.'

In this quote, a parent described how her child was 'singled out' because of a father's crime, and importantly this occurred in an arena that represented an important part of a child's social network. Parents were concerned that their child's needs, including support needs, were overlooked, and emphasised

their concerns about their children's welfare on foot of such differential treatment in an influential community network (Kavanagh *et al.*, 2022).

Children's experiences at institutional level

All participants in our research indicated that discovery of the offence brought them into contact with institutions with which they had no previous experience. One participant described her child's significant distress reaction when the police came to the family home with a search warrant:

'And then I heard my [child] and I can only describe it as like sounding like an animal in pain. Just a horrible noise.'

Participants spoke about how their children's lives changed as a result of increased interactions with professionals, such as child protection professionals. They described how they perceived being judged by professional services, as one participant explained:

'And then when you've got children services who are basically making judgements upon you, as to whether or not you're going to be a, you've gotten a good enough protective factor to to be a mother to your own children, given that, you know, you lived in a home with a man who was capable of doing something like that.'

In this quote, the person describes feeling judged not only as a partner, but as a mother, by intervening services, because her children's father was associated with a CSAM crime as she continued to reside with him in the home. This, for her, represented an implicit suggestion that she was somehow culpable for its commission and therefore required assessment about her safeguarding abilities. These data are consistent with some of the limited available literature highlighting disempowering experiences arising from interactions with social services (see, for example, Duncan *et al.*, 2022; Evans *et al.*, 2023; Farkas and Miller, 2007; Liddell and Taylor, 2015; Levenson and Tewksbury, 2009; Sample *et al.*, 2018). Notably, however, despite participant perceptions about being judged by statutory services, our findings noted an acceptance on the part of non-offending parents that intervening agencies, including social services, were required to complete their work in a particular way and adhered to requirements, such as supervised access with the offending father.

Participants described a perceived requirement emanating from child protection services that they leave relationships. For example, in the quote below, one participant describes feeling pressure to leave the relationship with their offending partner. The participant refers to child protection services as 'they', and explains how she believed it a requirement that she leave the relationship or have such services a permanent feature in her, and her children's, lives:

'They said a number of times at the beginning ... we're not here to break up families, but at the same time, if you do, yourself, we will completely get off your back. And if you don't, then basically we're going to be a permanent feature of your life.'

While participants indicated that the involvement of police and social services was not an ordinary occurrence prior to discovery, they found themselves confronted with a paradox: despite the involvement of child protection services, their children did not receive appropriate supports. Parents highlighted an absence of specialised supports for children whose father was accused and/or convicted of a CSAM offence. The prioritisation of statutory risk assessment protocols was emphasised, with participants noting that their children's support needs remained unacknowledged. One participant emphasised this point:

'There really needs to be something for children ... I didn't just want anybody supporting the kids, I wanted it to be somebody specialist who understood about this type of crime and there just, there isn't a lot.'

Taken together, the above findings start to highlight how children are affected by their father's association with a CSAM crime through their immediate interactions with their parents and family, but also affected are children's important social networks, including friendships and access to normal childhood activities such as sleepovers and playdates. In addition, societal networks, such as specialised support services for children who have been affected by this type of crime need to be made widely available and accessible to all families, regardless of income or geographic location. The findings outlined in this report highlight the very broad reach of children's secondary stigma (Condry, 2007) experiences. Indeed, while children might not be deemed responsible for the crime of a parent ('they're the victims,

they are not in any way an extension of the crime'), their situation, to date, has remained generally unacknowledged, under-researched and unsupported (Condry, 2010).

Evidence-based recommendations

An analysis of these research findings raises some important policy and practice implications, which, if acted upon, might serve to minimise the harms experienced by children following discovery of a parent's offence.

First, a shift toward viewing non-offending families of CSAM offenders as secondary victims is recommended (Armitage *et al.*, 2023; Condry, 2010; Duncan *et al.*, 2022; Evans *et al.*, 2023; Jones *et al.*, 2022). While suggestions that family members of sex offenders be awarded 'secondary victim' status have been forwarded relatively recently (Armitage *et al.*, 2023; Condry, 2010; Duncan *et al.*, 2022; Jones *et al.*, 2022), propositions that family members of incarcerated offenders be granted this position is not new and has its roots in research spanning 40 years about the families of prisoners who have been referred to as 'hidden victims of crime' (Bakker *et al.*, 1978) or the 'forgotten victims' (Dyches, 2009). It comes as a result of the notion that the punishment imposed on the offender is experienced vicariously by their families, and a considerable body of research has provided evidence for the veracity of this claim (see, for example, Besemer and Dennison, 2018; Bradshaw and Muldoon, 2020; Codd, 2007; Comfort, 2008; Condry, 2007; Fuller, 2016; Murray and Farrington, 2008; Wakefield and Wildeman, 2011). However, acceptance that family members of those associated with sexual crime, or crime in general, be seen as 'secondary victims' is a controversial proposition, and one that has not necessarily been successful because of the notion that criminals are family 'made' (Condry *et al.*, 2016, p. 8). Nonetheless, the label 'victim' holds immense importance (Condry, 2010) because it bestows upon the person an acceptance that they have been harmed in some way by forces outside their control, that responsibility lies *outside* the one considered a victim and so preserves personal integrity (Holstein and Miller, 1990). Claims to the status of 'victim' can be made by a plethora of groups or individuals experiencing a wide range of predicaments, including victims of illness, addictions, or mental health issues (Condry, 2010). Each condition can generate claims of 'secondary victimisation' for those connected to the primary victim, and some of those claims have given rise to various support groups such as Al-Anon for family members of alcoholics or Nar-Anon for

family members of those engaged in problem drug misuse (Condry, 2010). Thus, a shift in how families and, in particular, children of CSAM offenders, are viewed is required to recognise, acknowledge and address children's trauma experiences following discovery of a parent's crime.

Second, recognition is needed that intervening agencies can influence (often inadvertently) experiences of shame and perceived blame judgements (Armitage *et al.*, 2023; Duncan *et al.*, 2022; Jones *et al.*, 2022; Kavanagh *et al.*, 2022). The arrival of police to the family home represented the first contact that child(ren) have with police officers, and, in many cases, they witnessed a parent's arrest, and so were exposed to an extremely distressing experience, which compromised their emotional wellbeing ('I heard my [child] and I can only describe it as like sounding like an animal in pain'). Children rely on trusted adults to help them make sense of novel situations; however, the remaining non-offending parent frequently did not have sufficient information to make sense of what was occurring at the time of discovery (Kavanagh *et al.*, 2022), which compromised their ability to help their child understand what was happening. The police, as the first agency to encounter non-offending families, have an opportunity to provide important information – for example, information about available support services – which might contribute toward a more compassionate approach at a time of considerable distress and shock (Armitage *et al.*, 2023; Condry, 2007; Duncan *et al.*, 2022; Evans *et al.*, 2023; Jones *et al.*, 2022). The provision of such pertinent information at the time of discovery might potentially diminish non-offending parents' experiences of distress on discovery, thus reducing the distress of their children.

In addition, while the involvement of child protection services was viewed by participants as a necessary precaution, many referred to a lack of knowledge displayed by such professionals about sexual crime as an issue which exacerbated perceived blame judgements. The lack of knowledge resulted in blanket access restrictions and perceived encouragement to leave relationships, regardless of the nature of the sexual crime (Kavanagh *et al.*, 2022). Echoing past research suggestions for training programmes targeting child protection professionals in relation to sexual crime (Kwhali *et al.*, 2016), our research recommended that child protection professionals involved in child sexual abuse risk assessments receive adequate training in this area, including an enhanced awareness about the needs, supports and circumstances of non-offending parents and their children (Kavanagh *et al.*, 2022). For those employed in intervening services, an increased awareness of

families' experiences is crucial to identifying pertinent interventions and appropriate supports that might facilitate a family's ability to overcome a time of considerable distress and upheaval. In an encouraging sign of increasing awareness about training needs, the Centre of Expertise on Child Sexual Abuse (CSA Centre), located in the UK, recently released a manual about managing risk and trauma after online sexual offending, with information designed to aid professionals, such as social workers, to safeguard the entire family following a family member's association with a CSAM crime (CSA Centre, 2023).

Third, despite an absence of information at the point of discovery, participants recounted an issue around a scarcity of support for both themselves and their children. Our broader research study identified a key barrier to accessing appropriate supports as one of cost (Kavanagh *et al.*, 2022). Access to therapists, counsellors or specialist services was dependant on financial means. Non-offending family members typically experience considerable impacts to their financial standing following discovery, on foot of losing half their household income and/or reducing their working hours to accommodate childcare responsibilities, highlighting a need for the greater availability of, and access to, supports. At present, despite the involvement of external services, participants recounted little, if any, readily available support for their children, which highlights a need for both resources and allocated funding to be made available in this area, to support children (Armitage *et al.*, 2023; Kavanagh *et al.*, 2022).

Fourth, policies are needed to insulate family members from the consequences of an association with what is arguably the most stigmatised crime (Jahnke *et al.*, 2015; Tovey, *et al.*, 2022). The issue of privacy is one with real consequences for the remaining safeguarding parents and their children. Privacy laws ensure that patients' medical records remain confidential, or data collected from research participants remain confidential and private, yet the media remains unlimited in its power to stigmatise through providing identifying information about those arrested or convicted of CSAM offences, across Ireland and the UK, with deleterious consequences for family members and the minor children of such offenders. While there are reporting restrictions in relation to the identification of primary victims, it would be important that the media restrict reporting of such cases to safeguard *all* children. Limiting media reporting would start to recognise the range of harms experienced by children of CSAM offenders, including, but not limited to, lost playdates, increased potential for vigilante attacks (Cubellis *et al.*, 2019) and diminished access to normal childhood experiences, as a result of a

father's media exposure. Privacy concerns need greater consideration to ensure protection for children of CSAM offenders.

Last, it is recommended that future research consider children's experiences from children's perspectives. Specifically, to generate a greater depth of understanding about their lived experiences, future research should endeavour to capture children's experiences from the child's point of view. Such empirical-based research would hold immense importance when attempting to formulate effective interventions that aim to diminish a child's distress at the familial, community and institutional levels.

Conclusion

Sexual crimes warrant punishment, but this reality does not negate the need to recognise the human rights of innocent adults and children connected to the sexual offender. CSAM crime is increasing (Landi, 2021) and, by association, the numbers of non-offending families and minor children are increasing (Jones *et al.*, 2022). Unfortunately, children experience harm as a result of their association with the sexual offender and through negative interactions with statutory agencies and educational establishments. Their complex trauma experiences are further compounded by being ostracised from extended family and friends who should be best placed to offer social support. The difficulties experienced by these children are often not acknowledged (Condry, 2010) and, as such, their needs remain unsupported. A shift in both language and societal views in relation to this cohort is needed. The ramifications for children need to become central considerations of both policy and practice.

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Ethical approval

Ethical approval for this research was granted by the University of Limerick (approval code: 2019_05_09_EHS).

Disclosure statement

No potential conflict of interest was reported by the author(s).

Data availability statement

Due to the nature of this research, participants of this study did not agree for their data to be shared publicly, therefore supporting data are available to the researchers.

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Is Denial an Obstacle to Effective Interventions with Perpetrators of Sexual Offences?

Darren Ferguson*

Summary: Denial of sexual offending is complex, can hinder the development of positive working relationships between the person who has offended and practitioners, and can represent a barrier in accessing necessary treatment programmes. This paper reviews the literature relating to denial and perpetrators of sexual offences, considers the prevalence of denial, explores the function and motives underpinning denial, and examines the research evidence vis-à-vis the relationship between denial and the risk of sexual reoffending. It is important to explore whether the acceptance of responsibility is a prerequisite to positive treatment outcomes, by exploring the empirical evidence to date. Where the research does not provide an unequivocal link between denial and reoffending, should a focus remain on the acceptance of responsibility? The paper explores some of the developments in treatment programmes, and options for working with deniers. It concludes that excluding those who are perpetrators of sexual offences from treatment, for empirically unsound reasons, denies this significant grouping access to therapeutic supports that may potentially help them and importantly, reduce the risk of their reoffending.

Keywords: Denial, Probation Service, sexual offending, risk factors, sex offender treatment programmes, supervision, responsibility, reoffending.

Introduction

A significant number of perpetrators deny having committed sexual offences. Academic research suggests that individuals who remain in total denial of sexual offences are traditionally excluded from treatment programmes. Historically, denial of sexual offending has been viewed by the Probation Service as an important issue, and there appears to be a very real dilemma as to how it can be addressed. This sizable client group can be difficult to work with therapeutically and often falls into a 'limbo', but nonetheless presents as

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individuals with specific treatment needs. Intuition, in the absence of 'best practice guidelines', dictates that doing no therapeutic work with this group does little to mitigate against the risk of reoffending. Empirical research has suggested that sex offender treatment targeting risk factors for recidivism is more likely to be effective in reducing reoffending (Hanson and Morton-Bourgon, 2005). Therefore, the question of what to do with 'deniers' is ever more pertinent.

This article explores the traditional viewpoint that individuals cannot successfully complete treatment for a problem that they deny. The consensus was often that those in denial were not yet 'treatment-ready', as they had failed to take responsibility for their crime. The article examines denial as a concept in the context of sexual offending, exploring the evidence relating to denial and treatment outcomes. Hanson and Morton-Bourgon (2005) conducted a meta-analysis, which indicated that denial was not a predictor of sexual recidivism. Since then, there is little evidence that an increase in 'accepting responsibility' leads to a reduction in reoffending. Mann *et al.* (2010) postulate that denial may even be a protective factor for offenders. This article explores the function of denial as a protective behaviour and its link to sexual reoffending, focusing on the developments in sex offender treatment, and assessing the importance of accepting responsibility for sexual offending.

The concept of denial

The concept of denial is not a phenomenon exclusive to the therapeutic processes. 'Wearing blinkers' and 'burying your head in the sand' are everyday phrases alluding to denial.

It has been acknowledged that there is little evidence linking denial with recidivism in the context of sexual offending (Hanson and Morton-Bourgon, 2005; Mann *et al.*, 2010). Research now consistently indicates that successful completion of sex offender treatment programmes reduces risks of recidivism (Schmucker and Lösel, 2017).

As practitioners, we often observe that denial, in the context of committing offences, or in relation to aspects of the offence, is common among perpetrators. Studies examined the demographic and psychological differences between 'deniers' and 'admitters', but research-supported means of differentiating between the two groups, based solely on their response patterns, is lacking (Ware *et al.*, 2020).

We also observe that many individuals often deny or minimise aspects of their sexually abusive behaviour. Despite being a complex issue, many treatment models simplify denial into a dichotomy of right and wrong.

Denial and empirically supported risk factors

Maletzky (1991, p. 254) reported that 87 per cent of his clients denied all or part of their crimes. Marshall (1994, p. 560) outlined that 32 per cent of a sample of sex offenders significantly minimised aspects of their offending, while a further 31 per cent completely denied their offences. Various research illustrates that between 30 per cent and 35 per cent of incarcerated sex offenders deny resolutely that they have committed the offence (Kennedy and Grubin, 1992; Hood *et al.*, 2002). In a study of treatment programmes in Canada and the United States (US), McGrath *et al.* (2010) found that 91 per cent of programmes for adult sex offenders incorporated 'taking responsibility' as a treatment target. In contrast, Mann *et al.* (2010) did not cite 'not taking responsibility' as an empirically evidenced causal factor for sexual offending or successful treatment outcomes.

While the Association for the Treatment of Sexual Abusers (ATSA) defined denial as the failure of sexual abusers to accept responsibility for their offences (ATSA, 2001, p. 63), the DSM-IV-TR defines denial as 'a defence mechanism in which the individual deals with emotional conflict, or internal or external stressors, by refusing to acknowledge some painful aspect of reality or subjective experience that would be apparent to others'.

Clinical interest in issues of denial and accountability originated in the 1960s (Resnik and Peters, 1967; Hitchens, 1972). Finkelhor (1984) was among the first to acknowledge the role of cognition in explaining sexual abuse. He asserted that individuals must overcome internal and external inhibitions, as well as the resistance of the victim, for sexual abuse to occur. Perpetrators must, therefore, find ways to avoid taking responsibility for, or to deny the harmfulness of, behaviours that they would otherwise understand as abusive.

Abel *et al.* (1984) concluded that explanations provided by perpetrators were not mere excuses and justifications but represented beliefs or cognitive distortions that pre-existed with such individuals to legitimise to themselves sexual contact with children. Ó Ciardha and Ward (2013) describe cognitive distortions in sex offenders as specific or general beliefs and attitudes that violate commonly accepted norms of rationality, and which have been shown to be associated with the onset and maintenance of sexual offending. The

strength of Abel's theory lies in its attention to the functions of distortions and the function of self-esteem maintenance. Critics of the theory, including Ó Ciardha and Ward (2013), argue that it does not address how cognitive distortions develop in those who offend later in life or those not deemed to have a deviant sexual interest.

Subsequently, clinicians began systematically reporting the prevalence and characteristics of denial among their client group (Barbaree, 1991; Maletzky, 1991; Marshall and Barbaree, 1990; Schneider and Wright, 2004; Ware and Marshall, 2008). These reports attest that denial and cognitive distortions were pervasive characteristics among those who committed sexual offences.

Authors who have emphasised complete denial have referred to it as 'categorical denial' (Marshall *et al.*, 2001), or 'absolute denial' (Barbaree, 1991; Schlank and Shaw, 1996). Although the terms vary, these constructions share similar features. They describe individuals as either 'in' or 'out' of denial, often with the assumption that denial results from conscious attempts to evade blame. Research focuses on the dichotomy of 'deniers' and 'admitters' while largely disregarding or classing other types of denial as minimisation.

A commonsense rationale has traditionally dictated an importance of individuals admitting and taking responsibility for their offending as an integral aspect of treatment. Furthermore, most treatment programmes encourage their participants to take responsibility for their offending (Ware and Mann, 2012). However, Mann *et al.* (2010) excluded 'admitting the offence' or 'taking responsibility' for offending in their inventory of empirically determined risk factors for sexual offending, and consequently they did not include them as treatment targets.

Mann *et al.*, (2010) argue that risk assessment and treatment for sex offenders should focus on individual characteristics associated with the risk of reoffending. They outline that there is no unique risk factor that is associated with reoffending and, therefore, a range of risk factors must be considered. Andrews and Bonta (2010) use the term 'dynamic risk factors' to explain psychological or behavioural traits that increase the risk of reoffending but are potentially changeable.

Regarding sex offender treatment, the most useful variables are those that are amenable to change. Mann *et al.* (2010, p. 199) highlight the risk factors that are empirically supported regarding sexual reoffending. These include sexual preoccupation; sexual preference for children; sexualised violence; multiple paraphilias; offence-supportive attitudes; emotional identity with children; lack of emotionally intimate relationships with adults; lifestyle

impulsivity; poor problem-solving skills – for example, cognitive difficulties in generating and identifying effective solutions to the problems of daily living; resistance to rules and supervision; grievance and hostility; and negative social influences.

Purpose and functions of denial with perpetrators

Outside the field of sex offender treatment, denial and excuse-making are widely regarded as normal phenomena and observed as a common defence mechanism.

Arguably, those who perpetrate sex offences, more than any offending group, are subject to public indignation, and it is rational that many individuals would deny their offences. Denial in this context could be observed as a protective mechanism in relation to self-identity and minimisation of shame and stigma. Blagden *et al.* (2014) describe themes in relation to the function of sex offender denial – how it allows the person to maintain a sustainable identity of themselves as a parent, spouse, colleague, and so on. Ware *et al.* (2015) also argue that it is not surprising that an individual accused of committing a sexual offence will seek to deny some or all aspects of their responsibility as a self-protective strategy.

Ware and Mann (2012) summarise the motivations for categorical denial as falling into three categories: planning to reoffend; preservation of self-esteem; and fear of negative social consequences.

Individuals with low self-esteem or elevated levels of shame are highly likely to deny or minimise their actions to protect fragile self-worth and avoid emotional distress. Research consistently illustrates low self-worth and elevated levels of shame among sex offenders (Marshall *et al.*, 2009). Ware and Mann (2012) articulate that people usually decide to deny their behaviour following a swift decision-making process, having assessed the potential consequences of accepting responsibility. In practice, we often observe that for this grouping the long-term consequences of accepting responsibility at the point of an allegation are negative.

Schneider and Wright (2004) articulate that given the threat to the person's social status, integrity, and family stability, there is significant pressure to deny and distort information about having committed a sexual offence, not just to others but also to themselves. Others argue that denial is a conscious process. Stevenson *et al.* (1989) outline that 'suppression', rather than denial, may be a more appropriate description for the process that many sex

offenders go through. Ware and Mann (2012) propose that a potential reason for denying sexual offences may be to facilitate the possibility of future offending.

Rogers and Dickey (1991) propose an adaptational model explaining the prevalence of denial among those who commit sexual offences. They argue that denial arises as a response to an adversarial situation where many life-changing negative consequences to admitting an offence exist, and therefore denial seems a better option. The adaptational model proposes that the person has too much to lose by disclosure. Rogers and Dickey assert that such defensiveness is considered an attempt to cope with a highly adversarial setting with far-reaching consequences. This model suggests that the greater the anticipated benefit from denial, the greater the likelihood of it.

Ware *et al.* (2015) conclude that the reason for denial remains unclear and a critical area for future research. They highlight limited evidence that suggests denial serves a function to escape feelings of shame and the probable consequences of being 'branded' as a sex offender, while endeavouring to maintain relationships with family and friends. Dealey (2018) concludes that denial can be self-preservation, but it can also be self-limiting, cutting off the person's access to future focused treatment. The reason why perpetrators of sexual offences deny remains complex and unclear, representing an area for further research. The limited evidence suggests that avoiding feelings of shame and the consequences of being identified as a 'sex offender', as well as an aspiration to maintain relationships with family and friends, represent the motivations for this grouping. The indication that denial reflects a desire to continue offending seems to be unfounded.

Continuum of denial

The topic of denial may be considered in the context of a continuum. Blagden *et al.* (2014) suggest that most perpetrators of sex offences deny at least one aspect of their offending and these aspects fall along a spectrum of deception.

Denial should not be assumed to be a deliberate and conscious distortion in sex offenders, and there are multiple reasons why people deny, which need our consideration. Denial may refer to denial of harm to the victim, denial of responsibility, denial of a need for treatment, denial of frequency or planning (Marshall *et al.*, 2001). Barbaree (1991) identifies three forms of denial: (1) complete denial; (2) acknowledgment of consensual sexual behaviour but denial of offence; (3) acknowledgment of contact, but denial of sexual contact.

Many authors have made the distinction between minimisation of the offence, or aspects of the offence, and 'absolute' or 'categorical' denial, where the individual refutes having committed any sexual offence. There is also recognition that there exist 'partial' deniers who admit engaging in forms of sexual activity but deny any actual sexual assault. This category would often allude to the victim consenting, enjoying or gaining from the experience. Marshall *et al.* (1999) describe 'minimisers', sex offenders who admit the offence but minimise responsibility, details of the offence, harm, planning or fantasising.

Denial has often been considered an 'all-or-nothing' phenomenon, in which an individual either denies or admits everything. Salter (1988) argues that denial falls on a continuum, with varying degrees, ranging from admission with justification to absolute admission with acceptance of both responsibility and guilt. Happel and Auffrey (1995) refer to the 'dance of denial' as having twelve steps, including denial of the behaviour itself, denial of intent, planning and premeditation, denial of relapse potential, and possible reoffending. Ware and Mann (2012) describe failure to accept responsibility as ranging from absolute denial through a variety of levels of minimisations to a complete acceptance of responsibility. Craissati (2015) highlights that less has been written about the possible relationship between total denial and partial denial – whether they are distinct traits or features on a single continuum.

Schneider and Wright (2004) used categories of denial identified in various typologies. They contend that many clinicians and scholars have acknowledged that denial is not an all-or-none phenomenon, but a complex, multifaceted construct.

Constructive denial

Reicher (2013) argues that denial can never be absolute, as some information must be registered for it to be disavowed. Hanson and Bussière (1998) and Yates (2009) propose that denial and cognitive distortions represent an understanding on the part of the individual that their behaviour is wrong; that the person denies their behaviour because, at some level, they recognise that the behaviour is harmful and they are reluctant to admit this. Viewed in this way, denial could be regarded as a healthy response to offending behaviour and as a strong starting point in treatment.

Reicher contends that denial is inherent to sexual abuse and, far from constituting an obstacle, can be used to therapeutic advantage (2013). It may

be viewed as a rich source of information about the client (e.g., cognitive processes, value system, and emotional dynamics). Schneider and Wright (2004) propose that, when viewed as a challenge rather than an obstacle to treatment, denial informs intervention decisions and therapeutic strategy. Denial may offer a source of clinical information about the individual's worldview and values. Schneider and Wright (2004) argue that interventions designed to assess not eliminate denial are likely to produce information that reveals the varying contexts where perpetrators feel justified to avoid responsibility for their deviant behaviours. Maruna (2004) argues that the 'constructive use of cognitive distortions', like externalising blame, may promote desistance and personal reform, which may in itself be a cognitive distortion of sorts. Such information can then become the target of therapeutic efforts.

In the context of sexual offending, denial falls on a continuum, with varying degrees of denial, ranging from admission with justification, to absolute admission with acceptance of both responsibility and guilt.

The literature suggests that denial serves several functions for those who commit sexual offences and their families, and deniers may have certain characteristics distinguishing them from admitters.

Denial may inform intervention decisions and therapeutic strategies and can potentially offer a source of clinical information about the individual's worldview and values.

The development of sex offender treatment

Most of the significant developments in sex offender treatment have occurred since the 1970s. The move towards behavioural approaches from psychoanalytical or group psychotherapy during the 1960s was accompanied by attempts to evaluate empirically the benefits of treatment.

The 1990s saw the introduction of empirically based risk assessment tools. These tools were considered useful regarding decision-making around supervision and levels of intervention necessary but did not allow for modifiable treatment targets. The tools helped to distinguish higher-risk from lower-risk offenders. Prior to this, perpetrators were placed on the same programme, and therefore to treat those deemed to be higher-risk most effectively, it would have been necessary to overtreat those considered lower-risk.

Hanson and Harris (2001) introduced a changeable risk assessment that identified dynamic risk factors. Hanson and Bussière's (1998) meta-analysis of

reoffending studies involved 61 studies and 28,972 sex offenders and helped to determine the relationship between a wide variety of factors and subsequent reoffending. Andrews and Bonta (2010) developed the Risk-Needs-Responsivity (RNR) model, in which interventions match the intensity of treatment to level of risk. It specifically targets criminogenic needs and tailors treatment to the needs and capacities of participants. However, this model has been criticised for an apparent failure to appreciate the totality of client needs, specifically with respect to offender-responsivity concerns (Wilson and Yates, 2009).

Marshall *et al.* (2005) echoed concerns regarding the RNR model, citing the emphasis on negative issues in both targets of treatment and language used in treatment, an absence of a collaborative focus to work with clients, and a dearth of emphasis on the role of the therapist. Subsequently, Marshall and others proposed a more positive approach to working with perpetrators of sexual offences. The therapists' role was, they believed, to assist the person in identifying the needs being inappropriately met by sexual offending, setting goals that will allow them to lead a socially acceptable and satisfying life without offending. Marshall *et al.* (2005) described the need for a therapeutic climate conducive to generating optimism and hope in the client, regarding achieving the said goals.

Another embodiment of this approach is the 'Good Lives Model' (GLM), which was developed by Ward (2002) and was derived from a focus on research into how people thrive, attain self-satisfaction and successfully meet their goals (Ward, 2002; Ward and Marshall, 2004). The GLM asserts that sexual offending results from a failure to meet basic human needs in ways that do not harm others. It proposes that by developing skills, competency and capabilities to achieve those things they value in life, the person will lead a more positive, fulfilling life and where life goals are no longer consistent with offending behaviour. Critics of this model emphasise the lack of empirical evidence to support its efficacy (Ogloff and Davis, 2004). However, Mann *et al.* (2004) established that therapists working with perpetrators found their clients to be more motivated to live offence-free lifestyles following treatment using the GLM. Dealey (2018) found that the GLM approach can work with denial because of its broad scope, collaborative aims, and orientation towards human good in the form of approach goals.

The case for denial as a risk factor

Andrews and Bonta (2003), when considering the 'need principle' of offender rehabilitation, outlined that acceptance of responsibility would be an important treatment target only if there was an established relationship between a lack of taking responsibility and risk of recidivism. Early research by Beckett *et al.* (1994) and Kennedy and Grubin (1992) found that reducing denial and minimisation did not produce changes in other treatment targets. Hanson and Morton-Bourgon (2005) and Langton *et al.* (2008) found no overall effect of denial on sexual reoffending. It is noteworthy that despite significant meta-analysis (Hanson and Bussière, 1998; Hanson and Morton-Bourgon, 2005), which clearly indicates that denial of sexual offending behaviour fails to predict sexual reoffending, substantial emphasis remains on the targeting of denial and minimisation within treatment programmes for sex offenders (Maletzky, 1996; McGrath *et al.* 2010). Turner (2022) argues that despite there being no clearly established correlation between admitting to their offence (including showing remorse) and a reduction in reoffending, many treatment providers work from the premise that 'breaking through' denial is a critical step in therapy and would agree that people benefit from accepting responsibility for their offending behaviour.

Harkins *et al.* (2015) reference the Offender Assessment System (OASys) question 'Does the offender accept responsibility for the current offence?' in a sample of 7,000 adult male sex offenders in England and Wales. The results indicated that, in the full sample, denying responsibility was predictive of lower levels of sexual reoffending, independent of risk level.

Mann *et al.* (2010) offer the hypothesis that denial would be a protective factor for an individual demonstrating genuine positive overall change in other areas but, on the other hand, denial may increase the risk for those who remain unyielding to change and committed to a deviant lifestyle. In relation to sex offender treatment, Langton *et al.* (2008) argue that admitting the offence at an early stage of treatment is thought to increase the motivation to participate in treatment.

The previously cited research illustrates that there is not a distinct correlation between denial and reoffending. However, it poses the question as to why there remains such a focus on denial and accepting responsibility within the context of sex offender treatment. More recently, a focus on working with those in denial has emerged in response to the identified unmet needs of this grouping.

Working with deniers

Most early approaches, as observed by Schneider and Wright (2004), were developed on the supposition that denial of an offence was a barrier to effective treatment, which must be overcome. Marshall *et al.* (2001) acknowledged that a failure to engage therapeutically with this group presented a problem. Blagden *et al.* (2011) found that professionals working with people who had committed sexual offences believed that deniers posed an elevated risk of reoffending, with the basis for these beliefs being intuition.

Donoghue and Letourneau's early work with deniers (1993, p. 300) focused on overcoming denial. They reported that 65 per cent of deniers admitted responsibility after programmes that incorporated cognitive restructuring and educational components. Brake and Shannon (1997) and Schlank and Shaw (1996) described similar programmes, which succeeded in deniers taking responsibility for their offences. Marshall (1994) attempted to combine deniers with admitters in the same treatment programme. Although these approaches generated some success, they were time-consuming and often confrontational (Marshall *et al.*, 2011). As denial has been demonstrated not to be a criminogenic factor (Hanson and Morton-Bourgon, 2005; Marshall *et al.*, 2011), the efforts and goals of such programmes are, therefore, questionable. Marshall contended that those who participate in such programmes are no less likely to reoffend than those who have received no treatment. The assumption with early approaches was that accepting responsibility for the offence was a prerequisite for effective treatment (Barbaree, 1991). However, Hanson and Bussière (1998) and Hanson and Morton-Bourgon (2005) found no relationship between denial of the sexual offence and sexual reoffending in either treated or untreated offenders, while Maletzky (1996) discovered no variances in the long-term outcome of 'treated' admitters versus 'treated' deniers. Beckett *et al.* (1994) and Kennedy and Grubin (1992) demonstrated that reducing denial did not, in turn, produce changes in other treatment targets.

Marshall *et al.* (2001) formulated an alternative approach to treating those in categorical denial. The programme was exclusively for deniers and set aside the issue of denial, instead focusing on empirically identified risk factors. The therapeutic goal was presented to the individual as aiming to identify the pathways that led to their being, in their view, 'falsely' accused of sexual offences, to ensure that the situation was never repeated. Marshall *et al.* (2011) describe this as a motivational approach that addresses the

significant issues leading to the accusation without having to deal directly with the issue of their denial. All other variables of the programme remained relevant. This approach has, therefore, effectively served to engage clients and facilitate a process of addressing issues relevant to risk. Marshall *et al.* (2011) contended that an early evaluation of the 'deniers group' illustrated no difference in treatment outcomes between the deniers group programme and the programme for those who had admitted their offences. The findings emphasise the limitations regarding the focus on individuals accepting responsibility in the context of good treatment outcomes.

Ware *et al.* (2015) conclude that approaches to the treatment of sex offenders in categorical denial have taken three forms: (1) exclusion from treatment; (2) active attempts to overcome denial; and (3) placement in a treatment programme where there is no attempt to overcome the denial, but which otherwise addresses criminogenic features.

Does taking responsibility matter?

Moral and social norms along with practices in day-to-day life, coupled with the processes of the criminal justice system, view taking responsibility as a noble, worthwhile trait. Considering the research outlined earlier, the question of what taking responsibility means and why it may be important in the context of sex offender treatment prompts more analysis.

Schlank and Shaw (1996) argue that perpetrators take responsibility only when they have stopped denying/minimising and have acknowledged all aspects of their problems that instigated the sexual abuse. Ware and Mann (2012) argue that most definitions of taking responsibility in the context of sex offending require an individual not only to admit that they did it; they must also describe how and why they did it.

In terms of the victim, acceptance of responsibility is beneficial in the context of the healing process and it has a restorative justice function. It is important to acknowledge the importance of the emotional impact experienced by victims and the potential benefit to them of a perpetrator accepting their guilt. Salter (1988) argues that disclosing the truth enables individual offenders to take responsibility for their actions. Theriot (2006) outlines that without agreement between the perpetrator's account and those of the victim, treatment will be more challenging and less likely to be effective. Levenson (2011) proposes that a potential reason for the emphasis by therapists on acceptance of responsibility may lie in such accountability being

considered imperative within our societal values. Levenson also articulates that failure to address the denial during treatment might lead to assertions of collusion with the perpetrator and maintenance of the secrecy in which abuse can prosper.

It is noteworthy that some have reported the value of outlining an account of their offence during treatment. Levenson and Prescott's (2009) study following a treatment programme found that participants described accepting responsibility for their offences as the most important component of the programme. Similarly, Levenson *et al.* (2009, p. 7), in a separate study of a community treatment programme, found that 94 per cent of participants regarded accepting responsibility as a crucial constituent of their programme. Levenson *et al.* (2009) articulated that these studies reflect a long-standing belief among therapists that it is unrealistic to make meaningful progress without the client's acknowledgement of their problem. Such studies would seem to suggest significance in accepting responsibility within the framework of treatment.

However, Wakeling *et al.* (2005, p. 180), in an earlier study, found that only 22 per cent of participants cited accepting responsibility and giving an account of their offence as a helpful aspect of their treatment. Also, Waldram (2008) outlined how participants in treatment programmes often recognise what therapists view as significant and can construct a view to reflect this, whether or not they themselves necessarily believe it. Overall, the evidence is limited for the importance of acceptance of responsibility – it depends more on common logic than on empirical evidence – although former deniers report feeling better having done so.

As noted earlier, those people who deny through a fear of losing family and friends or to ease feelings of shame might be less likely to reoffend than those who deny simply to avoid conviction or to preserve their sexual fantasies. It is, therefore, important when collaborating with this client group to try to understand the function of denial and the role it plays in maintaining a coherent sense of self.

Accounts of former deniers

There are examples of studies that focus on individuals who had previously denied their offending but subsequently admitted it. Lord and Willmot (2004) conducted a study with 24 sexual offenders and identified three themes relating to the function of categorical denial. The first category exhibited low

motivation and limited insights regarding their offending. The second category outlined the potential destruction of self-image and self-esteem alongside shame and guilt. The third category summarised fear of negative consequences, such as the loss of family and friends. Blagden *et al.* (2011), in a similar study of eleven former deniers, had similar outcomes to the Lord and Wilmot study. Themes for denial and the transition to admitting included: the apprehension of stigma of being labelled a 'sex offender' and the threats to one's identity and self-image. Blagden asserted that denial was likely to be overcome when it was no longer needed.

Why the emphasis on accepting responsibility?

As it has been contended that perpetrators accepting responsibility is not related to risk, it is important to explore whether the emphasis on acceptance of responsibility in sex offender treatment may be more detrimental than beneficial.

Maruna and Mann (2006) argue that perpetrators may be placed in a no-win situation in the context of treatment programmes. If they continue to minimise or excuse their behaviour, they may be considered resistant or in denial, while if they accept responsibility for their actions, they are categorised as a sexual deviant and characterised negatively by the criminal justice system. It has been argued that cognitive restructuring, which is a process used to challenge irrational or maladaptive thoughts and to persuade individuals to accept responsibility, may be classed as punishment and is not conducive to the individual's wellbeing (Ward, 2010).

It is now generally accepted that confrontational approaches to sex offender treatment are not beneficial to positive outcomes. However, pursuing acceptance of responsibility may often engender a confrontational approach by therapists (Jones, 2009). Ware and Mann (2012) suggest that too much emphasis on accepting responsibility may result in treatment attrition, either from the person being dismissed for failing to accept responsibility or alternatively dropping out due to the confrontational nature of therapy.

Conclusion

It is evident that denial is often a significant feature in the context of convicted perpetrators of sexual offences. Despite long-held assumptions to the contrary, there is little evidence to link denial to increased sexual reoffending. In some cases, it has been shown that the opposite is true, in so far as some

research has linked denial to reduced reoffending, particularly in higher-risk perpetrators. It is important to acknowledge the psychological and social value for both perpetrators and victims in accepting responsibility. Practitioners must consider the ethical dilemma, where it may be possible for someone to complete treatment successfully without admitting or taking responsibility for their offences. Conversely, treatment options that prioritise denial and responsibility may be counterproductive.

Reasons and the rationale for denial are complex. The limited research into the function of an offender's denial suggests that minimisation is the result of the fear of negative extrinsic consequences, or a threat to one's self-image, rather than motivated by a desire to reoffend. The emphasis on acceptance of responsibility (confession) as a treatment target may, in some circumstances, be unrealistic, and can result in 'no win' situations for the individual.

When deniers are excluded from treatment options, there is a lost opportunity to contribute to a reduction in their risk and that of future victims. Excluding deniers from treatment appears more problematic when we consider that the evidence suggests that those who perpetrate sexual offences may benefit from treatment even while maintaining denial of their offences. Therefore, for practitioners, it is central to explore and understand the function of denial and the role it plays in each individual case.

Sex offender treatment remains an area of development and as much is yet unknown in relation to perpetrators who deny, this area requires ongoing long-term further research.

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Emancipatory Pedagogy in Prison: Participatory Action Research and Prison/ University Partnerships

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Summary: Increasingly, researchers, practitioners and policymakers in the fields of criminal justice, criminology and associated professional practices are realising their responsibility to consider their roles in reinforcing, mediating or dismantling the persisting power differentials that remain between those 'delivering' criminal justice interventions and those receiving them. What might appear as a 'lofty' and abstract ideal is, however, neither novel nor unique. Research and practice traditions which draw on 'lived experiences' of criminal justice in the co-production of knowledge, including Convict Criminology, are increasingly finding their way into mainstream policy, practice and academic research.

This paper draws from the North–South TOGETHER collaboration, which seeks to research and share with others on the island of Ireland transformative teaching and research practices in university–prison classrooms. Co-produced learning can dismantle the barriers between those affected by the criminal justice system and those who are not. We invite readers to consider how the methodological approach of participatory action research (PAR) can produce 'symmetrical reciprocity' in the relational field of research, while concurrently feeding into professional praxis, in our case as educators, but equally imaginable for those practising criminal justice in different capacities. We suggest that pedagogy emphasising relationship building, mutuality and conviviality, foundational elements of PAR, can produce more meaningful types of knowledge or 'evidence', transforming our individual praxis and reimagining design of the delivery of justice.

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Introduction

Despite efforts to reform prison institutions globally and embed the rehabilitative functionality of imprisonment, the violence of incarceration persists (see Scraton and McCullough 2008), with prisons in the UK and Ireland experiencing overcrowding, capacity issues, excess periods of confinement (or 'bang up'), and the deleterious effects of these issues (HMIP, 2021; HMIP, 2023; IPRT, 2022; PRT, 2022). In addition, the disproportionate criminalisation of specific groups relating to class, gender, race, nationhood and ability has illuminated the inequalities of a criminal justice system that over-polices and disproportionately imprisons specific populations (see, for example, Lammy, 2017; Joyce 2020), while egregious social harms perpetrated by those with power in society remain predominantly unchecked (Hillyard *et al.*, 2004; Canning and Tombs, 2021). For those 'outsider' professionals who work within prisons, such as partnering statutory and third-sector organisations and academics, uncritical practice can reproduce institutional prerogatives, compound the harms of imprisonment, and fail to create meaningful change for the prisoner populations we purport to aid. In conjunction with these structural concerns, many practitioners, researchers and policymakers are increasingly aware of the flawed nature of knowledge production that fails to centre the voices and needs of those with lived experience of criminal justice broadly, and prison in particular (see Harriot and Aresti, 2018, Grace *et al.*, 2022). A traditional lack of prisoner voice in both criminal justice research and statutory and non-statutory services has led to knowledge creation that privileges the professional standpoint, filtering knowledge through a 'privileged lens', which prioritises organisational viewpoint and understandings (Aresti *et al.*, 2016, p. 8).

Within the arena of prison-related knowledge production lies the prison-university education sphere. Traditionally, prison and university education have run along parallel but separate tracks. In the UK and Ireland, the Open University has a strong tradition of bringing tertiary level education into the prison site (see Earle and Mehigan, 2022). In recent years, the Learning Together model has striven to extend this foundation not just by bringing

third-level education to prisoners, but by bringing the prisoner standpoint into university education, using a format where university students are brought into prison to 'learn together' with people in prison (Armstrong and Ludlow, 2016).

The US model of prison–university partnerships, the Inside-Out Prison Exchange Program (Inside-Out), has been developing this format since the mid-1990s, producing a pedagogical space where prison student-led learning enriches traditional university curriculum with the 'insider' perspective (Hyatt, 2009; Pompa, 2004; Pompa, 2013; Davis and Roswell, 2013). In 2019, both of these models arrived on the island of Ireland, with the Learning Together partnership between Queen's University Belfast and Hydebank Wood College, and the Inside-Out project between University College Cork and Cork Prison. These two projects have now united through the North–South HEA-funded Participatory Action Research project, 'TOGETHER', which strives to produce a unique user-led island-of-Ireland pedagogy, inspired by, yet distinct from, its respective UK/USA foundations and heritage.

The aim of this paper is to set the scene from which this innovative project emerges, laying out the landscape of lived-experience-based participatory methods and knowledge production and emancipatory prison education praxis. The first section will outline the development of the lived-experience lens broadly, and in criminal justice and prisons specifically. In the second section, the development of education in prisons and the heritage of Inside Out and Learning Together prison–university education partnerships will be explored broadly. Finally, the development of Participatory Action Research and emancipatory prison education praxis will be unpacked, as we explore the benefits for students, educators and practitioners, and for knowledge production more broadly.

'Nothing about us without us' – Lived experience of criminal justice

The shadow of the prison site looms over all interpersonal dynamics and practice within its walls, inserting unequal power dynamics and hierarchies of knowing. Alongside the structural issues that pervade the practice of third-sector and academic practitioners collaborating with prison institutions, these actors also increasingly recognise the problematic nature of traditional models of both service provision and knowledge production in this arena. Broadly, the ethics of prison research have historically raised concerns of coercion and exploitation, but equally, questions regarding respect, justice

and equal opportunity to participate in potentially beneficial research (Pope *et al.*, 2007). Within this, criminological research in prisons has traditionally been framed by a 'masculinist paradigm' (Gelsthorpe, 1990, p. 91), deployed through positivist approaches, which often 'invisibilises' the researcher and objectifies participants, rendering them powerless (Chesney-Lind and Morash, 2013). This can lead to exploitation of research participants as their lives and experiences become reduced to 'sources of data' (Gelsthorpe, 1990, p. 93; Toch, 1967).

Ethnographic criminological researchers have aimed to move beyond positivist, objectivistic quantitative research through research methods grounded in the experience of reality (Adler and Adler, 1998), yet even these approaches can 'sidestep any suggestions of connectedness' between researcher and participant (Jewkes, 2011, pp 63–4). Equally, feminist researchers highlight the discomforts of traditional criminological research endeavours, emphasising the need to be participant centred, to deconstruct power differentials through non-hierarchical practice, to address ethical concerns of exploitation and disempowerment of marginalised populations, and to frame participants not as subjects but instead as knowledge agents (Carlen *et al.*, 1985; Gelsthorpe, 1990; Bosworth, 1999; Malloch, 2000; Carlen and Worrall, 2004; Renzetti, 2013). Central to this practice is the aim to reduce the distance between researcher and those researched, breaking through the professional barrier with empathy, honesty, self-disclosure, research, support and advocacy (Gelsthorpe, 1990; Bosworth *et al.*, 2005; Leverentz, 2014; Renzetti, 2013).

However, despite efforts to overcome ethical issues of criminological research to produce more participant-centred practice, discomforts remain regarding ownership, benefit and exploitation of prisoner narratives. Criminologists run the risk of becoming 'successful pimps, selling dramatic accounts of crime and criminals' (Ferrell and Hamm, 1998, p. 4). As Hans Toch (1967, p. 74) ponders, even the best intentioned researchers ask something 'that is unreasonable and unfair', becoming 'at best ... supplicants, and at worst, invaders demanding booty of captive audiences' through requests for 'a fellow human being to bare his soul'.

The output of these intimate details of lives lived can result in silencing and misrepresentation of marginalised groups by academic researchers and policymakers – outsiders – via 'oppressive knowledge production' characterised by pathologisation, paternalisation, oversimplification and 'extractive exotification' (Yarbrough, 2020, p. 58). Rather than producing beneficial change,

Yarbrough's participants identified 'criminological knowledge production as an important cause of social inequality', producing harmful policy consequences (2020, p. 59). Piché and colleagues also challenge 'the idea of the academic as an authorized knower of prisons and jails' (Piché et al., 2014, p. 450).

Despite a proliferation of participatory research methods and co-production in recent years, researchers with lived experience can find themselves doubly marginalised in this process. First, by the oppressive intersecting structures that feed into criminalisation and imprisonment, and second, in the academic arena 'where their contributions to knowledge are seldom recognized' (Piché et al., 2014, p. 450). This has led to a movement to challenge the idea of 'what it means to "give voice" in criminology', in a move instead towards 'privileging the standpoint of prisoners' and dismantling the dominance of 'the academic as an authorized knower of prisons' (Piché et al., 2014, p. 450).

More broadly, academic, statutory and non-statutory actors face criticism from service-users questioning the development of policy and knowledge creation 'in their name'. Across the fields of health, mental health, disability and recovery, activists and advocates have instead been calling for 'nothing for us without us', a recognition across sectors that those with lived experience of social issues need others not to speak for them but instead to create space for them to use their own voice to create change. Charlton (1998), in his foundational text on the disability rights movement, *Nothing About Us Without Us*, describes liberatory aims of disability activists to take control over their narratives and futures, reclaiming their power from oppressive paternalistic institutional responses.

This call for self-determination has also emerged in the arena of addiction, where William White (2000) outlines a 'new recovery movement', aiming to resist structures which turn service-users into 'helpless victims of the system' and instead create a paradigm shift towards service-user centrality in the social policies that impact on their lives. This entails 'joining together to achieve goals that transcend ... mutual support needs' and 'advocating for the needs of addicted and recovering people' (White, 2000, p. 5). Sex-worker advocates have similarly mobilised collectively to resist the criminalisation and stigmatisation that negatively impact on their lives, demanding that 'our voices be heard, listened to and respected ... we condemn those who would steal our voices and say that we do not have the capacity to make decisions or articulate our needs' (Dziuban et al., 2015, p. 40). Meanwhile, the collectives 'Mad in America', 'Mad in the UK' and 'Hearing Voices Network Ireland' critique medicalising and pathologising biomedical responses to

mental health issues, resisting their oppressive and harmful impact and empowering service-users to reframe their narratives (see Watson, 2019).

For those delivering services in the criminal justice system, failure to prioritise the needs and experiences of those who are experts in imprisonment – prisoners – can lead to practice that does not address the distinct issues prison populations experience, instead working to reproduce the professional gaze of the institution and partners. This can be an explicit process, with certain voices marginalised on the basis of discrimination and intersecting structural oppressions, or as an implicit outcome of capacity/administrative issues and a reliance on embedded practice which excludes the prisoner voice (Ahmed *et al.*, 2021). That said, the value of service-user involvement in criminal justice is increasingly acknowledged, with formerly imprisoned people and those in prison recognised for their potential to use their experiences to help and inspire others as 'wounded healers' (Maruna, 2001; LeBel *et al.*, 2015; Maruna, 2017). Utilising the voices of 'experts by experience' has been pioneered by organisations of the penal voluntary and penal reform sectors, leading to their insights informing policy and implementation (Clinks, 2017; PRT, 2020; User Voice, 2023a).

Within prison and probation, services that utilise prisoner experience in the form of peer-mentoring programmes are increasingly prominent (Buck *et al.*, 2022), with 92 per cent of criminal justice mentoring in England now delivered by peer mentors (Buck, 2021). One example of this is the Samaritans Listener scheme, which has been running in England since 1991 and in Ireland since 2002. This scheme trains prisoners to provide emotional support to those suffering from distress and suicidal ideation within the prison community (Jaffe, 2012). Participating in criminal justice practice can be a positive and rewarding experience for peer participants but can also have negative outcomes where implementation is 'exclusionary, shame-provoking and precarious' (Buck *et al.*, 2022, p. 822).

Organisations that centre lived experience in their practice can inadvertently end up diluting and silencing the user's voice, and can fail to facilitate their inclusion in knowledge production or policy direction (Aresti *et al.*, 2016; Harriott and Aresti, 2018). Harriot and Aresti set out a call for action to challenge prisoner 'voicelessness', citing the tradition of prisoner-led organisations such as Groupe d'information sur les prisons in France and KROM in Norway, which provided a model for prisoner activism and a platform for the prisoner voice (Harriot and Aresti, 2018). This tradition is continued in the UK with the prisoner movement hosted by the Prison Reform

Network, the Prisoner Policy Network, working to 'shape policy, affect delivery of services, and build grassroots confidence in self-determination' (Harriott and Aresti, 2018, p. 40).

Within prisons and probation, the UK organisation User Voice was set up and is led by those with lived experience of criminal justice. Running since 2009, it aims to democratise criminal justice institutions through the formation of prison and probation councils, which create the framework for prisoners and probationers to voice issues and effect change in their environment (User Voice, 2023b). More broadly, the organisation and its councils work across systems to produce policy reports and recommendations on issues affecting prisoners, such as the impact of spice, neurodiversity and COVID-19 on prison populations (User Voice, 2016, 2021; Queen's University Belfast and User Voice, 2022). These models counter the traditional professionalised lens, which produces much policy and procedure in criminal justice settings, instead ensuring practice that has a foundation in prisoner knowledge and agency. To date, no similar comparable organisations or initiatives have emerged in the Republic of Ireland.

For academic researchers concerned with the politics of traditional forms of knowledge extraction from marginalised groups, two frameworks for response have emerged. One framework for platforming the 'user' standpoint in criminal justice is the development of 'convict criminology', which is the strand of the criminology discipline led by those with lived experience of prison and criminal justice institutions (Toch, 1967; Earle, 2018; Honeywell, 2021; Aresti *et al.*, 2023). It platforms the views of experts by experience within criminological theory and reasoning, holding the potential to provide intimate insights into the loss of liberty, the lived experience of imprisonment and punishment, alongside 'finding freedoms, earning privileges, expulsion from society ... and most of all, the transcendent potential of teaching and learning' (Earle, 2018, pp 1513–4). Convict criminology has been instrumental in 'changing the way in which crime and justice are researched', serving to 'breathe new life into the traditional classroom or research enterprise' and instrumental in transforming the discipline into something 'defensible as an academic area of study' (Maruna, 2017, p. 16).

More broadly, Participatory Action Research (PAR) (see O'Neill, 2001 and O'Neill *et al.*, 2004) is a methodology utilised across multiple fields, focused on integrating the voice of lived experience in research conception, design, implementation and dissemination (Schubotz, 2019). PAR aims to transform 'research participants' into co-producers of knowledge (Schubotz, 2019).

Participatory methodologies have developed 'in the trenches' of social movements (Fine, 2013, p. 688), particularly in the global south where participatory 'people power' was foundational to social justice and labour movements and a key aspect of emancipatory pedagogy (Freire, 1970; Fals Borda, 1999; Illich, 1973).

With academic origins in the 'action research' of psychologist Kurt Lewin (1946), 'participatory research' was adopted across disciplines, with the Participatory Research Network set up in the field of education in 1977 (Hall, 1981). PAR is based on principles of democratic participation, recognising the lived experience of social issues as knowledge, and creating collaborative space to allow experts by experience to participate in knowledge construction (Billies *et al.*, 2010; Torre *et al.*, 2012; Lenette *et al.*, 2019). In this way, as a participatory methodology, it holds the potential to address authentically power imbalances and hierarchies between researchers and groups being 'researched', using collective endeavour to produce fundamental social change that can transform lives and social situations (Hall, 1981; Brydon-Miller, 1997; Wadsworth, 1998). More broadly, through provision of academic rigor to liberatory endeavours, PAR can be emancipatory, changing communities, society and reducing socio-political inequalities (Billie *et al.*, 2010; Fine, 2013; Lenette *et al.*, 2019).

Within criminology, while the discipline has been slow to adopt PAR principles (Haverkate *et al.*, 2020), innovative, creative examples have been emerging including O'Malley's game design with women in Limerick Prison (2018), Harding's photovoice research with women's centres in England (2020), and Jarldorn and Deer's poetry research with former prisoners in Australia (2020). More recently, Haarmans and colleagues have used PAR to explore Offender Personality Disorder (OPD) pathways in the male estate of HMPPS (2021), while Queen's University Belfast (QUB) and User Voice (2022) collaborated to uncover the prisoner experience during the COVID-19 pandemic. In the USA, PAR methodologies have a longer history in prisons, predominately at the nexus of prison–university education partnerships (see Fine *et al.*, 2001; Fine *et al.*, 2003; Fine, 2013; Fine *et al.*, 2021; Payne and Bryant, 2018). PAR is particularly powerful in the prison setting, where the prison walls can obtrude knowledge production and inflict hierarchical ways of knowing. Utilised, it holds the potential to activate the 'distinct and critical' knowledge of incarcerated people (Farrell *et al.*, 2021), reducing power differentials to produce more authentic findings (Haverkate *et al.*, 2020) and allowing their lived experience of policy and procedure implementation to affect material and system change.

Education in prisons – pedagogy inside

Overview of prison education in Ireland and Northern Ireland

To understand better what is meant by emancipatory practices in prison education, it is important to outline some of the main features of prison education across the island of Ireland. What constitutes ‘prison education’ and how it is organised varies by jurisdiction (Warner, 2002, p. 1). Traditionally in the Republic of Ireland, work training is provided by prison officers and internal prison staff, whereas prison education services are typically delivered by external educational agencies, which focus on non-vocational training (Warner, 2002, p. 1). Specifically, the Irish Prison Service (IPS) has partnered with the Education and Training Boards Ireland (ETBI) to deliver education within the prisons, ranging from Basic Education to Third Level programmes (Irish Prison Service, 2019, p. 1). In addition, the Open University (OU) has delivered third-level education in Irish prisons (Costelloe, 2003).

In Northern Ireland, prison education is encompassed within ‘Learning and Skills’, which includes a focus on literacy, language and numeracy skills, and employment training (Northern Ireland Prison Service, 2022). Prison education is delivered in partnership between the Northern Ireland Prison Service and Belfast Metropolitan College and North West Regional College (Northern Ireland Prison Service, 2022). Furthermore, NIPS supports those who are interested in pursuing higher-level education while incarcerated, which is often provided by the Open University using a distance-learning style of teaching (Department of Justice, Northern Ireland, 2023).

Prison education in the Republic of Ireland is informed by the Prisons Act, 2007 and the Prison Rules, 2007, which ‘set out the various conditions in prisons in Ireland, including: admission, registration, accommodation, visiting rights, health, discipline, education, etc.’ (IPRT, 2023b). In addition, the Irish Prison Service’s *Joint Education Strategy 2019–2022* outlines far-reaching and ambitious aims of the prison education service to ‘deliver a high quality, broad, flexible programme of education that helps people in custody cope with their sentence, achieve personal development, prepare for life after release and establish an appetite and capacity for life-long learning’ (Irish Prison Service, 2019, p. 1). Furthermore, the Prison Education Taskforce, which is made up of government department representatives, statutory agencies, and formerly incarcerated individuals, aims to ‘ensure education and training opportunities are available to prisoners’ in the Republic of Ireland (Government of Ireland, 2023). The taskforce met in May 2023 to

determine a 2023 work plan focused on 'apprenticeships and retrofitting' and 'greater alignment across the prison education and training services and tertiary provision', with a focus on securing post-release employment (Government of Ireland, 2023).

The Northern Ireland Prison Service, on the other hand, is governed by the Prison Act (Northern Ireland), 1953, Treatment of Offenders Act (Northern Ireland), 1978, and the Prisons and Young Offenders Centres Rules (Northern Ireland), 1995 (Department of Justice, Northern Ireland, 2010). In 2011, following an independent review of prison conditions, the Northern Irish Government set out to reform the prison service to become more 'efficient, compact, and focused on reducing offending' (Butler, 2017, p. 1). Following these reforms, the Criminal Justice and Courts Bill, 2014 led to the transformation of Hydebank Wood Young Offenders Centre (YOC), a restrictive facility with limited educational services, into a secure training college with professional educational partnerships delivering services with individually assessed learning plans for students (Flanagan and Butler, 2018). The partnerships highlighted above, between the Northern Ireland Prison Service and Belfast Metropolitan College and North West Regional College, were implemented in 2015 as a result of these reforms (Butler, 2017). Furthermore, the strategic framework, *Prisons 25 by 25*, identifies 'learning and skills' as a priority, with the focus on providing 'development opportunities focused on preparing individuals for release with the skills needed to make a positive contribution to society'" (Northern Ireland Prison Service, 2022, p. 14).

In addition to state-specific policies and frameworks, penal education policy across the island is influenced by international standards and guidelines, which include the Council of Europe's European Prison Rules, the United Nations Standard Minimum Rules for the Treatment of Prisoners (2015), known as the Mandela Rules, and the Council of Europe's 1989 Recommendations for Prison Education (Gray *et al.*, 2019). The European Prison Rules were developed by the Council of Europe and 'set out standards on the management of prisons and the treatment of people in prison'. Rules 28 and 106 state that people should have 'access to comprehensive educational programmes', while Rule 103 states that education should be incorporated into individual sentencing plans (Penal Reform International and the Council of Europe, 2023, pp 83–4).

Furthermore, the Council of Europe's recommendations on Education in Prison (1989) state that those in prison should have access to the same quality of adult education inside the prison as they would in the community (1). This

demands a 'wide ranging perspective' of education that looks at the needs and development of participants, resulting in diverse educational opportunities that look at the whole person (Warner, 2002, pp 32, 33). However, while there are thus policy imperatives in place to underpin the delivery of prison education, the provision and quality of education within prisons is not guaranteed and often varies by country. This is often linked to the attitudes and perceptions that society holds towards incarcerated individuals. Typically, the more punitive a society is, the less likely it is that developmental education will be valued and delivered in prisons (Costelloe and Warner, 2014, p. 179).

Third-level education and Prison–University Partnerships

Access to third-level education in prisons across the island of Ireland has traditionally been delivered via distance-learning programmes, with the Open University (OU) being one of the largest providers of this service (Costelloe, 2003, p. 5). The OU was first established in the United Kingdom in 1969 by Royal Charter, with an aim to make education accessible for all people via distance learning and no prior entry requirements (The Open University, 2023). The OU's official mandate of 'promoting educational opportunities and social justice by providing high quality education to all' quickly led to a radical reputation (Earle *et al.*, 2021, pp 71–2). Furthermore, the mandate in the charter of promoting 'education well-being of the community generally' resulted in the provision of prison education (Earle *et al.*, 2021, p. 72).

In 1972, the OU first began delivering education in Northern Irish prisons in Long Kesh Detention Centre, where many who were political prisoners were being held without trial (Earle *et al.*, 2021, p. 77). As mentioned above, the OU continues to be the main way in which prisoners in Northern Ireland can access third-level education. In the Republic of Ireland, the OU began delivering education in prisons in 1985 and, for a period of time, 'the OU was the sole provider of degree level courses taken by Irish prisoners' (Costelloe, 2003, pp 5–6). In 1976, the OU took its provision of education in prisons further by introducing a Summer School that brought outside students to study alongside the students in prison (Earle *et al.*, 2021, p. 77), but this did not become an embedded model.

Collaborations between prisons and universities have become more prevalent in recent years (see Prisoners' Education Trust, 2019; Gray *et al.*, 2019). There is a range of different typologies of collaborations between prisons and universities, such as: 'inside and outside students studying together in prison, professors teaching and mentoring in prisons, outside students teaching/

mentoring inside students, inside students studying at university on day release, digital and distance learning' (Champion, 2018, pp 9–14). These programmes aim to foster knowledge exchanges to 'encourage active participation and nurture dynamic processes of self-realisation' (Gray *et al.*, 2019, p. 7).

Furthermore, these collaborations can contribute to 'wider social change', such as empathy among diverse participants, increased support for penal policy reforms, access to degree-level education for those affected by the justice system, reintegration, and greater awareness of the systemic factors that have an impact on social issues (Gray *et al.*, 2019, p. 7). Partnerships between universities and prisons can vary depending on the area of the study, length of the programme, and the participants involved (Prisoners' Education Trust, 2019, p. 14). According to the Prisoners' Education Trust, partnership types can include seminar-style programmes, reading groups, mentoring schemes, creative collaborations, placement schemes, and international modules such as Inside-Out (US based) or Learning Together (UK based) (2019, pp 4–5).

Across Ireland, a number of collaborations between prisons and universities have emerged in recent years. Since 2017, University College Cork (UCC) and the Cork Prison Education Unit have collaborated through teaching different aspects of visual thinking in a convivial learning environment, so that students learn to use creative expressions, allowing them to reflect on their experiences of incarceration and their desistance journeys. This work culminates in an annual summer art exhibition on Spike Island in Cork harbour (Cooper and Cronin, 2022).

In 2019, the 'Mountjoy Prison and Maynooth University Partnership' launched, with an aim for Maynooth University to deliver a variety of educational programmes within Mountjoy Prison such as a storytelling exchange with both university students and incarcerated students, lecture series within the prison, and research projects (Maynooth University, 2023). In 2019, academics from UCC and QUB developed emancipatory prison education partnerships with Cork Prison and HMP Hydebank Wood in which degree-level courses are delivered for both university students and students in prison. Influenced by international models, the UCC and QUB courses are among the first types of emancipatory educational partnerships on the island of Ireland that enable community-based outside students to study alongside prison-based incarcerated students for ongoing, semester-long modules.

The Cork module is based on the US Inside-Out Prison Exchange Program, which was supported in its set-up at UCC by Durham University's Inside-Out Programme (King *et al.*, 2019), and is the first Inside-Out programme in

Ireland. The course, 'From Criminal Justice to Social Justice', is delivered by UCC's Department of Criminology and Sociology and explores contemporary issues in criminology around the topics of criminal justice and social justice, in both an Irish and international context. It is a 12-week second/third year BA Criminology module that is delivered to approximately ten undergraduate criminology students and ten incarcerated men in Cork Prison.

The Belfast programme is affiliated with the UK-based 'Learning Together' model and is delivered by QUB's School of Social Sciences, Education and Social Work in HMP Hydebank Wood Secure College. In addition to delivering a class with both inside and outside students, the course, 'Reintegration after Prison', focuses on theory and research around prisoner resettlement and desistance. This course is unique in that it is delivered to both men and women inside Hydebank prison, learning together in the same classroom. Furthermore, it is the only opportunity for Hydebank residents to experience a face-to-face university class and learn alongside university students. To place these Irish programmes in a larger context, it is important to explore the foundation of the respective models that have influenced emancipatory prison–university partnerships across Ireland to date.

The Inside-Out Prison Exchange Program

Inside-Out is a US based, internationally applied, prison–university partnership model that brings together university-based students with incarcerated students in a semester-long, college-level course delivered inside a prison. Developed in 1997 by Lori Pompa, a Criminal Justice professor at Temple University in Philadelphia, Pennsylvania, Inside-Out is an 'educational program with an innovative pedagogical approach tailored to facilitate dialogue across difference' (Inside-Out Center, 2023). The programme was first founded after Pompa took a group of undergraduate students to the Pennsylvania State Correctional Institution for a tour, and an incarcerated participant suggested that they develop a longer seminar series for community-based students and incarcerated students (Pompa, 2013). The first official class, 'The Inside-Out Prison Exchange Program: Exploring Issues of Crime and Justice behind the Walls', was delivered in 1997. Since its formation, materials and criteria have been developed, which has allowed for the replication of the programme across the United States and internationally (Inside-Out Center, 2023).

In 2002, when Inside-Out expanded to Graterford Prison, the students developed 'think tanks', which created space to keep discussions and collective learning going beyond the semester-long module (Pompa, 2013,

p. 4). A key output of the initial think tank was a training framework to make a national model for implementing Inside-Out beyond Pennsylvania. As a result, all Inside-Out instructors participate in a formal training process, which includes a week-long, 60-hour intensive training that involves meetings inside a prison with think-tank participants (Pompa, 2013, p. 4). To date, over 15,000 students have gone through the programme across North America (Davis and Rosewall, 2013, p. 1) and instructors have been trained to deliver Inside-Out in the UK, Europe, Australia, and New Zealand (Inside-Out Center, 2023). In 2014, the first Inside-Out programme outside North America was delivered in the UK as a partnership between Durham University and HMP Durham (King *et al.*, 2019) and as highlighted above, the UCC module is the first Inside-Out programme in Ireland and also includes a think tank in Cork Prison.

From the outset, Pompa (2013) stressed that Inside-Out is not meant to be charity, advocacy, activism or research. Rather, it is an educational programme that aims to bring about social change through the creation of intentional, collaborative learning spaces (Pompa, 2013). Practitioners and proponents of Inside-Out have described it as the 'embodiment of transformative education', designed in a way that promotes experiential learning (Butin, 2013, p. x). Furthermore, they have argued that Inside-Out 'is rooted in reciprocity, dialogue, and collaboration' (Davis and Rosewall, 2013b, p. 3). In these spaces, the instructor's role is more of a facilitator, 'encouraging ongoing dialogue and collaborative work' in a space in which all participants are equal learners (Pompa, 2013, p. 239).

An inside student, who helped develop some of the first Inside-Out courses, reflected on how Inside-Out was different from any other college course he had ever taken and noted the experience of constructing 'knowledge organically through the dynamics of shared dialogue' during the class (Perry, 2013, p. 40). While the core of Inside-Out is prison–university partnerships, the programme has grown to include 'an international network of trained faculty, students, alumni, think tanks, higher education and correctional administrators, and other stakeholders' committed to social justice issues (Inside-Out Center, 2023). The Inside-Out model of emancipatory prison education partnerships has influenced the development of similar models farther afield, such as Learning Together in the UK.

Learning Together

Learning Together is a UK-based prison–university partnership that, similar to Inside-Out, brings together university students to study alongside students in prison for a degree-level class over the course of a semester (Armstrong and Ludlow, 2016). The programme was founded by Dr Ruth Armstrong and Dr Amy Ludlow in 2014, with a pilot partnership between University of Cambridge and HMP Grendon (Armstrong and Ludlow, 2016). According to the founders, Learning Together is inspired by ‘the diverse forms that university and prison partnerships can take’ and ‘seeks to build upon the long British history of mutual learning and participatory research in prisons’ (Armstrong and Ludlow, 2016, p. 10). Furthermore, the founders recognised that while opportunities for mutual learning between incarcerated students and community-based students were becoming more common in other regions, such as the US, they were less prevalent in the UK (Armstrong and Ludlow, 2016, p. 10).

Learning Together is influenced by Freire’s ‘vision of education as the practice of freedom’, and therefore seeks to ‘establish locally adapted learning communities in collaboration with students’ (Ludlow *et al.*, 2019, pp 25–6). Furthermore, there are five core values that lay the foundation of the Learning Together programme: ‘equality, diffuse power, a belief in potential, connection through shared activities and the individually and socially transformational power of togetherness’ (Armstrong and Ludlow, 2016, p. 11). Learning Together classrooms aim to be experimental and dialogical, and ensure that everyone in the classroom is a student ‘learning with, from, and through each other’ (Armstrong and Ludlow, 2016, pp 10–1). Through co-creating transformative learning spaces, participants can ‘engage with knowledge in ways that are both individually and socially transformative’ (Armstrong and Ludlow, 2016, p. 10).

In addition to the delivery of degree-level modules within the prison for inside and outside students, Learning Together has also developed a Learning Network, which includes universities and prisons collaborating on learning partnerships and best practices, and responding to emerging needs (Armstrong and Ludlow, 2016, p. 10). Since 2014, over 40 universities and prisons across England and Wales have joined the Learning Together Network (Ludlow *et al.*, 2019, p. 25). Furthermore, in 2016, Liverpool John Moores University expanded Learning Together beyond the prison walls for individuals with personal or professional experience of the criminal justice

system, including individuals on probation, to study with university students in a similar model (Gosling *et al.*, 2020).

Armstrong and Ludlow (2016) argue that there are opportunities to learn more about the impacts of Learning Together, and other prison–university partnerships, including the individuals who participate but also the institutions and communities associated with the programme. It is important to note some discontinuation and pauses in the delivery of Learning Together that have impacts on the overall scale and scope of the model. In 2019, during the five-year anniversary celebration of Learning Together, there was an attack on delegates at the event by a former inside student, which tragically ended in the death of two Learning Together staff and the former student (Armstrong, 2022a). This resulted in the halt of Learning Together in many places across the UK and the official decision to discontinue the programme at the University of Cambridge. As Armstrong reflects, 'there can be no recovery from such devastation, but lessons can be learned and good can be salvaged' (Armstrong, 2022a). Following on from this event, Ruth Armstrong has worked with criminal justice and academic practitioners to develop a framework for evaluating Learning Together and ensuring that best practices are in place for delivery and evaluation (Armstrong, 2022a).

An additional blow to the delivery of these programmes was the COVID-19 pandemic, which led to the withdrawal of in-person delivery of Learning Together in many sites. However, the Learning Together class with QUB and Hydebank Wood continued throughout the pandemic. Outside students video called into the prison classroom, which allowed them to build community during an isolating time.

The Learning Together and Inside-Out models transform what prison–university education partnerships can be, building community across diverse spaces and dismantling traditional top-down models of learning and knowing. However, the models do not come without cautions. Bumiller (2013) argues that Inside-Out programmes run the risk of complicity with the institutional power they consider themselves to run counter to, if the learning within these classrooms does not observe the harmful forces of both the academy and the prison setting. Focus on 'what' is taught can awaken 'students' common-sense notions about power and legitimacy ... [and] the uncertain foundations of taken-for-granted rules and institutional norms' (Bumiller, 2013, p. 183). Meanwhile, Gray and colleagues argue that the 'how' of teaching must centre 'transformative pedagogical practices at their heart' to ensure that these models fully harness their potential (Gray *et al.*, 2019, p. 7). The next section

unpacks these ideas on the 'what' and 'how' of the Together classroom, fusing PAR methodology with the prison classroom to discuss what truly emancipatory prison praxis could be.

Key principles: Participatory action research (PAR) and emancipatory prison education praxis which inform the TOGETHER collaboration

Togetherness through difference: symmetrical reciprocity and conviviality

This final section offers initial reflections on some principles of practice that are considered central to both PAR and emancipatory prison education praxis. Without wanting to preclude the outcomes of the TOGETHER project and the all-island prison–university partnership toolkit, which will be co-developed with prison and university students over the next twelve months, we consider these principles as informing the ethos of the TOGETHER project/collaboration. These principles, which will now be discussed in turn, include dialogical research and teaching practices that prioritise the formation of authentic and non-hierarchical relationships; the focus on unearthing subjugated or 'disqualified' types of knowledge; and lastly teaching and research practice that is anti-oppressive and embodied, using the senses and emotions, in forging human connections across social difference and paying attention to their effects on research findings.

Both the emancipatory prison-education classroom as well as participatory action research put an emphasis on collaborative practice, where encounters in the research or classroom setting are designed so that 'trust can emerge as a relational good' (O'Neill et al., 2019, p. 133). Relational good, that which is produced by members of a collective 'to generate a relationship from which benefits derive for all those who participate in it' (Donati, 2019, p. 238) is a core aspect of the emancipatory prison classroom. The establishment of relationships that encourage trust is arguably important in any type of interpersonal setting, but particularly so in low-trust environments, such as prisons, and in spheres that are dominated by power differentials. Learners or research participants are enabled to engage in dialogue with each other and, across perceived social differences, to explore together ways of learning or researching collaboratively. Importantly, the relational good here is understood as an ethical practice in itself, rather than as an instrumental mechanism to harvest research findings, achieve preconceived learning outcomes or produce learning artefacts.

The social distance between college students and prison students or academic researchers and imprisoned persons is usually quite large. Informed

by their joint emancipatory praxis from the Global South, both the emancipatory prison-education classroom and participatory action research seek to bridge this social distance by establishing a 'symmetry in social relations' (Fals Borda, 1999, p.16). To achieve this symmetry, the traditional hierarchy between teacher and student and between researcher and research participant, the expertise of the 'instructor', 'researcher' or criminal justice 'professional' or 'expert' is de-centred. Rather, the focus shifts towards dialogical praxis and the collaborative enterprise in the particular research and classroom setting that becomes the site of knowledge creation (Freire, 1970/2005; Ludlow and Armstrong, 2016; Pompa, 2013).

According to Freire (1970/2005), dialogical praxis is a commitment to dialogue that is based on mutual respect and care, including the capacity to reflect critically on one's own positions and beliefs, as well as a commitment to act jointly as a result of this dialogue. This is both particularly relevant and challenging in prison-education and prison-research settings, where the upholding of relational power differentials is built into the very design of the social practice of imprisonment, and it takes time, thoughtfulness and effort to overcome these challenges. Equally, traditional classroom structures in universities can reproduce hierarchy and be infused with institutional prerogatives.

To create relational praxis and in order to reduce the distance between educator and learners and prison and university research collaborators, we are borrowing from Illich's idea of conviviality (1973), where 'convivial learning', i.e. learning in 'joyful gatherings' (Peyrefitte, 2021), emphasises participatory decision-making and collaborative explorations of justice within and beyond the third-level classroom, paying particular attention to often unheard voices. From our experiences of both the Inside-Out and Learning Together classrooms, it is the creation and sharing of convivial moments – be it through what might appear like mundane tasks such as ice-breakers or creating visual posters, or through small group work – that provides opportunities for dialogue and reciprocity (Peyrefitte, 2021). This can reduce the social distance between inside and outside students, teachers and learners, and researcher and research participants.

This also resonates with McNeill and Urie's (2020, p. 9) reflections on their collaborative action research on reintegration through song-writing, where they point out that the collaborative process itself was most instructive: 'Crucially, from a research perspective, we were beginning to learn that making things together (whether songs or food or events) was generating

new knowledge and new insight; and that these co-creative practices changed the dynamic and quality of our engagements with one another and our learning together' (McNeill, 2015). Activating the practice of conviviality as part of our research and teaching praxis might also inspire others to 'think beyond some of the more neoliberal imperatives that govern academia today and shape our sociological craft' (Peyrefitte, 2021, p. 1195), and possibly also some other practices in the criminal justice field that are informed by an audit and accountability culture.

In the context of the unequal distribution of punishment in our societies, our emphasis on symmetrical reciprocity and collaborative practice does not, however, mean that all fundamental differences are collapsed in the emancipatory prison-education site or PAR process (O'Neill *et al.*, 2019, p. 133). In fact, some would argue that no research or collaborative method could ever describe accurately or sufficiently some of the 'anguish of incarceration and the torments of a first night in prison' (Fassin, 2017, p. 297) or other experiences of marginalisation. Quite to the contrary, the emancipatory prison classroom and participatory action research seek to utilise our 'differential suffering' as an opportunity to 'facilitate connection' (Miller, 2022, p. 291) and to 'create a togetherness in difference' (O'Neill *et al.*, 2019, p. 133), building a community of collaboration and learning across prison walls – rather than providing services or 'helping' imprisoned persons. This qualitative shift is crucial in the TOGETHER project and means that everyone is actively involved in processes of learning, reflection and growth.

Legitimizing subjugated knowledge

As was outlined earlier, the emphasis on the 'lived experience' as a crucial source of knowledge has increasingly found its way into criminology and is central in both PAR and emancipatory prison-education contexts. It is worthwhile teasing this out in a little more detail and thinking more deeply beyond what can sometimes manifest as tokenistic practice. Fals Borda (1999, p. 16) reminds us that the 'careful, human touch of "vivienca" as "life-experience"' opens up the possibility to 'listen to discourses coming from diverse intellectual origins conceived using a different cultural syntax'. The emphasis on 'lived experience' is then not only an ethical practice of unearthing often unheard or marginalised voices, but it also demands empathetic and diverse modes of engagement, knowledge gathering and analysis.

The emphasis on lived experience provides a bridge and an opportunity for people from very different walks of life – university students and prison

students, researchers and research participants – to explore jointly a particular social problem or engage jointly in learning. Importantly, to ensure a symmetry of relationships, careful attention has to be placed on pedagogical and research practices that are based on mutuality, rather than a one-sided confessional practice. For example, while prison students have often suffered disproportionate disadvantages in deeply unequal societies, university students have to grapple with the institutional power of the neo-liberal university. This offers opportunities for jointly reflecting on the deeper forces at play affecting everyone – if also differentially.

Discussing the value of PAR in prison research and education settings, Fine and Torre describe it as an 'exquisite and elegant design for gathering up, legitimating and broadcasting subjugated knowledges' (Fine and Torre, 2006, p. 261). The emphasis here on 'legitimation' and 'broadcasting' is particularly important given the absence of the collective voice of incarcerated persons. Prisoner voice is, particularly in the Irish context, treated in quite limited ways – rarely in consultations that affect prisoners' lives, mostly as part of legal or psychological research, and with a few exceptions (see, for example, O'Malley, 2018), much less so in ways that allow us to understand the depth or minutiae of the prison experience.

Engaging in reflexive, slow, and meaningful teaching and learning in prison education and research contexts means that we can understand more empathetically, and in all their diversity, some of the concerns that are central to students in prison. This is also particularly important as neither learners nor imprisoned persons can ever be described as a homogenous group – a pressure we all sometimes succumb to when we are audited for our various successes as professionals – be it in education or in correctional services. However, on the contrary, participatory and emancipatory praxis *demands* the inclusion of 'dissenting voices, narratives of critique and perspectives from dropouts' (Fine and Torre, 2006, p. 263). Subjugated knowledge, in this sense, refers to more than amplifying silent or unheard voices; it means engaging with the manifold nuances and uncomfortable truths.

The collaborative praxis of PAR and the emancipatory prison-education classroom also means that beyond the usual 'gathering up' of 'evidence' – be it research findings or learning outcomes – the very process of convivial collaboration itself aims to 'legitimate' and 'broadcast' *how* collaboration is enacted in the education or research context. Together, peer researchers or students decide how they want to communicate to a wider public the learning from their joint endeavours.

Informed by feminist epistemologies of knowledge production and collaboration, both PAR and emancipatory prison-education settings seek to challenge 'modes of dissemination, engagement and knowledge production in the feminist tradition' (Peyrefitte, 2021, p. 1195). As such, particularly artistic practices that activate different modes of learning and exploration, and which engage both producers and audiences as 'sentient beings' (McNeill and Urie, 2020; O'Neill, 2009; Peyrefitte, 2021) lend themselves to communicating to a wider audience the experiences and views on punishment or learning in prison settings. This seems particularly pertinent when we consider that communicating concerns around crime and justice to a wider public is important for shaping progressive politics and system change (Maruna and King, 2008).

Anti-oppressive practice and embodied knowledge production

As outlined above, neither Inside-Out nor Learning Together is a project that advocates for prison reform. Nevertheless, both programmes are very much committed to an ethos of social justice and critical inquiry (Pompa, 2013; Armstrong and Ludlow, 2016). Quite contrary to education and training that is focused on making students labour-market ready and shaping them into productive citizens (see Bumiller, 2013), this anti-oppressive ethos to pedagogical practice means that the TOGETHER classroom focuses not on 'transferrals of information' (Freire, 1970/2005, p. 79) but 'the practice of freedom, the means by which men and women deal critically and creatively with reality and discover how to participate in the transformation of their world' (Shaul, 1970/2005, p. 34). In both emancipatory prison education and PAR, we are neither searching for authoritative truths nor believing that these truths could or should be transmitted through education. Rather, and concurrent with taking seriously the 'lived experience' of everyone involved, the focus is placed on challenging the existing status quo in our respective communities and life worlds and collaboratively exploring opportunities for social change.

Given the highly marginalised status of the majority of persons ending up behind bars and the educational disadvantage most have experienced (IPRT, 2012, 2022; Jones *et al.*, 2022; PRT, 2022), the emancipatory ethos to education is of particular significance. Both the PAR element of the TOGETHER project and the educational toolkit to be developed will be a collective enterprise between researchers, educators, and prison and university students North and South. Through its participatory praxis, the TOGETHER toolkit

wants to contribute to 'social critique, social justice and democratization' (O'Neill *et al.*, 2019, p. 133).

This is particularly relevant when we think about our own professional roles and the potential risk of reinforcing existing power differentials and hierarchies. Rather, we are interested in contributing to collective endeavours that can, through critical thinking and collective enterprise, think about 'how things might be otherwise' (O'Neill *et al.*, 2019, p. 132). While we take seriously the wish of all of our students and research participants to secure their personal aspirations in life, we are hoping that we are, at the same time, equipping them with the critical-thinking skills necessary to change more than their own or their families' lives, but to consider their role as social-change agents in society more broadly.

Finally, both the emancipatory prison-education classroom and PAR lend themselves to paying attention to thinking, writing and reflecting in ways that transcend what are essentially 'disembodied and necessarily asocial ways of knowledge production' (Miller, 2022, p. 286), particularly in our contemporary criminal justice cultures, where we are on the continuous search for evidence-based practice and sensory ways of knowing and sharing are undervalued. As social scientists, we have become accustomed to consider 'the mind and the body – and, by extension, scientific and partisan thought' as 'different things', and social scientists often undertake every effort to 'ensure distance from their own passions and the passions of the people they study' (Miller, 2022, p. 284). However, these 'scientific' forms of knowledge production are considered as 'disembodied and necessarily asocial' (Miller, 2022, p. 284) in radical black or feminist epistemologies and are not conducive to educational or research praxis that is inclusive, convivial and empathetic.

The importance of integrating 'sensuous knowing' into our research praxis has also been highlighted by O'Neill who, reflecting on her participatory research practice with migrant women, combining arts-based methods and ethnographic research, has termed this practice as enacting a 'politics of feeling' (O'Neill, 2009, p. 290). In criminology and criminal justice research, the sensory turn has arrived only relatively recently, but importantly also encourages us to 'account for these multifarious sensorial experiences and their effects' (Herrity *et al.*, 2021, p. xxiii), particularly when we research places or processes of social control – and as we claim spaces of education in prison institutions. This also chimes with the demands of reflexivity in emancipatory pedagogy and reminds us that as both researchers and educators or criminal justice practitioners 'we need to understand our own lives as perceived

through our bodies in order to understand the lives of the people we care for' (Miller, 2022, p. 286).

Conclusion

As this paper has outlined, the urgent task of centring the voices of those with lived experience of prison, in criminal justice policy, research and education, is gathering pace and prominence. However, 'utilising' the 'user voice' without careful ethical and methodological underpinning can result in practice that remains superficial at best, and exploitative and extractive at worst (see Buck *et al.*, 2022; Buck *et al.*, 2023; Harriot and Aresti, 2018; Yarbrough *et al.*, 2020).

This is equally the case for pedagogical endeavours. As discussed in the second section, prison education has developed globally over recent decades with the advent of prison–university partnerships directed towards forging connectivity between the university and the prison site. The Learning Together and Inside-Out models are the most salient manifestation of this partnership, with the academy transported into the prison for mutual learning to occur. However, the transformative nature of these efforts is not a given, with the 'what' (knowledge) and 'how' (learning) necessitating close consideration for a truly emancipatory classroom to emerge (Bumiller, 2013; Gray *et al.*, 2019).

In this paper, we suggest that the fusing of PAR and prison–university education models can realise the aims and principles of these efforts. Through pedagogy infused with intentional 'ethical care', the harms of institutional power and hierarchical frameworks can be, if not eradicated, then perhaps neutralised by honest reflective practice. The aim of enacting symmetry, conviviality and reciprocity is an essential aspect of dismantling these hierarchies, lest prison–university models replicate the extractive features of traditional research methodologies, creating a division of subject and voyeur in the classroom.

The situated knowledge (Haraway, 1988) of the inside student in a prison classroom is integral to enhancing the criminology student's understandings and perspectives of criminal justice implementation from the perspective of those at the receiving end. However, let us not forget that Foucault's (1980) concept of subjugated knowledge brings to our attention not just the content of knowledge but the political purpose, effects and outcome, enabling emancipation of the insider viewpoint to challenge institutional discourse

(Bacchi, 2018). To that end, as discussed, anti-oppressive pedagogy is a key aspect of the emancipatory prison classroom, ensuring that content and methods do not reproduce and reinforce harmful constructions of criminal justice reality, but instead allow subjugated and critical knowledge to challenge, dismantle and reconstruct the world view. To this end, the PAR principle of creating social change that is directed towards ideals of social justice (Fine, 2013), holds the capacity to enrich prison–university classroom partnerships to produce not just emancipatory praxis, but also the promise of transforming the life-worlds of the collective and all those within.

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A Critical Reflection on Being a Lived Experience Researcher

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Summary: The terminology used for individuals who have lived experience varies across research studies, disciplines and sectors. For example, service-users, peer researchers, PPIs (patient and public involvement) – all have lived experiences of some kind, which is much sought after within academic and clinical research settings and can include individuals with lived experience of the mental health system and/or the criminal justice system. The interviews I have shared in this article highlight the complexities of the lived-experience positionality. While there are many different lived-experience biographies, one thing they all share is their unique insight. To demonstrate these complexities, I have shared several interviews I conducted in 2015 with ex-prisoners who had all entered higher education through a process of self-transformation. I have merged these with my own personal narrative as a lived experience practitioner who also entered higher education to transform my life.

Keywords: Lived experience, prison research, service-user, criminal justice, desistance, patient public involvement.

Background

My first publication about the lived-experience narrative was during my early career when I published an article, 'Living with lifers', about my time spent with life-sentenced prisoners during my terms in prison. What struck me about these individuals was how different they were in comparison to the rest of the prison population and how completely out of touch the public are in their thoughts of what lifers are actually like (see Honeywell, 2015). As this became my most cited article, I realised the powerful impact lived-experience accounts can have in academia and the third sector. Since then, I have written two monographs, both of which are underpinned by the lived-experience narrative, *The Ambiguities of Desistance*, which draws on several key ambiguous desistance themes from my PhD study about ex-prisoners and the

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transformation of self through higher education (HE). Although my key research question was how HE transforms an ex-prisoner's sense of self, desistance became the core framework. Therefore, I decided to focus on the more diverse aspects of desistance that are not discussed to the same extent in mainstream desistance theories. For example, 'prisons and desistance', 'institutional ambiguities', 'the pains of desistance', 'shared narratives' and 'negotiating identities' all provide a rich and nuanced narrative of the desistance experience. Such ambiguities were a result of unusual themes of ex-prisoners being interviewed by an ex-prisoner. Several of these interviewees were convict criminologists, and from their interviews it was clear that their pasts informed their present and future academic work. My most recent book, *Living with Desistance: Breaking the Cycle* (2023), is autobiographical and theoretical and based on my own desistance trajectory. This article reflects on content from both of these publications.

Methodology: The insider/outsider dichotomy

The methodology is a critical reflection of the insider/outsider positionality which comes from two studies. The first study, between 2013 and 2018, was about ex-prisoners in higher education. For it, I conducted 24 semi-structured face-to-face interviews with individuals who were transforming their lives through higher education (Honeywell, 2018). The second study is part of an ongoing large-scale study. In its early stages, I conducted twelve semi-structured telephone interviews, which focused on conversations around the development of resources to help engage suicidal prisoners with therapy intervention. I am unable to share any data from this project, which is still ongoing and has yet to publish its findings, but the key theme of this paper is the complexities of the lived-experience position and inconsistencies that exist within academic and research settings. My PhD findings showed that HE could open doors for people with criminal records and, although some had smoother passages than others, everyone I interviewed had benefited in some way. My own experience was the same and I am now a criminology lecturer. However, there still remain limitations within certain sectors.

The complexities of the lived-experience trajectory

The self-transformation process can take a lifetime, going through many stages – often more zigzag than in any set order – and one of the most important stages includes casting off one's past offender identity through gradually

developing a new identity (Maruna, 2001; Giordano *et al.*, 2002). However, while this notion is pertinent to the majority of those transforming their lives, it does not apply to all. In Honeywell (2021), I refer to these nuances as ‘ambiguities of desistance’ because of the many complexities and nuances that exist within the process of transforming one’s life away from criminal associations (i.e. desistance). The notion of separating one’s past identity from one’s present identity does not fall within the trajectory of those with lived experience who present an essential, yet complex, dynamic, which we will see in the forthcoming interviews.

An insider reflection of the lived-experience researcher

The use of individuals with ‘lived experience’ as ex-service-users within research studies, as practitioners within the criminal justice system, and in the third sector as counsellors and support workers, has become widespread in recent years. For example, patient and public involvement (PPI), also termed ‘service-user involvement’, in research is now accepted as highly desirable and even mandatory in order to obtain funding from national bodies such as the National Institute for Health and Care Research (NIHR) (see INVOLVE, 2019; Greenwood *et al.*, 2021). However, despite the growing desire for the assistance of those with backgrounds as mental health patients and prisoners, there are nuances to PPI involvement that need further exploration and crucial change (Honeywell, forthcoming). The lived-experience identity spans several disciplines and is particularly sought after from clinical-based research studies. Gupta *et al.* (2023) highlight the complexities for the lived-experience researcher, and it was being a researcher with a criminal record that was the most challenging experience within my academic career. In 2019, I became a co-applicant for a prestigious four-year research project on prison suicide, so I was also involved in discussions between the funders and the team about the need for service-user or patient and public involvement.

As part of the funding application process, the sponsors requested that someone with ‘lived experience’ be recruited, as this gives authenticity, with a novel insight which acts as a voice for others who have also been in that position. It provides a formal platform for those whose voices in the past have been muted by the establishment. In recent years, there has been movement by medical and psychological research sponsors to insist that individuals with lived experience be included in research studies. These individuals, who are actively involved in research projects and research organisations, are referred to as service-users or PPIs (patient and public involvement). Their identities

are always anonymised, so it is rare for a service-user to become a researcher themselves in a psychology-based study without needing to be anonymised. In 2019, I officially became a full-time paid member of the research team as a research assistant, alongside my role as a co-investigator. I felt that my educational journey was continuing to open doors towards a place I could never have imagined – particularly as part of the research would include going back to one of the prisons where I had served my last prison sentence and where I gained my university entrance qualifications.

I knew that, for me, gaining permission to work inside a prison long term could never be straightforward. Even before that stage, it was a worry whether I could even bypass the initial university recruitment process and be accepted into this prestigious institution. I was honoured when I crossed that bridge, but there was still the next stage – to gain access to prisons which will be the bane of my life forever because of the indelible stain (Earle, 2016) they have put on my character. A DBS¹ check was the initial stage of our prison vetting process. Unfortunately, but not unexpectedly, this led to my application to work in prison being rejected. Higher education had previously enabled me to rise above all this, but now it became a catch-22 situation where, although I was employed by the university, because of my background, I was unable to fulfil my role as a prison researcher. Later in this article, it will be seen from some of the interviews I conducted with other ex-prisoners how they used HE towards self-transformation. There remains a question, however, regarding whether there is a limit on how far we are allowed go. Will there always be certain areas of teaching and research that will close their doors to people with criminal records?

Perhaps the issue lies within the type of research ex-prisoners are allowed to gain access to conduct, which if it is particularly sensitive then causes concern. This might be the case, but there is no system for discussions on this to take place, which leaves many more questions than answers. But these are questions that do need to be addressed. My key argument, therefore, is that there needs to be a seamless process in place for prison researchers with criminal records, who are invested in helping with the advancement of new research while drawing on their insight of having been in prison, to conduct research.

Bagley *et al.* (2016) argue that funders of research increasingly require research projects to involve patients, the public and ex-prisoners in their research. We already know that former prisoners have been able to conduct

¹ In England and Wales, employers can check the criminal record of a person applying for a role by seeking a Disclosure and Barring Service (DBS) check. See <https://www.gov.uk/request-copy-criminal-record>

criminology-based prison research in the UK (Earle, 2014; Davies, 2015; Aresti *et al.*, 2010) but not so much as part of a large-scale psychological study, in particular one that includes a clinical trial.

PPI in research can potentially help researchers to ensure that the design of their research is relevant, that it is participant-friendly and that it is ethically sound. Awenat (2016) argues that, when it comes to clinical based research, other than 'those who either work in, or have been incarcerated in, a prison, few have any authoritative "lived experience" of the realities of prison life' (p. 101). In other words, only those with first-hand experience of imprisonment can understand what it is like to be in prison and, therefore, there needs to be more scope for PPIs to take a more hands-on role within research studies where they are included in the design and study. Those with lived experience make considerable invaluable contributions to research, teaching and the third sector. Below are some examples of individuals who have done that.

Being a lived experience practitioner

The narratives in this section are from an assortment of lived experience practitioners, including individuals who at the time were working in academia and the third sector. Some were university students who have since gone on to become PhD students and beyond. Those who teach and conduct research in a university setting develop the unique skill of working with a dual identity, as their present academic identity is informed by their past criminal identity (see Mobley as cited in Jones *et al.*, 2009; Tietjen, 2019). The interviewee names cited here are pseudonyms.

Gerry, 36, is one of most persistent offenders I have interviewed. He had spent many years as a career criminal, mainly drug dealing, but after a lengthy criminal history, he began to try and make changes to his life. When Gerry was shown a little trust, it became a major 'turning point' in his transformation, where he began to forge a new identity (Laub and Sampson, 2003). This is how he recalls the events around this period of his life:

'I started volunteering with the Primary Care Trust (PCT) through another fantastic bloke called Ben who worked with PCT at the time. He took me under his wing – invited me to their offices. I remember the first time I went into their office, it was an open office [...] I was walking past desks and I passed people where there were purses. There were wallets! There were handbags! Mobiles and laptops! Thinking to myself, 'How the f--k is

this guy trusting me with all this around me?' Just left me on a computer with all this around me! I think that was one of the biggest things. That trust someone put in me to sit next to a purse that wasn't mine and trusted me not to take it or touch it. I will always, always, remember that ... always remember that. That was the biggest thing in my recovery ... that someone gave me the trust.'

(Gerry)

This symbolic gesture of trust was the catalyst in Gerry's transformation as it forced him to re-evaluate and question his identity. He began to evaluate how he had had the opportunity to steal money while at the same time questioning why someone who knew of his past had trusted him to be left alone in an office surrounded by unattended handbags and purses. Gerry became very emotional when recalling the trust that was shown to him, and here we begin to see an emerging pattern of how newly formed social interactions and social bonds through acceptance can influence self-transformation:

'Like within the drug-treatment places you'd do your service-user involvement thing and you'd be facilitating drugs, or you'd be pro-facilitating, but you were never allowed in the staff part. Now at PCT they allowed me in. As I say ... gave me that trust and I felt really good. Every time I left that building, I never touched anything. I wanted to succeed at that point. I wanted to get involved with that. I felt important, I never touched it. I felt good every time I left that building. Always had the thought, 'I'll just take twenty out, she won't notice', but never ever did. From that point on, I wouldn't say I never offended, but I never stole anything.'

(Gerry)

Gerry was adamant that being trusted gave him the desire to turn his life around, but although Gerry had stopped stealing, he did not completely abstain from offending (McNeill and Weaver, 2007). This was because the trust he had been shown linked directly to his workplace, as opposed to his involvement with other types of offending. Although Gerry makes a very strong argument that the trust shown in him was enough to stop him stealing, he still needed to believe in himself. We can see how Gerry starts to believe in himself as he begins to reassess his own views of deviant behaviours:

'At that point in time, I don't think I would know [whether to accept legitimate employment]. I think, for argument's sake, if it was a thousand pound a week I was bringing home, I still think there would have been some form of offending. Whether that would have been dealing; whether it would have gone bigger where my funds could take me, within organisational crime or whatever, I don't know. I don't think any amount of money at that point would have stopped me offending.'

(Gerry)

Gerry admits that he would never have accepted a legitimate job had there been an opportunity for one, because a 'criminal status' was most important to him. However, as we can see in his narrative above, he began to evolve within his workplace where he was able to hold down legitimate employment. This gave him not only a legitimate source of financial stability, but also a transformed sense of self and new identity. Gerry began to 'cast off' (Maruna, 2001) his deviant identity, which had once defined who he was, and to aspire towards developing a renewed identity as a legitimate employee and work colleague (Giordano *et al.*, 2002). As time passed, he started to progress up the employment ladder, alongside entering higher education, and eventually he would make one of the most remarkable transformations of all the interviewees.

Charlie, on the other hand, was unlike Gerry in that he was not a persistent offender. However, like Gerry, his catalyst for change was being shown belief and trust. Charlie was euphoric when he was offered employment, but he continued to internalise shame about his offending and still felt he deserved the stigma. Leibrich (1993) found shame to be a major factor in her participants' decisions to move away from crime. But before Charlie was shown any trust, he experienced several difficult periods from day one of leaving prison:

'When I came out of prison, I had to change doctors because my mum worked at a doctor's surgery. They asked me if I could change doctors, just because she had been so traumatised by having her son in prison and all that. So, I did, and a doctor said: "What do you want to do"? and I said, "I might try and go into teaching one day or go back to social working", and he said, "No, you won't!" and that really hurt me, and I thought – 'f-k you!' [...] I made a determined effort that I would prove him wrong. My case went to the Department of Education, and they said I could become a teacher if I wanted to, so I would like to think that if I ever

want to go down the social-work line, that they would have the attitude that this person could offer.'

(Charlie)

Charlie internalised this derogatory comment from his doctor, which challenged his sense of identity, but used it as a springboard to overcome his inevitable anxieties. Considering that such a bigoted remark came from someone in a position of authority in a caring profession, as with some of my other interviewees, Charlie was able to utilise it to strengthen his resilience and determination. We can see this process when Charlie tells of being offered employment:

'I didn't think that I would succeed. Then I started volunteering for NACRO [National Association for the Rehabilitation of Offenders] in about January 2006 [...] then they offered me a job, and then I went home and was very emotional because I thought, Wow! Somebody believes in me. I can begin again. Then when the doctor said that sort of thing, I thought, well, I could go one of two ways: I can either implode and be crushed by this or I can use it and fight and be determined.'

(Charlie)

The negative comments from Charlie's doctor seemed to trigger a determination to succeed and prove himself, and the belief and trust afforded to both Gerry and Charlie ignited a passion to triumph. Through their own self-determination and through forging new alliances, they developed a new resilience that enabled them to overcome negative experiences and obstacles.

Sid explained how his past and present merge to create a stronger criminologist profile:

'How could it not inform everything I do? How could it not inform everything ... the stuff that I lecture about? The stuff I write about? Everything I write about? [...] that old identity has to be part of it! It's like my old identity and my new identity have merged together. I guess what I am saying now [...] my identity now is a combination of some of the positive of the past experience and what I have achieved now and what I do now.'

(Sid)

Sid views his successful academic identity as having been forged through a combination of past and present identities, as discussed above, and believes that the criminology route was the most relevant, given his past, and that his new status of being a criminology lecturer (i.e. possessing a privileged knowledge) gives him a sense of identity that embraces his past and present identities.

The impact of discrimination, stigma and spoiled identities

Despite developing pro-social identities through the transformative process of higher education, the participants still encountered barriers which included further stigmatisation. Goffman (1963) uses the term 'spoiled identity' to refer to the stigmatised individual as being outcast, but often the participants unwittingly created this problem themselves. For example, over-disclosing can create stigmatisation not only by other individuals but also by universities, resulting in participants having their applications rejected because of their criminal backgrounds, despite their convictions being 'spent' (not required by law to be disclosed). This happened because some of the applicants had not understood what the terms 'spent' and 'unspent' meant.

This ambiguity can be further understood in the language of the Rehabilitation of Offenders Acts, 1974 and 2014 (Unlock, 2018). Such misunderstanding has led to several participants being unfairly rejected by universities (Prisoners Education Trust, 2017), although the reason they disclosed their past convictions was that they did not want to be dishonest. For some, just the thought of being judged again for their past crimes was so distressing that they did not disclose convictions through fear of rejection and undergoing further scrutiny, which is explained in Debbie's narrative below:

'I went and applied for my PGCE [Postgraduate Certificate in Education] and it's the hardest thing I've ever done but I stayed on and did that. When they found out about my criminal record for that and it was in the same university centre, that was a little bit tougher [...] I had to get a letter from Sarah who is the CEO [of her current employment], explaining that I'd been here for four and a half years. It's my past and it's not a problem, Sarah had to write me a thing saying, "She excelled at all"!

(Debbie)

Debbie attempted to overcome the barriers of entering HE by withholding her past. However, her past came to light when, having completed her degree, she decided to enrol on a teacher-training course. Despite having gained her university degree, and her proven commitment to study and achievement, her past was scrutinised by a panel. She claims that it was as though she was being judged again for her past demeanours when all she wanted to do is move forward with her life:

'I felt very much like I'd been judged because of that. I got pulled into the office with the head and three people while they scrutinised me. I get it, if I was going to be working with vulnerable people; they needed to be sure who they were putting there.'

(Debbie)

There is no question that for certain courses, such as teaching, where adults are coming into direct contact with children and vulnerable people, a full disclosure of one's criminal background is imperative, but perhaps the problem here is not so much about policy as about how individual cases, such as Debbie's, are handled by those making the judgements. Once the university eventually accepted Debbie's application, she successfully completed the PGCE, an achievement which the university has since used as an example for other students to aspire to:

'I felt like I was under the spotlight at that moment in time. Having to rationalise why, what and why I wanted to do ... but they allowed me to [study the PGCE] and didn't find any fault [...] They now use my files to show me round to everybody else, so there you go.'

(Debbie)

Debbie's employers saw her as an asset to their organisation, which led to increased self-confidence, self-respect and financial stability, and although she has had to face some hurdles at university, she didn't have to endure total rejection, which is what happened in Melody's case.

Melody, was, at the time, a 44-year-old student. She had a most serious offending background, yet through studying in prison, she proved that she was serious about changing her life, and thus began her self-transformation. Despite this, she was initially rejected by the first university of her choice:

'I had done my "A" Level. I had done my GCSEs in jail. Started the "A" Levels, got released and my Probation Officer was really good, took me to college. Got "A" Levels in psychology, sociology and law, which I thought would be enough to get me in, and I was just classed, being 25, as mature. Applied for a DipSW [Diploma in Social Work] and it was "NO"! "Someone with an extensive criminal record like yours will never, ever, get in any university in England or Wales." I've still got the letter. I've put it away for when I do get the degree.'

(Melody)

Along with the research by the Prisoners' Education Trust in 2017, Melody's narrative offered further empirical data demonstrating discriminatory practices by universities, which continue to be an area of contention. The university, in this case, was more concerned about Melody's convictions than her academic abilities and achievements.

Ruby believed that she was rejected by five universities because of her criminal record. There was no evidence to support this, but it is usual for those with criminal convictions to make this assumption based on their experiences of stigma and rejection. Ruby was 40 years old, had been involved in the sex industry and was a drug-user in her previous life. At the time of writing, she had become a substance-abuse worker, supporting others with substance-abuse issues. It was essential for Ruby to demonstrate her independence and gain a degree in criminology and sustain successful employment:

'Got rejected from five universities because I've a criminal conviction. I applied for social work and the reason I applied for social work was purely financial, because the pay is amazing. [The first] university wanted to know more about my convictions, but they'd already lost my UCAS [Universities and Colleges Admissions Service] form so there was no way I was sending a DBS [background information on convictions] through the post to the university. I ended up with a proper snotty woman asking me my convictions, which, clearly, I'm not going to share. Didn't get a place. The second university didn't even acknowledge my application.'

(Ruby)

The common denominator between Melody and Ruby's examples of being rejected by universities is that they both applied to study social work, which

requires background checks. Melody and Ruby then both enrolled on criminology degrees and had no issues. It could be argued that this is perhaps why students with criminal records often gravitate towards social sciences, where there are fewer restrictions and rather more opportunities.

This does fit with my own experiences of working as a researcher, suggesting that there are only some sectors where people with convictions will be allowed to flourish, such as teaching criminology and working in the third sector. Melody and Ruby's experiences need to be further explored, together with those of others with similar experiences. Although Melody and Ruby have criminal convictions, why should this mean that they cannot be social workers? The universities that rejected them because of their convictions are surely suggesting that the industry is off bounds to them. We know that Probation Services, for example, do employ people with convictions. Since Ruby was rejected by the university admissions team to study a social science degree, and after her interview with me, she has gone on to work in a prison and, since then, the Probation Service. This directly identifies universities as being particularly discriminatory. While they are rejecting individuals to study on degree programmes relating to specific industries, because of criminal convictions, they are most certainly employing others, such as myself, to teach criminology.

In some instances, these individuals were treated with disrespect rather than being offered guidance, such as in Melody's case where she was told that, with her extensive criminal record, she would 'never' get into any university in England or Wales. She proved them wrong because this rejection just made her more determined:

'I went and got wrecked [drunk]. Inside? I felt "f--k you!" I felt like going to rob someone, or shoot someone, you know? [...] I would have probably hit someone before I burst into tears in them days. I've never been a crier. My anger would come out as violence instead of "boo hoo". Sadness – I would probably internalise it then become aggressive.'

(Melody)

As well as being told that she would never be accepted into any university because of her extensive criminal history, shortly after this, Melody was rejected for a job application:

'I applied for a job at the local drug alcohol service. I think I got down out of sixty people, got to the last eight but didn't get that. I thought "Bollocks to this! I'm going back to crime!"'

(Melody)

Ultimately this experience led Melody to consider reoffending, which is a common reaction to continual rejection, although (as with Ruby) there is no indication that she was unsuccessful in her application for the job because of her criminal record. In fact, considering that they were both shortlisted in the first instance, it would suggest that criminal records were not an immediate contributing factor, at least. An important theme here is the language that is being used by others towards these vulnerable individuals. Some individuals appear ill-equipped to deal with people who have criminal convictions. Their responses can be recognised as disrespectful, harmful, discriminative, unprofessional and potentially damaging.

Finding redemption and generativity through the 'lived experience'

Some of the interviewees found that working in the third sector as lived-experience practitioners enriched their lives through a sense of 'giving back' – redemption and generativity. Maruna (2001) also found this in his study of ex-prisoners 'making good', which developed his notion of the 'wounded healer'. This idea of making amends for past wrongdoings through good work as counsellors and advisors resonated with Arthur Frank's (1995) writing of the 'wounded storyteller', which discusses many poignant accounts of personal struggles with trauma, substance abuse, alcohol and relationships. Individuals with lived experience feel that they should be able to contribute something meaningful to society and leave a legacy. It is yet another example of how past biographies can feed into future identities channelled through the work they do to help others at risk of going down the same path as they once did.

Yet, as Maruna (2001) rightly argues, this 'redemptive self' concept is barely acknowledged within mainstream society. He argues that people with convictions should be allowed the chance to redeem themselves through employment, education and generally making amends. The focus is often on negative and bad publicity, yet lived experience practitioners do still rise above the stigma to achieve impressive goals for themselves, the organisations they work for and the individuals they help.

Gemma, who was 34 when I interviewed her, had been a habitual drug-user and was stigmatised by her local community. She had later found work with a church and, later again, as a senior substance-abuse practitioner:

'I started volunteering in church's drugs project [...] at the moment, it does all the food, homeless, like a soup kitchen for the homeless. I started volunteering for them because I started thinking I wanted work in this field. As a lot of people do when they are in recovery and think I want to work in the drugs field. I say to a lot of them now, go and try something else first because it is hard.'

(Gemma)

Gemma claims that many recovering addicts choose to work in the same field to help others. Her claim is supported by the work of Brown (1991), who coined the term, 'professional exes'. Like Maruna's 'wounded healers', these are individuals who have 'exited their deviant careers by replacing them with occupations in professional counselling. During their transformation, professional exes utilise vestiges of their deviant identity to legitimate their past deviance and generate new careers as counsellors' (Brown, 1991, p. 219).

Debbie also became involved in working with those she was able to identify with, who were suffering from addictions. She found her work very rewarding and has been given very encouraging support to succeed:

'I have worked with people, and I can see their journeys changing and it's the best thing ever [...] You do it because it's rewarding genuinely helping people and you know you're making a difference [...] It's not about the high salaries or ... it's continuing to make sure that these centres stay open and that the women get the help. Even the men get the help they need and get advice that they need. We do offer counselling. We're very much a one-stop-shop so there are therapeutic services here as well. The practical and the emotional side, they get that help.'

(Debbie)

It is clear from these narratives that although employment is an essential bridge towards developing a new self, it is just as much about helping others to get back on track with their lives. The people they support are a mirror image of their own former selves, such as Carla, who at the time was working with one of the largest charities in the northeast of England, helping those

who had drug and alcohol dependency with housing. Carla had previously had issues with drugs and alcohol herself and drew on her experiences to enhance her work.

‘We deliver drug and alcohol contracts integrated with end of management. Housing – all sorts. We are a social enterprise.’

(Carla)

Carla was proud to be working in this area and spoke highly of her employers. Kavanagh and Borrill (2013) highlight how people like my interviewees report strong feelings about turning their lives around and being in a professional position where they are respected amongst their peers and colleagues. This creates a new and rewarding identity. Tariq is a good example of this.

Tariq was a one-off offender and had committed a serious offence, but he had worked hard to distance himself from his past. He became committed to working with families who were experiencing substance and alcohol abuse and, at the time of writing, was even involved in a voluntary group at his local police station:

‘I work with families who are affected by substance misuse and alcohol abuse. So, I don’t work with the person misusing substance or alcohol, I work with their family. That’s my main job, and the other time I’ve got a second job. One of my dad’s mates for a bit of extra cash. You’ll find this interesting: I’m an independent advisory group at the local police station.’

(Tariq)

Tariq had re-entered education, as had some of the others, which had enabled him to transform his life, yet despite Tariq’s hard work and huge transformation, he continued to feel that he needed do more to redeem himself:

‘I’m still trying to prove myself. I don’t need to, but I feel I have to. I feel I have to and now I’ve got my master’s [degree] it does make me feel a lot better.’

(Tariq)

Although Tariq could not be described as a persistent offender, he put his experiences of prison and the criminal justice system to good use and was

very appreciative of the strong family support he had, and which enabled him to make a smoother passage into employment than some of the others. His transition was smoother than most, but it has not been without difficulties. Tariq is from a Pakistani family and though his family were all very supportive, their close-knit community was not always as forgiving:

‘When the incident occurred, people came around and they were quite sympathetic towards my family. No one ever said anything. They don’t generally tend to say things to your face. It will be a case of later on they will be talking about so-and-so’s son is in prison, did you hear about so-and-so’s son, he did a bit of time. That carries a lot of weight in our culture because, not to say that shame isn’t an issue in every culture, but it carries a lot of weight in our culture. It’s really important and people attach a lot of value to it.’

(Tariq)

Again, ‘shame’ was a significant factor in Tariq’s transition. As discussed earlier in relation to Charlie, it had a significant impact. Tariq explained that convictions carry a lot of weight in the Pakistani culture because of the shame people attach to them, and redemption is an expectation where great emphasis is placed upon ‘giving back’.

Adam Calverley’s (2013) sample of Indian desisters differed from Maruna’s (2001) sample, who wanted to take on the role of ‘wounded healers’ (Maruna, 2001, p. 102). Calverley’s were more focused on ‘giving back’ to their close relatives, such as their parents, who had helped and shielded them. Calverley argues that there is pressure on these families to uphold a level of respectability in the aftermath of their sons’ criminality. Although Tariq is Pakistani, as for Indian desisters, it is usual in his community for those convicted to be afforded family backing, which gives them a lot of love and support, but this also comes with certain expectations. What was of particular interest was what Calverley describes as an absence of labelling (Becker, 1963) and stigmatisation (Goffman, 1963) in Indian families.

Conclusion

My appointment at the University of Manchester in the Psychology Department broke new ground, and although I was not able to gain access to the prison estate, much has been learned about the important contributions service-

users can make (Greenwood et al., 2021). My appointment has also highlighted aspects of the vetting system that need to be reviewed when it comes to service-users gaining access to prisons to conduct research (Honeywell, forthcoming). In addition, it has been an important landmark for future service-users who wish to follow the same path as myself and want to conduct clinically based prison research.

Not being given access to prisons evoked feelings of stigma and a re-opening of old wounds, which gave me a sense that as far as the criminal justice system is concerned, no matter what you do to redeem yourself, the system will always see you as a risk or a liability. It challenges the whole idea of rehabilitation and desistance theory and demonstrates how the criminal justice system does not always acknowledge this theory, despite one's achievements.

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In June 2022, I had the honour of being invited to the School of Sociology and Criminology at University College Cork, to deliver a guest talk about my journey from prisoner to university lecturer and also to take part in several organised walks with other ex-prisoners like myself who have since turned their lives around. My hosts, Dr Katharine Swirak and Professor Maggie O'Neill, introduced me to an inspiring group of individuals, which also reminded me of the power of sharing stories from the lived-experience perspective.

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Translating Lived Criminal Justice Experience into Policy Innovation: Countering the Stigma of a Criminal Record Through a Strengths-Based Disclosure Model

Damien Quinn and Katharina Swirak*

Summary: This article is based on the lived experience of one of the authors (Damien) of overcoming the challenges of living with a criminal record and using it to set up the Spéire Nua project ('New Horizon'). The authors describe the context of currently ongoing and welcome policy developments and briefly outline some well-documented harms resulting from criminal record disclosure requirements. They then explore Damien's reflections on how he experienced set-backs and hurdles when attempting to move on in his life with a criminal conviction, showing how criminal record disclosures can counter reintegrative aims. The article continues by outlining how Damien harnessed these challenging experiences in setting up the Spéire Nua project. The authors discuss Spéire Nua's foundational elements, including a positive disclosure model, peer mentoring and its empowerment approach to social rehabilitation. The article concludes that Damien and Spéire Nua's efforts to innovate in the area of criminal record disclosure, collaborating with other actors in civil society, academia and state bodies, represents a valuable example of lived-experience policy entrepreneurship.

Keywords: Criminal record disclosures, prison, Garda vetting, reintegration, resettlement, lived-experience policy entrepreneurship, strengths-based disclosure, desistance.

Introduction and overview

This article is based on the lived experience of one of the authors (Damien) of not only overcoming the challenges of living with a criminal record, but also using it to set up an innovative model which supports others to avoid some of the challenging 'pains of desistance' he experienced (Nugent and Schinkel, 2016). By setting up the Spéire Nua ('New Horizon') project, Damien has

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developed an assessment, practice and validation model for persons with criminal convictions, which aims to counterbalance the current requirements of Garda Vetting Criminal Conviction Disclosure (CCD) in the Republic of Ireland. Spéire Nua's model is based on the assertion that positive changes should be formally captured and validated, as the current model of CCD does nothing to report on the positive changes made in an individual's life after finding themselves in conflict with the law. The Spéire Nua model is innovative and remarkable in that it is an example of proposed policy innovation, resulting directly from lived-experience policy entrepreneurship, which is rather different from most policy initiatives, which tend to emerge in elite circles (Frisch Aviram, Cohen and Beerli, 2020). In the context of the stigma attached to criminal convictions in Ireland (and elsewhere), restrictive spent-convictions legislation, as well as high recidivism rates (O'Donnell, 2020), the Spéire Nua model foresees that persons with criminal convictions are, after participating in a voluntary 7 Pillar Programme, supported by peer mentors and issued with a 'Certificate of Commitment to Change', which they can use alongside criminal record disclosure requirements. The Certificate is meant to act as an instrument of *positive disclosure*, and a 'kind of passport', which can contribute to the 'legal de-labelling in which the status of the (once-degraded) citizen is elevated and restored' (McNeill, 2018, p. 17).

We currently see quite a bit of movement in the Irish policy and practice landscape in terms of research and policymaking initiatives that want to address some of the challenges that unnecessarily and disproportionately burden and stigmatise persons with criminal convictions. However, Spéire Nua's origins in lived-experience 'policy entrepreneurship' (Kingdon, 1984) make it particularly worthwhile for consideration. In this article, we will firstly consider why and how the process of criminal record disclosures can run counter to any rehabilitative goals, drawing on research literature as well as Damien's personal experiences of navigating life with a criminal record. Damien's generous sharing of his own experiences is important, as it provides the reader with first-hand insights into the emotional impacts of criminal record disclosure. We will then tease out in some more detail, why deficit-based criminal record disclosures are problematic for those subject to them. Next, we will describe in more detail the main features of, and tools used by, the Spéire Nua project and how they are implemented. The final section of this article will provide some reflections on how Spéire Nua can be best understood in the complex landscape of social reintegration and rehabilitation.

When reading this article, the reader will note that some sections are written in Damien's voice while others use third person. We have intentionally left it this way as the article is the result of our (Damien and Katharina's) conversations – verbal and written – on how best to explain to others the development of the Spéire Nua model of positive disclosure.

Criminal record disclosure as an experience of denied recognition

Most readers will probably be aware that Ireland was the last country in the European Union to provide a legislative framework for spent convictions, which happened in 2016. Readers will probably also be familiar with the many critiques of the Criminal Justice Spent Convictions and Certain Disclosures Act, 2016, which was so narrowly designed that its rehabilitative potential was entirely missed (Irish Penal Reform Trust, 2019) and, as one of the authors has argued elsewhere, 'smacked of class-based arrogance' (Kiely and Swirak, 2021, p. 145). On the plus side, we can, at the time of writing, observe some potentially positive developments, such as the ongoing revision of the Criminal Justice (Spent Convictions and Certain Disclosures) Act, 2016 (ibid., p. 146; Houses of the Oireachtas, 2018), and the consideration of introducing discrimination on the basis of a criminal record in revised equality legislation (Irish Human Rights and Equality Commission (IHREC), 2020) established under the Irish Human Rights and Equality Commission Act, 2014 (the 'IHREC Act, 2014'. We can also observe some mobilisation on the matter in various parts of civil society (National University of Ireland Maynooth and Irish Penal Reform Trust (IPRT), 2020; Dublin City University and Maynooth University, 2022), aimed at rectifying the widely acknowledged challenges of holding a criminal record.

The international research literature on the impact of criminal record disclosures has developed a variety of terms, all of which highlight how the harms of a criminal conviction often extend beyond the lifetime of a sentence. These different terminologies all point to the punitive effects of having to disclose a criminal record and are described amongst others as: 'collateral consequence of punishment' (Yee, 2017), 'double penalty' (Silva, 2010), 'invisible punishment' (Travis, 2002), 'civil death' (Jones, 2015), or 'double jeopardy' (Pinard, 2013, p. 988), to name a few. Historically, criminal record disclosure requirements have been introduced to keep track of criminal convictions, and contemporary debates focus on the necessity of achieving the balance between parsimonious justice (Travis and Western, 2023),

criminal justice involving a person's right to privacy, and 'second chance' (McIntyre and O'Donnell, 2017) after a criminal conviction, while also ensuring public safety (Swirak and Forde, 2020, pp 23, 26). Research on the challenging experiences of availing of educational opportunities and accessing the labour market and other services (such as GPs or social housing) with a criminal record is rife with examples of outright discrimination, subtler processes of stigmatisation and anticipatory self-exclusion (Uggen, 2000; Ricciardelli and Mooney, 2018).

It is in this context that Damien's setting-up of Spéire Nua, based on his lived experience of trying to navigate his way through the education and employment system with a criminal record, is particularly meaningful and encouraging. Damien's sharing of his story of spending time in prison and the challenges of 'making it' on the outside with a criminal record is important as it puts into perspective how much hope is denied, effort unacknowledged and disappointment is hidden in the current system of criminal records disclosure. Like many others with experience of the criminal justice system in Ireland, Damien's early life was characterised by hardship, as Damien describes here.

Damien's story

Living alone at the age of 14, and sole carer for my younger brother, I very quickly got sucked into the lifestyle of drugs and criminal behaviour as an escape from the many burdens of premature responsibilities (Hart and Healy, 2018; Weaver and Weaver, 2013). When I received a prison sentence, truth be told, I could not wait to get to prison to escape my mangled mess of a life, an experience I share with many others who have been failed by other support systems and who see prison as the last hope to escape addiction, mental health problems, homelessness and associated challenges (Comfort, 2012). The way into prison, the part between capture and sentencing, was a horrible existence: the not knowing, the deeper addiction, the mistrust amongst my peers, the loss of family members, the loss of a home and then the courts. I accepted getting caught, I held my hands up and I took it firmly on the chin. No one else got in trouble, not even the person that set me up. When you get caught, you have to own it and bring no one down with you.

Having weighed up the limited options that were available to me once sentenced, I decided I was going to make the most of my time in prison. I rationalised that I would be able to use that time to become educated, job-ready, to get healthy, to reflect and to plan for a better future. I knew

about the education unit and work training opportunities in there and I was going to use them to improve my chances for when I got out. Upon reflection, one could say that while I experienced my prison sentence as punishment, I was also firmly set on using the space, time and opportunities provided for 'rehabilitation' while in prison. This is important to highlight, as readers might be better able to relate to the disappointment felt when opportunities are difficult to access with a criminal record.

I assumed that if I avoided trouble, kept my head down and worked hard on myself, I would hit the ground running on my release. In hindsight, I was probably quite naïve in that assumption. I had the idea that I would walk out of prison to pursue a career of my own choosing. I walked out of prison believing that my punishment was over. I assumed that I could close that chapter of my life when the prison door closed behind me.

However, despite the high level of education, which included third-level business management and administration skills, amongst other qualifications I got while in prison, none of it mattered when I got out. Leaving prison with the price of a bus ticket and one night's B&B, I had to start my life from scratch. I know from my own experience that, despite some of the best intentions of the criminal justice system and its partners, such as, for example, integrated sentence management and release planning, the lack of resources and other systemic challenges meant that my experience of release 'into the void', was not unique and is experienced by many others too (De Giorgi, 2017; Nugent and Schinkel, 2016).

But far beyond the immediate experience of leaving prison, I left with a label that, to this day, can be really difficult to disentangle myself from, something I share in common with many others (Honeywell, 2021; Honeywell, 2023). The constant rejections I experienced, because of things I could not change, meant that I was slowly but surely gravitating back to the label of 'offender' and playing it out too. The financial hardships and lack of opportunity led back to further law-breaking to try and escape the poverty that unsuccessful job searching created (Shapland *et al.*, 2016). The lack of housing (Carey *et al.*, 2022), difficulties in finding employment (Hlavka, Wheelock and Cossyleon, 2015) and the inability to achieve status or respect in a legitimate way (Giordano *et al.*, 2002; Healy, 2010; Healy, 2012) slowly ebbed away at all progress made and led me back to the very life I was trying to leave.

It is very important to highlight here these experiences and feelings of disappointment and, as a result, the necessity for extraordinary amounts of resilience for people with criminal convictions (Honeywell, 2021; Honeywell,

2023). Being faced with constant rejection, disappointments and set-backs resulted in diminished ambition, and in the first year after getting out, I, like many others (see recidivism rates – CSO, 2022; O'Donnell, 2020), found myself right back where I had started. I wanted to prove to the people that mattered to me that I had changed and that I was going to rebuild my life, but too many barriers were put in my way. What I had to offer, I felt, was not enough. I was fresh out and no one was willing to take a chance on me.

Social psychology tells us that human beings want to 'matter' and social-harm literature reminds us that this 'inner' feeling of mattering is connected to structural factors, which affect people's 'position or status in the social world and political economy' (Billingham and Irwin-Rogers, 2021, p. 1227). Similarly, others acknowledge that human beings want to 'flourish' (Nugent and Schinkel, 2016) and to be 'recognised' (Weaver, 2016; Gadd, 2006).

Damien's description here is an example where the inner desire to 'matter' is structurally inhibited by the lack of opportunities he felt he was accorded because of his criminal record. It is not difficult to see how these obstacles in the way of opportunities to 'matter' and to be 'recognised' are entirely counter to the rehabilitative goals of penal policy. In fact, naming it 'tertiary desistance', McNeill (2016) reminds us that recognition by others that one has changed is crucial for long-term change. Everybody wants to love, be loved and belong, and not belonging can lead to feelings of being displaced to the fringes of mainstream society.

Deficit-based criminal record disclosures as a form of miscommunication

We now look more specifically at the experience and perception of criminal record disclosure and explore in more detail how its deficit- and risk-based focus might satisfy concerns for 'community safety' (Swirak and Forde, 2020, pp 29, 36, 51) yet not serve much purpose for the person required to disclose their criminal record.

As part of the disclosure process in the Republic of Ireland, a person is often asked to give information on their background. For example, when applying for a house, a job or to volunteer, when applying for further education, when applying for insurances, professional licences, to start a business, or in emigration. It should be noted that this process is a very blunt one, as it is, for example, not clear how addiction and poverty-related drug use, long in the

past and redeemed through punishment, bear any significant risk to the employer or others interested in CCD.

We hear repeatedly from those with lived experience of a criminal record that the requirements of disclosure are perceived as real impediments to securing any of these routes to progression (Irish Penal Reform Trust (IPRT), 2020; Gallagher and O'Halloran, 2020). Many job advertisements use the phrase 'Garda vetting will apply to the role'. These words alone could easily discourage people with convictions from applying, leading to them deselecting themselves from the outset, regardless of whether or not they have the required skill set.

From my (Damien's) experience, when people with convictions see statements like that, they don't bother applying even though they have the skills. Good intentions by employers, educational institutions or others are not good enough, as going through the process itself can feel like a 'degradation ceremony' (Garfinkel, 1956). Having to tell someone you do not know the very worst things about you, in a situation where you are trying to convince them to provide you with an opportunity, is a really uncomfortable situation to be in.

In interview situations, questions about criminal background are often left to the very end of the encounter, leaving a last, negative, impression with the interviewer. Even if employers are not dissuaded by previous criminal convictions, the expectation that the response to the question will be discouraging can act as a barrier for job applicants with a criminal record. The most challenging part is knowing that the person receiving the vetting disclosure will most likely not have been provided with any training on how to interpret a criminal conviction disclosure.

When I (Damien) reflect back on the impact of criminal record disclosures in my life, I realise that this was when the real punishment began. Anytime I put my best foot forward, I had to disclose my past to people that I didn't even know. When you are looking for opportunity, you want to share the very best things about yourself, about what you bring – your competencies, abilities, ambition, drive and determination.

The problem is that vetting feels disabling for the vetting subject, rather than enabling. One is reminded every single time of the 'indelible stain' (Earle, 2016) of a criminal record and the reduced status of being a 'post-carceral denizen' (McNeill, 2021; Arnal and McNeill, 2023). For those previously entrenched in a life of crime or addiction and living in disadvantaged circumstances, desistance requires a tremendous amount of self-belief; it is made

highly difficult, if not impossible, if opportunities and resources are limited and those around the person believe they will fail (Nugent and Schinkel, 2016; Honeywell, 2021; Gálhander, 2020).

A new beginning

As is the case for many others, any opportunity I got in training, education and work was where vetting was not required, but I had to look really hard for those opportunities. Most people give up. Thankfully I got a break, and today I work for a Local Development Company called Galway Rural Development who actively champion Spéire Nua. I also teach community youth work with EQUAL Ireland, and I am a board director at Amicitia (Latin for friendship), a social enterprise that offers incubation space in its Sustainable Development Goals Lab in Athenry, Co. Galway, for new social innovations to grow.

It was in Amicitia that a key partnership was struck to set up Spéire Nua, which will be explained in further detail below. In my early months and years after prison, while trying to gain a foothold in society, it would have been very easy for me to assume that none of this would be possible. The reality is that people with convictions have to be quite entrepreneurial and create their own opportunities, as access to the job market is fraught with disappointment and rejection, and in its current format, vetting disclosures severely stifle personal and professional growth.

In this sense, criminal record disclosure is a form of miscommunication between the state and the person with a criminal conviction and

... serves as a barrier to reciprocal communication between ex-arrestees and a legal system that represents them in ways that they may want to contest. This 'wrongful representation' is a collateral effect of having a criminal record that impedes the ability of ex-arrestees to manage or repair their relationship with the state that has punished them.

(Myrick, 2013, p.75)

The critical literature on 're-habilitation' (which itself questions the usefulness of the term) (Arnal and McNeill, 2023) reminds us that 'we need to desist from the prevailing narrow focus in much discussion of re/habilitation on change *within* individuals' and that the role of the state 'may be secondary, but it is still key: it must underwrite and support the process, enabling civil society to play its part' (Burke *et al.* 2019, in Arnal and McNeill, 2023, p. 3).

From this perspective, the state, while formally punishing individuals and issuing them with a criminal record, does not take sufficient responsibility for removing the long-lasting effects of this punishment.

Having looked at the challenges of living with a criminal record, we now turn to the Spéire Nua model of strengths-based disclosure, which Damien has developed and is championing based on his first-hand experience with criminal record disclosures and how they can reduce the likelihood of people getting the opportunity to flourish. Spéire Nua is built on the premise that society needs to focus on the positive aspects of the individual's life at present, rather than their past. As part of its operating model, Spéire Nua combines several elements, including 'recognition of prior learning' (RPL), peer mentoring and social enterprise; it will now be explained in further detail.

Developing Spéire Nua – a strengths-based disclosure model

When I (Damien) eventually undertook a master's degree in Cooperatives and Social Enterprise at University College Cork, I did so recognising that employment opportunities were more available in the third sector for people with convictions, due to the work of Siobhán Cafferty, Pobal and Social Enterprise Project Manager for the Criminal Justice Sector (*Working to Change: Social Enterprise and Employment Strategy 2021–2023*).

While studying there, I was asked to do a course in 'Recognition of Prior Learning' (RPL) mentoring and facilitation with EQUAL Ireland and Athlone Institute of Technology (AIT), now part of Technical University of Shannon (TUS). RPL looks at your experiential and unaccredited learning and, if this matches the outcomes of taught courses, your experiences are validated and certified academically. RPL is an evidence-based continuous assessment model, a process by which individuals can have their prior learning and experience recognised and applied towards further education or employment opportunities (Werquin, 2010).

When I saw how it worked, I recognised straightaway that something similar had to be developed for disclosure and that RPL could be a useful tool for *positive disclosure*, allowing people to show not only what they have achieved *since* their conviction, but more importantly also allowing them to highlight the skills and experience they have gained *through* their past experiences. *Positive disclosure* refers to the process of disclosing a criminal conviction in a way that emphasises the individual's growth, learning, and rehabilitation, rather than simply focusing on the negative aspects of the

conviction. By using RPL, individuals can show how their past experiences have shaped them into who they are today and how they can contribute positively to their chosen field or industry.

The Spéire Nua model of positive disclosure is based on four key principles. Firstly, an emphasis is placed on the person's strengths, skills and positive qualities. This involves identifying a person's unique talents, interests and passions, and emphasising their potential for growth and development. Secondly, the model must be delivered in a safe and supportive environment. Disclosure can be a difficult and emotional process, and it is important to create an emotionally safe and supportive environment that encourages open and honest communication. Thirdly, the positive disclosure model encourages self-reflection and self-awareness, asking the person to reflect on their experiences, learning, values and beliefs, and to develop a greater awareness of their strengths and weaknesses. This involves using tools such as self-assessment questionnaires, reflective journaling or mindfulness practices to help develop greater self-awareness. Finally and crucially, the positive disclosure process fosters a collaborative and empowering approach, with the person actively involved in the process.

Peer mentoring

In order to deliver the Spéire Nua model of positive disclosure, a peer-mentoring model has been devised, where peer mentors – mentors who themselves have criminal justice experience – will, together with mentees, develop a 'portfolio of commitment to change' that builds on their strengths and addresses their challenges. Spéire Nua has developed a 7 Pillar Programme that guides this mentoring process and supports individuals on their pathway to change. These seven pillars include interpersonal trust, education empowerment, health and wellbeing, inspiration and motivation, self-direction, resilience and reflection. Under each of these pillars, mentees have the opportunity to document and record the efforts they have undertaken, and which otherwise go completely unnoticed by the current deficit-based criminal record disclosure process. The pillars aim to provide a structure and process for the peer mentors and mentees to establish goals, develop capacities and support ongoing development and change.

Peer mentoring is crucial in the Spéire Nua model, as it involves a voluntary and egalitarian relationship, based on 'engagement, encouragement and trust' (Aitken, 2014, p. 11). Peer mentors' experience of criminal

justice involvement means that they can act as role models, because of 'a constructed point of connection'. This means that previous experiences or similar past histories make the mentor appear more 'credible' in terms of advice and support and, subsequently, someone whose positive behaviour can be emulated' (Buck 2016, p. 4). Peer mentoring services have been positively evaluated in various criminal justice settings (Buck, 2018; Sells *et al.*, 2020) from which both peer mentors and peer mentees benefit. Both mentees and mentors report a range of beneficial outcomes, such as physical and emotional wellbeing (see also Jalain and Grossi, 2020) and a sense of pride through making 'a legitimate contribution to the world' (Devilly *et al.* 2005, p. 231).

The Spéire Nua peer-mentoring process includes a voluntary commitment by the mentee prior to the commencement of the programme. In an ongoing, two-way relationship, mentees are actively supported to make progress across the seven pillars of the Spéire Nua model, with a view to recording all the positive changes taking place in a person's life. The focus of the mentoring involvement is on reflection, with an emphasis on the impact of past experiences on the individual, the changes and the learnings that have occurred since then, and how that learning can be applied in the future.

Soft skills developed by mentees, both formally and informally, are identified and documented. Information on interests and hobbies are explored to identify instances of leadership, teamwork, networking and confidence-building activities, developing 'approach goals' rather than 'avoidance goals'. Risk factors are also addressed, and steps are taken to ensure that they do not affect the desistance process. In cases where addiction issues are present, reports are sought with explicit signed permission from mentees. Academic achievements and new skills developed since the offending incident are documented and included in the portfolio. Plans for the future are also documented, along with goal-setting and accountability practices, initiated to ensure that these plans become a reality.

Contact is made with arresting officers or local Garda stations to explore the possibility of restorative practices with the mentee's signed consent. In addition to the portfolio-building process, the programme includes an internship component, which provides mentees with hands-on experience in a variety of different areas. This helps to develop new skills that can be used in their future careers. Employment pathways are also developed, and it is encouraging to see large organisations now using the words 'having a criminal conviction does not prevent you from applying', so that people are not deselecting themselves from industries in which they know they could thrive.

As a final step, it is envisaged and hoped that the Spéire Nua portfolio will be presented to the Garda Síochána and the arresting officer for validation, embracing restorative justice practices, and that a signed 'Certificate of Commitment to Change' will be issued by the courts and, through Spéire Nua, with key signatories such as businesses in the community, giving an industry-standard recognition certificate, much like the Safepass for construction. Such a document, providing confidence to the awardee to pursue a career of their own choosing and assurance to the person offering an opportunity to a person with convictions, would be a positive asset.

Overall, the Spéire Nua strengths-based model of disclosure is interested in a person as a whole, beyond their past mistakes. The model focuses on a person's strengths, provides a safe and supportive environment, encourages self-reflection and self-awareness, and fosters a collaborative and empowering approach. By emphasising the person's strengths and potential, the involvement in the peer-mentoring process will help individuals develop a greater confidence, resilience, and a sense of purpose, which can help both mentees and mentors to achieve their goals and live a fulfilling life as fully participating members of society.

Positive rehabilitation, de-labelling and lived-experience policy entrepreneurship

Spéire Nua adopts an empowerment approach to social rehabilitation and focuses on people's strengths and their possible futures, rather than their deficits, for which they have already paid their dues through the criminal justice system (Burnett and Maruna, 2006). By capturing what people are doing right and attaching value to it, Spéire Nua offers an opportunity for people to build up 'redemption narratives' (Maruna, 2001), including an ownership of agency and regaining control over their life and destiny. The Spéire Nua Certificate of Commitment to Change therefore has the potential to support desistance processes.

In the absence of a formal de-labelling process in the Irish Courts system, and a very limited impact of the spent convictions legislation so far (Kiely and Swirak, 2021), the Spéire Nua model offers a strengths-based avenue, allowing persons with criminal convictions to demonstrate the positive changes they have made in their lives and to see them documented and valued. Spéire Nua provides a vehicle through which to capture and formally acknowledge the steps that people take out of a life of crime, to document and recognise it and, most importantly, to assign value to it. Currently, there

are no mechanisms in place that provide positive disclosure models or this type of service.

Spéire Nua does not guarantee the future behaviour of the person. It captures where a person is at in life today and validates what they are doing right today. Nobody can guarantee rehabilitation, and the only way to measure it is if the person never breaks the law again. Only after their death can we finally say with certainty that the person was rehabilitated. But then it will be too late. They will have struggled right throughout their lives because of the secondary punishment of living with convictions: reliving those times in their lives that they would do anything to move on from; those things that they would love to take back; those things that filled them with shame; those things that they could never change, no matter how much they wanted to.

The Certificate can also be understood as an additional communication device that formally acknowledges achievements since the time of the crime, capturing all of the steps that people have taken out of a life of crime. From this perspective, the Certificate can serve as a counterpart to the current miscommunication between the state and the person with a criminal conviction and could potentially counterbalance some of the negative effects of the collateral consequence of a criminal record. The Certificate could also provide an important, positive and future-oriented focal point for the wider community in supporting a person's desistance process.

Formal validation through the Certificate of a Commitment to Change can also help to break down the stigma associated with being an 'ex-offender'. By acknowledging the efforts of those who are committed to change, society can help to change the narrative around ex-offenders and reduce the negative stereotypes that often surround them.

Overall, the formal validation of a commitment to change by a person with convictions is an important step in promoting rehabilitation, reducing recidivism, and building a more inclusive and accepting society. Validating someone's commitment to change can also offer a powerful incentive to cease a life of crime. By acknowledging and accepting a person's efforts to change, we can help to build self-esteem, promote a sense of belonging and connection, and reduce the risk of recidivism:

... if someone is flourishing in the personal sense but they are still legally and socially regarded as an 'offender', then it is very likely that their flourishing will be undermined (see Nugent and Schinkel, 2016), and their re/integration hindered as a consequence.

(Arnal and McNeill, 2023, p. 18)

De-labelling can have positive effects on a person's mental health and overall wellbeing. When individuals are constantly reminded of their past mistakes, it can lead to feelings of shame, guilt and hopelessness. Removing these labels can help individuals to see themselves in a more positive light, which can improve their self-esteem and confidence. De-labelling is one of the most important steps we can take to provide people with the confidence to pursue a career of their own choosing. By facilitating a more enabling disclosure process than the current disabling disclosure model, we can reduce the punitive barriers and utilise more effectively people's desire to change, thus reducing recidivism and making communities safer places in which to live.

Finally, it is not to be underestimated that the Spéire Nua project has been developed on Damien's lived experience of navigating life with a criminal record and experiencing both successes and frustrations. Damien strongly asserts that all punishments should have an end date. His development of Spéire Nua is, however, also noteworthy as it is more than an advocacy project, more than a personal engagement for a matter close to his heart, but he is actually suggesting a significant shift in how we do criminal record disclosure. Damien is doing this not through academia as, for example, convict criminologists do, but rather through devising a policy and practice model, anchored in civil society and in local communities.

Taken seriously, the Spéire Nua model has potential benefits in changing how government bodies could organise criminal record disclosure. It is a model of how, through a collaboration with civil society organisations, we could find more encouraging and inclusive ways to engage with people with criminal records. In the policymaking literature, 'policy entrepreneurs', are described as actors who 'invest resources – time, energy, expertise, or money' to affect policy change (Frisch Aviram *et al.*, 2020, p. 614), who '(i) exhibit social acuity, (ii) define problems, (iii) build teams, and (iv) lead by example' (Ibid.) Through Damien's efforts to innovate in the area of criminal record disclosure, collaborating with other actors in civil society, academia and state bodies, he offers an interesting example of lived-experience policy entrepreneurship, rather than, as in most cases, élite-based policy entrepreneurship (Frisch Aviram *et al.*, 2020, p. 615).

At the time of writing, Spéire Nua is growing from strength to strength. The development of the model has been seed-funded by Social Entrepreneurs Ireland, supported through Kickstart, a Department of Justice and Probation Service funding initiative, administered by Pobal with ongoing business advice and support from Social Impact Ireland and continuous professional

development with Galway Rural Development. It has been further funded in 2023 by Rethink Ireland and has developed key partnerships, including with the Turnaround Project in Northern Ireland, to form an all-island collaborative.

Conclusion

In this article, we have introduced Spéire Nua's model of *positive disclosure*, with a view to helping the idea to circulate amongst those working in the field of reintegration, post-release support and other relevant fields in the Republic of Ireland and beyond. We have shown how the risk-based and deficit-based model of criminal record disclosure operating in Ireland negatively impacts on people in multiple ways, and we have argued that we need to think about possible alternatives. Importantly, the Spéire Nua model of 'positive rehabilitation' does not make one-sided demands on persons who have had experiences with the criminal justice system, but it offers a peer support network through its mentoring programme.

Spéire Nua is located in civil society, influenced by the idea of social entrepreneurship, and interested in supporting individuals in turning their lives around, as 'everybody wins when somebody turns their life around'. However, it is also suggesting a much deeper systematic change in how we think about and practise criminal record disclosures in the Republic of Ireland and beyond, by accompanying the process with a strengths-based model of positive disclosure, supported by state agencies, civil society and people's social networks.

Arnall and McNeill remind us that

... even if people *do not change*, even if we think that people *will not change*, even if we are not able to *observe that change*, the punishing polity still holds the duty to restore those who have been punished. Ultimately, this is a matter of social and criminal justice as much as of crime reduction.

(Arnall and McNeill, 2023, p. 19)

As such, Spéire Nua offers us an avenue to how the 'punishing polity' could take responsibility for its role in ensuring effective social and criminal justice.

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The Promising Synergy Between Social Enterprise, Risk–Need–Responsivity and the Desistance Paradigm

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Summary: This article advocates that social enterprise can play an important role in lowering reoffending rates by addressing employment barriers for those with criminal convictions. It also posits that previous discourse in this area has lacked sufficient focus on how the social enterprise model can address wider and more complex criminogenic risk factors linked to criminal behaviour. The authors postulate that the social enterprise model can play a multifaceted role within a Risk–Need–Responsivity (RNR) and Desistance paradigm, combatting stigma and prejudice, promoting self-efficacy and lowering reoffending by harnessing broad psychosocial supports. While identifying key themes and factors that have contributed to the success of social enterprises that employ those with criminal convictions, the authors focus on two social enterprises operated by the Cornmarket Project in Co. Wexford. They highlight the importance of measuring outcomes when employing the social enterprise model, and describe a system used in the Cornmarket Project to measure client outcomes across a range of ten psychosocial domains. Finally, the authors explore future directions and potential opportunities for strengthening the capacity of the model to enhance desistance. Sounding a note of caution, they stress that there are still significant challenges in funding, policy support, and the need for more rigorous evaluation of social enterprise programmes. The authors conclude that, in addition to employment, the social enterprise model has the potential to offer a broader range of supports in strengthening desistance.

Keywords: Desistance, social enterprise, Risk-Need-Responsivity (RNR), reoffending, psychosocial, self-efficacy, stigma, rehabilitation, criminogenic, outcomes, evidence-based.

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Introduction

This article stems from the work of the Cornmarket Project in utilising the social enterprise model to create employment and progression routes for those with criminal convictions. The project is part of Wexford Local Development, one of 48 local development companies in Ireland, and is a community-based treatment and rehabilitation project established in 1999. It offers support services to those with criminal convictions, former prisoners and those in recovery from addiction. The mission statement of the project is 'To reduce substance misuse, criminality and social exclusion in County Wexford by providing a range of best practice evidence based programmes'.

The project is located in the southeast corner of Ireland and operates from four geographic locations across Co. Wexford: Wexford Town, Gorey, Enniscorthy and New Ross. The project's thirteen discrete programmes and services are delivered by a team of 32 people and range from low-threshold practical supports for clients who are homeless and sleeping rough – such as showers, laundry facilities, hot-food provision and advocacy services – through to accredited training programmes, progression routes and employment opportunities.

In 2022, the project supported 224 people who had come into contact with the criminal justice system, 182 of whom were Probation Service clients. The project operates two social enterprises, which are part of a larger continuum of supports designed to ensure that client criminogenic need factors are competently addressed during their period with the project.

Risk, need and responsivity principles are associated with reductions in reoffending, particularly for delivery in community settings (Bonta and Andrews, 2012). To this end, the work of the Cornmarket Project has been underpinned by the RNR and Desistance models since it was established in 1999 (Delaney and Weir, 2004). Both of these paradigms stress the importance of assessing factors that have contributed to a person's criminal behaviour, emphasising the significance of subsequently matching interventions to needs.

Beyond employment: Psychosocial empowerment through social enterprise

In managing the integration of people with criminal records into the community, a pressing challenge is job creation, and the social enterprise model has proven to be a promising solution in this field. This model not only presents an effective way to reduce reoffending by providing meaningful

employment (Holzer *et al.*, 2003), but also offers a variety of psychosocial benefits. Research has consistently shown a strong correlation between employment and reoffending rates. Holzer *et al.* (2003) found that people with a criminal record who gain stable employment are less likely to reoffend. However, the stigma associated with a criminal record often presents a formidable barrier to employment. The social enterprise model has shown promise in addressing this challenge by creating businesses that specifically aim to employ and support people coming from a background of criminality (Cafferty *et al.*, 2016).

Social enterprises, broadly defined, are businesses that work primarily to improve the lives of people. Their core objective is to achieve a social, societal or environmental impact (Government of Ireland, 2019). As such, they have the potential to provide a sustainable means of employment for those with criminal convictions, while also contributing positively to society. Examples include bakeries, coffee shops and other service-oriented businesses that hire people with criminal histories, teach them valuable job skills and provide a supportive work environment (Graffam *et al.*, 2008).

Psychosocial benefits

Beyond the clear economic advantages, social enterprises can also deliver significant psychosocial benefits for those with criminal convictions. The act of participating in meaningful work has been shown to improve self-esteem and promote a sense of belonging, while the supportive environment often provided by social enterprises can help people to cope with the psychological stresses of reintegration (Duwe and Clark, 2017). Furthermore, social enterprises often operate with an explicit focus on social responsibility, which can help people with criminal convictions to shift their self-identification from ‘offender’ to ‘contributor’ (Battilana and Lee, 2014). This shift in identity is a crucial factor in successful reintegration and can further reduce the likelihood of reoffending.

The power of skills training

Beyond providing employment, social enterprises are uniquely positioned to offer targeted skills training to those coming from a background of criminality. These training programmes can equip people with industry-specific skills, enhance their employability in the long term, and further reduce the risk of reoffending. Such training is particularly valuable given that many people

with convictions have low levels of formal education and job skills. By focusing on vocational training, social enterprises can fill this gap and help people coming from a background of criminality to become competitive job candidates in a variety of industries.

The role of support services

In addition to job creation and skills training, many social enterprises provide support services to those with criminal convictions, such as housing assistance, addiction support and mental health services (Duwe and Clark, 2017). These services address some of the root causes of criminal behaviour, further enhancing the effectiveness of the social enterprise model in reducing reoffending. Moreover, by addressing these complex needs, social enterprises contribute to the overall wellbeing of those with criminal histories, fostering their successful reintegration into society and enhancing their quality of life.

Building community connections

Social enterprises can play a crucial role in helping people with convictions to forge positive community connections. By providing a supportive environment where they work alongside community members, social enterprises can help to break down stigma and build bridges of understanding. These social connections not only aid in reintegration but also contribute to their overall psychosocial health (Macaulay *et al.*, 2018).

Role of non-profits and community-based organisations

Non-profit community-based organisations also play a critical role in this field. Many successful social enterprises are run by non-profits operating in the civil society sector, which leverage their resources and networks to support the mission of the organisation (Battilana and Lee, 2014). Non-profits can provide essential support services, including mentorship, life-skills training, and case management, to aid the reintegration process further.

By providing employment, skills training, support services, and community connections, social enterprises not only help to reduce reoffending but also contribute to the psychosocial wellbeing of people coming from a background of criminality.

Unpacking the social enterprise model: A focus on risk, needs, and responsivity

The Risk–Need–Responsivity (RNR) model (Andrews and Bonta, 2010) is commonly utilised by organisations working with people who have criminal convictions. The Cornmarket Project employs this approach to match offenders with the most appropriate programme. It accomplishes this by providing a continuum of services and programmes tailored to the unique needs of each person. This continuum includes one-to-one counselling, drop-in low-threshold and outreach services, drugs rehab community-employment schemes, stabilisation groups, methadone clinic support service, restorative justice, a food poverty service, a homelessness day service, a women’s substance misuse service, a trauma-informed care programme and two social enterprises – EPIC and Kafe Konnect. The RNR model emphasises three principles: assessing a person’s risk of reoffending, identifying their criminogenic needs, and tailoring interventions to their learning style and motivation.

Risk principle

The risk principle posits that interventions should be matched to a person’s risk of reoffending, with higher-risk people receiving more intensive support. Research has demonstrated that adhering to the risk principle reduces reoffending rates (Lowenkamp *et al.*, 2006). Work and social integration programmes, such as social enterprises, can play a vital role in this process, as they address factors such as unemployment and social isolation, which have been identified as key predictors of reoffending.

Needs principle

The needs principle emphasises the importance of addressing criminogenic needs, such as antisocial attitudes, substance misuse and poor social support networks, which are directly related to criminal behaviour. Social enterprises can help to address these needs by providing employment, training, and opportunities to develop positive social connections (King, 2013).

Responsivity principle

The responsivity principle suggests that interventions should be tailored to the person’s learning style, motivation and personal circumstances. Social enterprises that adhere to the responsivity principle consider participants’ personal and cultural backgrounds and offer flexible, individualised support.

In the UK, probation services have adopted the RNR model, using it to inform interventions such as the Offender Assessment System (OASys) and the Integrated Offender Management (IOM) approach. These interventions focus on providing those with criminal records with employment opportunities and support in areas such as housing, education, and mental health, which are critical for promoting desistance and social integration (McNeill, 2012).

In Ireland, the Probation Service makes use of the RNR model to guide its work with those with criminal convictions. The Community Return Scheme, for example, provides early-release opportunities to prisoners who engage in unpaid community work, which can facilitate their reintegration into society (McNally and Brennan, 2015).

Adhering to the principles of risk, needs, and responsivity, social enterprise programmes can help to address the factors contributing to criminal behaviour and support those with convictions in their journey towards desistance.

Exploring the role of social enterprises in the process of desistance

Desistance, the process through which people reduce or cease offending behaviour, is a critical aspect of criminal justice policy and practice. By providing employment opportunities, skills training, and support for social integration, social enterprises can help those with convictions to reintegrate into society and reduce the likelihood of reoffending.

Social enterprise and desistance

Social enterprises can contribute to desistance by addressing several key factors associated with reoffending, such as unemployment, social isolation and lack of access to support services (Department of Justice, 2020). By offering not only employment opportunities but also skills training and socialisation, social enterprises help those coming from a background of criminality to develop human capital, which is essential for securing stable, long-term employment. Social enterprises can create supportive environments that foster positive social connections, promote prosocial attitudes and enhance self-efficacy, all of which have been linked to desistance (Maruna, 2001).

Social enterprise strengthening desistance: Some illustrative cases

In the UK, several social enterprises have been established to support those with criminal convictions in their journey towards desistance. The Clink Charity

operates a chain of training restaurants within prisons, offering inmates the opportunity to gain hospitality qualifications and work experience. Evaluations of the Clink Charity have shown that participants are less likely to reoffend than those who do not participate in the programme (Clink Charity, 2019).

Working Chance helps women to find jobs and reintegrate into society after leaving the criminal justice system. It works with employers to promote fair hiring practices and offers a range of services to its candidates, including CV advice, interview coaching, and ongoing in-work support.

In Ireland, Cairde Enterprises in Limerick is a commercial social enterprise producing a range of furniture products and offering those over the age of 23, with criminal convictions, a real and meaningful work environment, through full-time employment and work experience programmes. The goal of Cairde Enterprises is to prepare people for progressing into mainstream employment and to help change positively the attitudes of potential employers and communities towards those coming from a background of criminality who want to turn their lives around.

Another social enterprise in Ireland, and a recipient of Probation Service Kick Start funding for social enterprises, is Frontline Bikes. This is a local bike shop, based in Dublin, reusing, renovating and upcycling old bikes. It also trains and upskills those in the community who have struggled with addiction. Frontline Bikes is made up of two key services – Frontline Upcycling and Training Unit, and Frontline Bikes. These two services are symbiotic in nature and aim to provide a skill set to those affected by problematic substance misuse, or those with experience of the criminal justice system.

By providing employment opportunities, skills training and support for social integration, social enterprises can address key factors associated with reoffending and promote lasting change.

Addressing criminogenic need: Case studies from social enterprises

Criminogenic need factors, such as unemployment, substance misuse and lack of social support, are dynamic risk factors that can influence a person's likelihood of reoffending. Addressing these factors is essential for promoting desistance and successful reintegration into society (Ward and Maruna, 2007). Social enterprises have emerged as a promising approach to addressing such criminogenic need factors.

Social enterprise and criminogenic need factors

Social enterprises can address criminogenic need factors by providing targeted interventions and support services that promote desistance and foster successful reintegration. In addition to employment opportunities, social enterprises can offer skills training, provide treatment and support services for substance misuse and facilitate access to social networks and support systems that promote prosocial attitudes and behaviours (Farrall and Calverley, 2005). By addressing these dynamic risk factors, social enterprises can contribute to reducing reoffending and improve outcomes for people with criminal histories.

In the UK, social enterprises are playing a crucial role in addressing criminogenic need factors. One notable enterprise is the Skill Mill, which aims to challenge the negative perception associated with having a criminal record, the lack of opportunities in the past and society's unfavourable attitudes towards young people who have committed criminal offences. Many young people with criminal histories struggle to access education, training or employment opportunities, which are essential for their personal progress. The Skill Mill helps to overcome these obstacles by providing valuable work skills, knowledge and, most importantly, confidence. Over the past nine years, The Skill Mill has successfully employed 362 young people, and out of that number, only 27 have reoffended (The Skill Mill, 2023).

Social enterprise in Ireland has emerged as a promising approach to tackle reoffending by addressing criminogenic needs, promoting desistance, and facilitating work and social integration. An example is PACE (Promoting Access, Community and Employment). PACE is funded by the Probation Service and works with people who have been involved in the criminal justice system, including those with prior convictions, to help them reintegrate into society and find meaningful employment. PACE provides a variety of services, such as education and training, job-placement assistance and support in accessing housing and social welfare.

PACE also operates The Mug Shot social enterprise, a popular coffee and catering business providing high-quality FairChain coffee, cold drinks, sandwiches and snacks since 2018. Designed, owned and managed by PACE, its mission is to create sustainable jobs for people who have experienced prison or probation and now find it hard to secure employment.

Social enterprises can play a critical role not only in addressing unemployment, but also in relation to dynamic risk factors, such as substance

misuse, lack of social support and developing self-efficacy, thereby promoting desistance and successful reintegration into society for people with criminal histories.

Empowering people: Self-efficacy and the social enterprise model

People with a background of addiction and criminality often face significant barriers to their reintegration into society, including stigma, discrimination, and lack of access to employment and support services (Pager, 2003). Self-efficacy – the belief in one’s ability to succeed in specific situations or accomplish tasks – is essential for fostering successful reintegration and reducing the likelihood of reoffending. Social enterprises have emerged as a promising approach to promoting self-efficacy for those coming from a background of addiction and criminality.

Social enterprise and self-efficacy

Social enterprises can promote self-efficacy by providing targeted interventions and support services that enhance a person’s skills, confidence and access to resources. For example, social enterprises can facilitate access to social networks and support systems and can help to strengthen prosocial attitudes and behaviours (Farrall and Maruna, 2004). By addressing these barriers and fostering self-efficacy, social enterprises can contribute to reducing reoffending and improved outcomes for people with a background of addiction and criminality.

In the UK, several social enterprises seek to promote self-efficacy among people with addiction-related issues. The Forward Trust, a social enterprise focused on providing support for those with a criminal history and addiction issues, offers employment opportunities, skills training and access to recovery services (Forward Trust, 1991). Evaluations of the Forward Trust’s programmes have shown that participants experience improvements in self-efficacy, which are associated with reduced reoffending and increased likelihood of securing long-term employment.

The social enterprise model has been successfully employed in Ireland to promote self-efficacy and reduce the risk of criminality among marginalised groups. The Bridge Project is a community-based organisation and social enterprise that provides training and employment opportunities for those with previous criminal convictions. The Bridge Project has been working since 1991 to reduce the reoffending rates of those with criminal histories in the

greater Dublin region. It envisages a future where all those with an offending history are afforded opportunities to develop their full potential, reintegrate with families and society, and attain employment. The Bridge Project aspires to achieve this vision by working collaboratively with people and partner agencies to unlock potential and effect positive change. Bridge strives to create safer communities by developing and supporting the implementation of innovative, evidence-based responses and practices that reduce reoffending.

Social enterprises can play a critical role in enhancing self-efficacy by providing targeted interventions and support services, thereby fostering successful reintegration and reducing the likelihood of reoffending.

Experiences from the field, including two social enterprises operating in the Cornmarket Project

Reoffending – the propensity of ex-offenders to reoffend – is a challenge everywhere. Lowering reoffending rates can enhance the quality of life for the people concerned and their communities, and can also yield substantial socio-economic advantages. The rising recognition of social enterprises' innovative potential in curbing reoffending is noteworthy.

Social enterprise as a means to tackle reoffending

In the UK and Ireland, numerous social enterprises have emerged to address reoffending, with promising results. In Scotland, the Freedom Bakery, a Glasgow-based social enterprise, trains and employs people with previous criminal convictions, in the art of artisan baking. The bakery was originally set up within HMP Low Moss and has been lauded for its efforts to reduce reoffending rates by developing participant self-efficacy by providing meaningful employment and skills training.

In Ireland, the Cornmarket Project provides compelling examples. Kafe Konnect, a social enterprise in Wexford Town, is part of the continuum of programmes offered by the Cornmarket Project and serves as an example of how such initiatives can provide job training and employment in the hospitality sector for people with a criminal past. Established with support from the Probation Service's Kick Start Fund, Kafe Konnect employs eight people who have struggled to enter the job market because of criminal records or past addiction-related issues. It aids those people in making lasting life changes, distancing themselves from criminal activities and substance misuse, and regaining stability. Kafe Konnect offers tangible work experience

and training in various hospitality roles, including as chefs, pastry chefs, baristas, wait staff, cashiers, kitchen support, and in café management.

Another initiative based in the Cornmarket Project is the EPIC (Enhancing Progress, Inspiring Change) social enterprise. This programme offers training and employment to an additional eight people with criminal backgrounds, focusing on skills in printing, design, logistics, IT systems, stock control, management and other transferable work-related abilities. Since its inception in 2020, EPIC has successfully provided training and job opportunities and has assisted seven clients to transition into mainstream employment.

As a component of a broader spectrum of services and programmes, these social enterprises make a considerable contribution to enhancing employment and bolstering desistance among people with criminal records. By facilitating skill development, work experience and access to resources and networks, they are tackling the significant obstacles people with criminal histories encounter in seeking employment. The impact of social enterprises in aiding the transition of people with criminal records into conventional employment is visible in the work of Kafe Konnect and EPIC.

Outcome measurement in the social enterprise model: Why it matters

There remains a need for rigorous outcome measurement in social enterprises to evaluate effectiveness and inform evidence-based policy and practice.

Outcome measurement is crucial for several reasons:

1. *Assessing effectiveness:* Outcome measurement enables social enterprises and other stakeholders to evaluate the success of their interventions in reducing reoffending and improving the wellbeing of those coming from a background of criminality. Evaluating the effectiveness of interventions is essential for justifying continued investment and support from funders, policymakers, and the public.
2. *Identifying best practices:* By measuring outcomes, social enterprises can identify best practices and determine which interventions are most effective in reducing reoffending and promoting successful reintegration. This information can be used to refine and improve programmes, leading to better outcomes for those with prior criminal convictions and society as a whole.
3. *Facilitating comparisons:* Outcome measurement allows for comparisons between different social enterprises and interventions,

providing valuable insights into the factors that contribute to successful reintegration and desistance from crime. Comparisons can also stimulate innovation and promote the dissemination of effective practices across the sector.

4. *Accountability and transparency*: Measuring outcomes helps to ensure that social enterprises are accountable for their actions and transparent about their achievements and challenges. This is crucial for building trust and credibility among stakeholders, including funders, policy-makers and the communities they serve.

When evaluating the effectiveness of social enterprises in reducing reoffending, several key outcomes should be considered:

1. *Reoffending rates*: A primary outcome of interest is the reoffending rate, or the proportion of those with histories of criminality who reoffend within a specified period. The Change Outcome and Impact Measuring (COAIM) system (Delaney and Weir, 2011) used in the Cornmarket Project measures client involvement in criminality over time.
2. *Employment outcomes*: Employment is a critical factor in promoting successful reintegration and reducing reoffending. Social enterprises, using instruments such as the COAIM system, can measure employment outcomes, such as job-placement rates and job retention, to assess their impact on the economic wellbeing and stability of those with prior convictions.
3. *Psychological outcomes*: Interventions aimed at reducing reoffending should also consider psychological outcomes, such as self-efficacy, motivation and prosocial attitudes. These outcomes can be assessed using the COAIM system in the Cornmarket Project.
4. *Social outcomes*: Social outcomes, such as social support, social capital and community integration, are crucial for promoting desistance from crime and successful reintegration (Farrall and Maruna, 2004). The Cornmarket Project uses the COAIM system to measure these outcomes for participants on its two social enterprises.

The Cornmarket Project employs the COAIM system for effective outcome measurement. This system integrates evidence-based approaches, namely the Stages of Change, Motivational Interviewing, and Cognitive Behavioural Therapy (CBT). Within the COAIM system, the Stages of Change model serves as the framework for tracking client progress. Motivational Interviewing

offers the techniques and strategies for encouraging positive behavioural changes. Lastly, Functional Analysis from CBT provides the structure for the necessary metrics for assessment, evaluation and outcome measurement.

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 on this topic suggests that comprehensiveness needs to be balanced by brevity to ensure routine application and compliance (Madan, 2007). The COAIM system therefore provides staff with a solid framework that supports their work with clients engaged on its two social enterprises, in a planned and directive manner. The use of this approach optimises the potential for positive change, while ensuring effective mapping and measurement of outcomes.

Properly implemented, the approach creates the circumstances whereby the client develops the self-efficacy necessary to take responsibility for the continuation of their own positive change process, i.e. the ability to sustain positive self-management. The table below presents a snapshot of results for 182 Probation Service clients attending the Cornmarket Project in 2022.

<i>Ten Target Areas of COAIM System</i>	<i>Positive Change</i>	<i>Stable/ No Change</i>	<i>Negative Change</i>
Involvement in criminality	88%	8%	4%
Accommodation	34%	51%	15%
Pro-social activities	61%	36%	3%
Anger and emotion management	57%	38%	5%
Attitudes and cognitive style	80%	17%	3%
Drug and alcohol misuse	85%	11%	4%
Lifestyle and associates	59%	33%	8%
Relationships and family issues	56%	39%	5%
Training and employability	79%	11%	10%
Financial issues and debt	59%	27%	14%
Score relating to client change and attainment of overall goal: <i>'To live a productive life, free from criminality and substance misuse.'</i>	67%	26%	7%

When a client begins their journey with the Cornmarket Project, a comprehensive analysis of their situation and issues is conducted across ten specific areas, as and when necessary. To carry out this analysis, the staff member utilises ten distinct scoring guides from the COAIM system, each corresponding to a different target area.

This analysis maps and scores the client's initial issues and establishes a baseline for measuring future changes. The COAIM system is revisited periodically during the client's engagement with the project and, finally, on their exit from the programme. The initial analysis also aids in the creation of a collaborative client change plan, and any future adjustments deemed necessary by both staff and client are made based on subsequent analyses.

Thorough evaluation is crucial in maintaining ongoing support and investment, identifying effective practices, facilitating benchmark comparisons and ensuring accountability and transparency.

Desistance from criminality: Anticipating the future impact of social enterprises

As social enterprises continue to evolve and expand their activity, it is crucial to consider the future directions and potential opportunities for further enhancing their impact on desistance.

Innovations and opportunities

1. *Technology and digital solutions*: The rapid growth of digital technologies offers new opportunities for social enterprises to develop innovative solutions for promoting desistance (Nugent and Schinkel, 2016). For example, digital platforms can facilitate connections between those with criminal backgrounds, employers and support services, while virtual reality and online learning tools can enhance skills development and access to education. Harnessing technology will be essential for social enterprises to maximise their impact on desistance in an increasingly digital world.
2. *Collaboration and partnership*: The future of the social enterprise model in promoting desistance will likely involve greater collaboration and partnership between social enterprises, government agencies, criminal justice institutions and other stakeholders (Fox and Albertson, 2011). These partnerships can facilitate the sharing of resources, expertise and best practices, ultimately enhancing the effectiveness of

interventions and improving outcomes for those with criminal convictions.

3. *Expansion of target groups*: Social enterprises in the criminal justice arena have primarily focused on working with adults with criminal histories. There is potential to expand their reach to other groups, such as young people with criminal records, at-risk clients, and families of those with criminal histories. By broadening their target groups, social enterprises can have a more significant impact on reducing criminality and promoting desistance across diverse populations.

Challenges and policy implications

1. *Scaling and sustainability*: As social enterprises continue to grow, one of the primary challenges will be achieving scale and sustainability. This will require developing innovative funding models, such as social impact bonds or blended finance, to attract investment and support from a range of stakeholders. Policymakers can support the scaling and sustainability of social enterprises by providing targeted funding, capacity-building support and enabling policy frameworks.
2. *Evaluating impact and building evidence*: Rigorous outcome measurement and evaluation are essential for demonstrating the impact of social enterprises on desistance and informing evidence-based policy and practice. Policymakers should invest in research and evaluation capacity, develop standardised outcome-measurement tools and promote the sharing of data and best practices across the sector.
3. *Reducing stigma and discrimination*: Social enterprises must continue to address the stigma and discrimination faced by those with criminal convictions, which remain significant barriers to employment and reintegration. This will require ongoing advocacy, public education campaigns, and the development of policies and practices that promote equal opportunities and social inclusion for people with criminal histories.

The *National Social Enterprise Policy for Ireland (2019–2022)* was a watershed moment for social enterprise. Ireland has a rich, proud and diverse experience of social economy and social enterprise, yet the policy framework developed comparatively later than in some other EU member states. Since its launch in 2019, the policy has helped to shape the social enterprise sector in Ireland

significantly, including through targeted measures and improved coherence across government policy (Forde, 2023).

Much has changed in the criminal justice arena since the launch of that original policy. The Department of Justice strategy on social enterprise (2020) demonstrates forward thinking and an openness to 'think differently' about the responsibilities and role that the Department and its agencies can play in supporting people with convictions into employment, to make real and sustainable change for themselves, their families and the communities within which they live (Department of Justice, 2020). In the ongoing quest to enhance the reintegration process for people with criminal convictions, the social enterprise model has emerged as a promising strategy. It not only generates employment opportunities but also tackles the underlying factors of reoffending and fosters psychosocial wellbeing.

Working to Change (2021) is a social enterprise supported by government funding. It runs a specific website that supports the implementation of the *Working to Change – Social Enterprise and Employment Strategy 2021–2023*. Its aim is to expand job opportunities for people with criminal records, building on pre-existing support systems.

Working to Change focuses on creating meaningful work opportunities and removing obstacles that hinder individual transformation. It is dedicated to providing fair and accessible job paths for those with criminal records, while maintaining community safety. *Working to Change* also aims to confront and tackle the systemic barriers that can arise when developing social enterprises for people with a criminal past. Most importantly, it is committed to finding and implementing solutions to overcome these barriers (*Working to Change*, 2021).

When it comes to negotiating such barriers, social enterprises face several challenges. Funding is a primary issue; despite their social value, these enterprises often struggle to secure sustainable financial resources. Limited government funding and competition for private grants can result in instability, threatening the longevity and impact of these initiatives. Secondly, policy support is crucial, as regulatory frameworks can either facilitate or hinder social enterprise activities. Policies that encourage collaboration between social enterprises, private sector and public bodies, while also promoting the hiring of people with a criminal past, could substantially enhance these efforts.

Lastly, there is a need for more rigorous evaluation methods. Many social enterprises lack the resources or expertise to conduct comprehensive

assessments, limiting their ability to demonstrate effectiveness, learn from best practices and continue to improve. Overcoming these challenges would enable social enterprises better to support reintegration and reduce reoffending among people with criminal convictions.

Conclusion

Future advances in promoting desistance from criminality through social enterprises will be influenced by technological innovations, collaborative partnerships and the expansion of target demographics. To progress, it will also be necessary to address key challenges such as scalability, sustainability, evaluation and stigma reduction. A concerted effort by policymakers, practitioners and researchers is crucial to harness these opportunities, address these challenges and maximise social enterprises' impact on promoting desistance and successful reintegration.

Despite existing hurdles, the social enterprise model's potential to provide job opportunities and psychosocial benefits to those with criminal records is clear. By leveraging this model, backed by supportive policies and corporate collaborations, we can make significant progress towards successfully reintegrating those who have often been overlooked by society.

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Working with Homeless People on Probation Supervision – A Practitioner’s Perspective on Collaboration and Co-operation in the Community

Niamh O’Dwyer*

Summary: This article discusses the issue of homelessness amongst those who are subject to Probation Service supervision from a rural perspective. It highlights the increase in the scale of the problem of homelessness and looks at the work of services and agencies to address the ever-changing circumstances of homelessness. The article reflects upon the obstacles and challenges for the Probation Officer in the community when supervising a person who is homeless, and the impact that this can have on offending behaviour. The benefits are discussed of working collaboratively with other agencies and services from a multi-disciplinary perspective. There is an examination of the Housing First model, an approach to addressing homelessness for people experiencing mental-health, physical-health, substance-misuse, social, behavioural and other challenges. The article also looks at the question of Probation Officer as advocate within the homeless services and explores the role of the Probation Officer in the community in supervising a person who is homeless. The author concludes by reflecting upon the ever-changing landscape that is homelessness and the challenges ahead for Probation Officers in addressing the unique risks and needs of the homeless client.

Keywords: Probation, criminal justice, offending, risks and needs, homelessness, interagency working, partnership, community-based supports, social exclusion, intervention, Housing First.

Introduction

In the Irish national media and in public discussion and concern regarding homelessness, the worrying rise in homelessness in rural Ireland has been less visible when compared with the attention given to urban, particularly Dublin-based, homelessness. However, there is a real and significant homelessness problem in rural communities outside the large conurbations.

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Left Out in the Cold, A Review of Rural Homelessness in Ireland (Simon Community, 2019) highlighted that homelessness is not just an urban phenomenon:

It is often 'hidden' in rural contexts which can make it more difficult to see and indeed measure. Hidden homelessness refers to people who may be staying in unsecure accommodation, unfit or overcrowded accommodation, sleeping on couches with friends/family. They are not visible to the public but are in need of a home. (p. 1)

The scale of rural homelessness has been on the increase. *Homelessness in Rural Ireland* (McVerry Trust, 2019) described how there were 1,014 people homeless in rural Ireland in May 2019. By July 2019, that number had increased by 12 per cent, bringing the number of rural homeless to 1,400. These figures are likely an underestimation and may not even tell the complete story. Persons sleeping rough, couch surfing or squatting may not have been captured in the data gathering, because of the methods of collection. It is likely that the real numbers are much higher than the official figures suggest.

Working with homeless people subject to Probation supervision in rural Ireland

In a rural county within which I am based, I have witnessed people squatting in derelict houses, vacant dwellings and abandoned buildings. These living conditions pose serious risks to the physical and mental wellbeing of the people involved, as well as resulting in their feeling demoralised. An additional concern in relation to these living conditions is their propensity to become hubs for drug use and anti-social behaviour. Such unstable accommodation risks increasing and promoting association with other marginalised people involved in offending behaviours.

The county has a population in excess of 160,000, spread over an area of more than 1,600 square miles. Access to services and travel links can pose distinct obstacles for those living in rural locations as opposed to urban, more centralised locations. As a community-based Probation Officer, I have attended regular Homeless Action Team (HAT) meetings. HAT is an interagency forum comprising statutory and non-statutory services in the county, working together to achieve a consistent approach in care and case management to address the issues and challenges for those presenting as homeless or at risk of homelessness within the county.

Other agencies contributing to HAT meetings include An Garda Síochána, addiction services, mental health practitioners, social workers, public health nurses, local authorities, women’s services, including domestic violence support, and other voluntary bodies that work with people who are disadvantaged and socially excluded and who are homeless or at risk of homelessness.

The voluntary services provide valuable supported housing and outreach support for those in need, including referrals from the Probation Service. Staff from non-governmental organisations (NGOs) such as Focus Ireland also participate. Meetings are chaired by the county council Homelessness Prevention Officer. In 2023, the HAT meetings were restructured as a Homeless Management Committee (HMC), in an effort to provide a more multidisciplinary community-based approach.

Based on my experience in attending meetings, a significant percentage of homeless persons whose cases were discussed at HAT meetings were persons supervised by the Probation Service, or who had been previously known to the Probation Service. Over a four-month period, between 35 per cent and 75 per cent of cases discussed at each meeting had been known to the Probation Service, with a significant proportion having been assessed as at high risk of reoffending, and with significant needs. This snapshot review indicates that a large, shared population of persons accessing homeless services are among those subject to Probation Service supervision.

The challenge of homelessness amongst Probation clients

Persons who present to the Probation Service with no fixed abode (NFA) can pose unique challenges for a Probation Officer in terms of assessment of risk and needs, responsivity, effective management and meaningful supervision. Persons supervised by the Probation Service presenting to the homeless services often have complex needs and can struggle to change their behaviour, sustain change and integrate back into society. Persons assessed as at high risk of reoffending present with particular needs that require a high level of intervention. They are often on the margins of their communities and find it difficult to navigate the services and structures that are there to assist them. Challenges such as poor mental health, addiction, unemployment, literacy problems, loneliness, isolation and shame can prevent them from accessing and receiving the services and assistance they require. It is quite a problem to address these challenges without the foundation of a home and the security and stability that go with it.

Sometimes, in small towns or close-knit communities, local reputation, distrust and animosities can be a real contributing factor when assessing the obstacles that prevent a Probation client from obtaining and/or sustaining suitable accommodation. The person can be 'demonised' for their own, their family's or their associates' past or current behaviour, which can result in further obstacles in striving for accommodation, acceptance and social inclusion.

Offending behaviour

Seymour and Costello (2005) reported that offending has not been shown to be the inevitable consequence of homelessness. However, they cite the finding by Snow *et al.* (1989) that there are:

a number of processes by which homeless people and rough sleepers in particular are more likely to commit an offence. These include engaging in criminal behaviour to survive on the streets, the criminalisation of street life including intoxication in public, and the stigmatisation of street homelessness whereby the visibility and suspicion of rough sleepers as potential threats to community safety mean that they may be more likely to be formally processed for offences that may otherwise have been ignored. Regardless of the motivation for offending, the implication is that many homeless people are likely to end up in the criminal justice system due to a combination of risk factors, motivations and circumstances.

According to Seymour and Costello (2005, p. 9):

Homeless people had a higher number of charges against them than those in the non-homeless group. The average person appearing in the courts had 1.5 charges against them in comparison to 4.5 for those in the homeless group. However, offences committed by homeless individuals were generally not of a serious nature.

They noted:

Overall, it appeared that the majority of offences committed by homeless individuals were minor in nature. (Seymour and Costello, p. 47)

These findings are arguably as valid today in rural Ireland as they are in cities and urban centres. As can be witnessed in local courts, a person assessed as

high risk may commit repeated offences of a low-tariff nature during periods of homelessness, such as public order offences, intoxication in public places, minor thefts and drug possession. Many of these people are referred by the courts to the Probation Service in an effort to prevent reoffending.

Multi-agency and multidisciplinary collaboration

The local county council, as lead agency as provided for in the Housing (Miscellaneous Provisions) Act, 2009, includes the Probation Service among its work partners in addressing homelessness, and as an agency striving to achieve best outcomes for homeless persons supervised on court orders. Andrea Bourke, in her paper discussing the work of J-ARC,¹ an interagency initiative to reduce prolific offending, writes:

Prior to the introduction of J-ARC, agencies often worked independently of each other with the same service-users. Information-sharing, when it happened, often occurred in a more piecemeal fashion. The evident benefit of information-sharing through a formal process is seen in the context of a shared understanding of the participant’s situation that enables a more holistic and integrated approach to problem-solving and the provision of support’. (Bourke, 2021, pp 248–9)

The same experiences can be recognised when working with homeless clients within multi-agency and multidisciplinary forums. Information-sharing protocols in place within the homeless services accept that all participating clients are treated fairly and their right to confidentiality is respected. For this reason, any client involved with the services will be made aware of their rights as set out in the Confidential Policy, Information Sharing Protocol, GDPR and the Data Protection Act, prior to referral or any offer of service.

The Homeless Management Committee (HMC), in setting out its strategic goals for service provision, recognised that best practice should be a client-centred service with the aim of strengthening links with existing service-providers. The sharing of information and resources is a crucial aspect in striving for better outcomes for homeless clients. While similar work had been undertaken in the past on an ad-hoc basis, depending on attendees at HAT meetings, the newly restructured service sets out to manage its homeless

1 Joint Agency Response to Crime (J-ARC) https://www.gov.ie/en/policy-information/e4ced-joint-agency-response-to-crime-jarc/?referrer=http://www.justice.ie/en/JELR/Pages/Joint_Agency_Response_to_Crime#

clients in a more streamlined way, introducing individual care plans for each client who presents as homeless. In essence, the service provides a 'more than just Housing' focus, with co-ordinated support and care being an essential component. Work begins with new homeless presentations from point of contact at clinics.

The new HMC model seeks to enable easier access to the homeless services for those in need, including Probation Service referrals. In the past, a 'staircase model' was adopted, where clients had to achieve a number of goals (e.g. sobriety) to become ready for housing. This approach was time-consuming and set unrealistic goals for marginalised people already burdened with homelessness and other issues. The new model, based on a best-practice approach, aims to be more client-centred and trauma-informed.

Key working will be managed by the service-providers who are already engaged with the person. As a protective measure, the Homeless Team will oversee the care plans, link with existing services and manage the movement of the person through the homeless network. Co-operation and collaboration are key elements of this model.

One of the most basic, yet often overlooked, needs for a Probation Officer working with clients who are homeless is to familiarise themselves with the terminology/jargon, the different housing pathways, roles and interventions used within the homeless services and other partner bodies. Terms such as HAP (Housing Assistance Payment), Placefinder, TSS (Tenancy Support and Sustainment Service, provided by Focus Ireland), RAS (Rental Accommodation Scheme), Housing First, and Own Front Door can be unfamiliar for those working within the criminal justice system, let alone for homeless clients.

What is Housing First?

From a client-centred perspective, the Housing First approach provides wraparound support that is tailored to the needs of the client, which can be most beneficial.

Housing First provides a comprehensive and holistic approach to addressing homelessness for people experiencing mental-health, physical-health, substance-misuse, social, behavioural and other challenges. The programme consists of three major components:

- Permanent affordable housing
- Mobile case-management and treatment services
- A programme philosophy based on client choice and recovery.

Housing First can provide solutions for persons who have previously, and repeatedly, tried and failed to exit homelessness or who have previously been regarded as resistant to interventions, hard to reach or not housing-ready.

The *Housing First Manual for Ireland* (Tsemberis, 2020) defines and supports the implementation of a set of principles and practices to create a well-organised, multi-agency Housing First team, and it outlines structures that collaborate to provide housing and support services that aid recovery and community integration for its participants.

Chapter 10 of the *Housing First Manual* provides suggestions on how to modify the Housing First programme to operate effectively in rural areas, including suburban communities, small towns and villages. Building on the strength of community ties and resources, the HMC, which comprises various stakeholders within that community, including the Probation Service, can identify those persons most suited to the Housing First programme.

One Probation Service-referred client, Michael (not his real name), is currently residing in a Housing First home and receives weekly home visits from a support worker employed by Focus Ireland. His Probation Officer also makes home visits, alongside his Focus Ireland support worker. Michael was referred to psychology services through the Housing First programme and receives weekly visits from a consultant psychologist employed by the HSE. In addition, he has support from outreach services through Novas.²

This interagency approach ensures that all services are working from a shared case-management plan, thus reducing duplication of work. It ensures clarity of roles, collaboration and co-operation between the client and the services involved, with the shared goal of achieving better outcomes for the client. It can be seen ‘on the ground’ that when a client obtains suitable and appropriate accommodation that matches their needs, it has a ripple effect that benefits their families, children and communities.

Notwithstanding its benefits, it is important also to acknowledge the challenges in effective interagency and multidisciplinary working. Effective interagency and multidisciplinary working requires clarity in purpose, mutual understanding and respect, clear and acknowledged boundaries and protocols and, above all, good, open and frank communication. While everyone may be in favour in principle, it can be exceptionally difficult to implement in practice, requiring a lot of commitment and hard work to make it happen.

² Novas is a voluntary organisation working in local communities across Ireland with those who are disadvantaged and socially excluded, primarily those homeless or at risk of homelessness: <https://www.novas.ie/>.

New model explained

The restructured committee (HMC) meets once each month. This committee oversees the five categories as outlined below. During the month, there is one sub-group meeting representing each of the five identified categories outlined. Each sub-group meets once per fortnight. The chairperson of each sub-group reports back to the HMC meeting in relation to progress made or issues arising.

The sub-group categories are:

- Category 1: Rough sleepers, entrenched homeless, couch surfers
- Category 2: Emergency accommodation, short-term temporary accommodation
- Category 3: Mental health – long-term stay in Department of Psychiatry (DOP)
- Category 4 : Domestic violence
- Category 5 : Youth homelessness and aftercare.

It is important to note that the categories are not listed in order of priority. They are constituted separately to ensure that the clients' needs are best met within the appropriate category. Relevant professionals involved can attend the category meetings best suited to their client, whose needs are matched with existing services. The new client-centred homeless model will also allow for better access to the homeless services for Probation Service clients. Each person presenting as homeless will receive care and case management, regardless of their housing needs. There is a focus and a priority to increase and support interagency work across the county.

The model allows services to share resources, skills and knowledge in their area of expertise. It identifies the risks and needs of the homeless population in the county and seeks to fill the gaps in service provision. Homeless clinics are moved away from the offices of the county council and into the communities, which makes the service more accessible and user-friendly.

The information-sharing aspect of the new model and interagency philosophy should also benefit those clients upon release from prison. Collaboration is a crucial aspect of addressing the needs of prisoners returning to their communities, where information needs to be shared in a timely manner. It is sometimes the case that prisoners who have served short-term sentences or who are subject to unplanned releases can present themselves on the day of release to the homeless services. A prisoner who is serving a short sentence

may not declare their homeless status as they feel it might reduce their chances of release. An integrated and collaborative approach has the potential to be the most effective way of preventing such obstacles.

Probation Officer as advocate?

It could be a valid point to query whether the Probation Service has a function or role to play within the structures of the homeless services. Some may question whether the attendance at the various meetings only adds to the work of a Probation Officer and could result in nothing more than a paper exercise or a talking shop with no results. It would also be valid to state that by helping a person to navigate through the homeless services and by familiarising themselves with the knowledge that is required, Probation Officers can effectively advocate for and access services for and with their clients in a more holistic and effective way. The multi-agency and multi-disciplinary approach provides a rich opportunity for Probation Officers to network and connect with other professionals and agencies sharing common goals and clients within their respective communities.

Through participation and collaboration with the homeless services and partners, the Probation Service can advocate for and promote accessibility to community-based resources for the client who is subject to a community-based measure. This not only provides fair opportunities for clients but can also reduce the stigma of homelessness and criminality, while promoting social inclusion within the person's own community or locality.

In supervising the homeless person, the core probation skills of developing the therapeutic alliance, responsivity, motivational interviewing techniques and the use of cognitive behavioural interventions that foster problem-solving ability, decision-making and emotional regulation can all be employed to assist in securing a better outcome with the support of the homeless services and partner agencies. Seymour and Costello (2005) acknowledge that while their study focused largely on the social factors and context of people's lives and experiences, this did not overlook the importance of cognitive behavioural and other offence-focused work, essential in probation supervision, in developing the person's thinking and coping skills and supporting their journey towards change and desistance.

Conclusion

Since Seymour and Costello penned their report in 2005, the landscape of homelessness in Ireland has changed significantly. Probation Service practitioners are striving to assist their clients in an ever-changing society that has been affected by the COVID-19 pandemic and other events since. This year, there are many challenges, including the rising cost of living and housing crisis and the social impact of the needs of those seeking refuge and fleeing war. With the ending of the temporary moratorium on evictions, more and more marginalised people and Probation Service clients will face the threat of homelessness.

Seymour and Costello's comments on diversion from custody, citing the National Economic and Social Forum (NESF) report (2002) and the work of Chapman and Hough (1999), remain true today despite the ever-changing face of homelessness.

[E]ffective probation supervision must incorporate and work in partnership with other services including housing and employment agencies to reduce the risk of re-offending amongst probation clients.

(Seymour and Costello, 2005 p. 28)

'[O]ne of the most effective ways of promoting an offender's reintegration is to reduce the risk of marginalisation in the first place ... assisting individuals to remain in the community increases their likelihood of abstaining from offending in the long-term. Community-based sanctions provide such an opportunity to the offender if the content of the sanction is targeted to his/her criminogenic needs. Failure to provide appropriate intervention to meet these needs often results in an unsuccessful outcome for the offender and service provider.'

(Seymour and Costello, 2005, p. 30, quoting NESF, 2002)

If ever there was a time to come together, for more co-operation and co-ordination among the services and professionals, it is now.

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Resettlement Needs for Foreign National Prisoners Returning to Their Home Country

Paul Gavin and Cody Porter*

Summary: While a wide range of literature exists on the topic of prisoner resettlement, little is known about the struggles faced by foreign national prisoners who return to their home country after serving a prison sentence abroad. This paper aims to address this gap in the literature by providing a comparative analysis of two reports which have examined this phenomenon in Ireland and in the UK. While concerns over accommodation, healthcare, addiction, employment, education and family contact are common to all prisoners, foreign national prisoners also face concerns related to language, culture and immigration and deportation. These additional concerns can have a dramatic impact on the resettlement of those foreign national prisoners who return to their home country post-release.

Keywords: Resettlement, foreign national prisoners (FNPs), returning prisoners, prisoners abroad, education, training, accommodation, healthcare.

Introduction

In recent years, a wide range of research has been undertaken, which focused on the differential treatment of foreign national prisoners (FNPs) in various criminal justice systems (Martynowicz, 2018; Gavin, 2022; Croux *et al.*, 2019; Ugelvik and Damsa, 2018; Doyle *et al.*, 2022). While some research has been conducted on the resettlement needs of FNPs (Slade, 2015; Mbaye, 2018), there is a paucity of research on the resettlement needs of prisoners who return to their home after serving a prison sentence abroad (returnees). For example, the only studies undertaken in Ireland and the UK are those of Gavin (2015) and Cracknell and Ward (2022) for the Irish Council for Prisoners Overseas (ICPO) and Prisoners Abroad respectively.

The ICPO was established in 1985 and engages with Irish prisoners around the world. Its role is to respond to the needs of Irish prisoners abroad and their families, as well as visiting prisoners and assisting families with travel and

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accommodation, researching, and providing relevant information to prisoners and their families, including on issues such as deportation, repatriation and prison transfers. It also works closely with those Irish prisoners who have served a prison sentence abroad and who return to Ireland, through either voluntary or involuntary means (Gavin, 2015). At any one time, it has over 1,000 prisoners on its books, and the vast majority of these are in the United Kingdom (Gavin, 2014, 2015).

Prisoners Abroad was established in 1978 as a charity that supports and assists British citizens who are imprisoned overseas. Its main strands of work are its prisoners overseas service, family support service and resettlement service. The core values of Prisoners Abroad are to reduce the isolation and deprivation experienced by prisoners overseas and their families; to prevent destitution and street homelessness on return to the UK; and to assist people in rebuilding their lives on return (Cracknell and Ward, 2022).

Gavin's (2015) report included semi-structured interviews with seventeen participants. The participants comprised eight returnees, seven resettlement service-providers and two ICPO staff members. Cracknell and Ward's (2022) report included interviews with returnees who had been imprisoned abroad and who had used the resettlement service of Prisoners Abroad. They also interviewed four members of staff from Prisoners Abroad and two individuals who worked for partnership organisations. Both papers found specific resettlement difficulties for those returning to their home country, relating to accommodation, education, training and employment, mental health, addiction, finance and family.

This paper provides a synthesis of the general resettlement literature as well as the limited but specific literature (Gavin, 2015; Cracknell and Ward, 2022) on the resettlement needs of FNPs who return to their home country. As recommended by Cracknell and Ward (2022), we use the term 'returnees' to describe this group. This paper begins, however, with a brief review of the literature on what has been described as the pains of being an FNP.

The pains of being a foreign national prisoner

While all prisoners suffer from deprivations, or pains of imprisonment, in terms of liberty, goods and services, heterosexual relationships, autonomy and security (Sykes, 1958), FNPs suffer multiple pains of imprisonment beyond this traditional perspective (Gavin, 2022). These additional pains include concerns over language, family contact, and immigration and deportation

(Bhui, 2009; Ugelvik and Damsa, 2018; Croux *et al.*, 2021; Gavin, 2022), as well as different cultural, ethnic, religious and healthcare needs (Doyle *et al.*, 2023; Martynowicz, 2018; Ugelvik and Damsa, 2018; Sen *et al.*, 2021). The language barrier experienced by FNP's can exacerbate all other difficulties they face, including isolation, a lack of information, immigration status and healthcare (HMIP, 2006; Croux *et al.*, 2019, 2021).

FNP's are likely to receive fewer visits than domestic prisoners (HMIP, 2006; Martynowicz, 2018). Difficulties associated with family visits can include the distance that must be travelled, the cost of travelling and the language barrier. FNP's are often less likely to engage in prison educational, vocational, and work-based programmes, frequently due to language barriers and a lack of information (Westrheim and Manger, 2014). Although the Council of Europe (2012) has recommended that its member states should ensure that educational and vocational training is as effective as possible for FNP's, the outcomes are often mixed. Ugelvik and Damsa (2018) found that FNP's felt they suffered pains of imprisonment related to discrimination, long-distance relationships, and deportation, all of which added considerably to their other pains of imprisonment. Croux *et al.*'s (2021) study considered the pain of non-participation related to areas such as education, work, sport activities and worship. Again, the language barrier was found to exacerbate the pain of non-participation in these areas. All the above can contribute towards a new set of pains – those of certitude, legitimacy and hope – with regards the carceral and post-carceral lives of FNP's (Warr, 2016).

There are various means by which an FNP can return to their home country. They may return voluntarily after completing their sentence or they may also be able to have their prison sentence or probation licence transferred to their home country (Ugelvik and Damsa, 2018; Croux *et al.*, 2019). The Council of Europe Convention on the Transfer of Sentenced Persons¹ facilitates the rehabilitation of prisoners by providing FNP's with the opportunity to serve their sentence in their home country, as does the European Council Framework Decision 2008/909/JHA.²

While the number of returnees to Ireland is relatively low, this does not make their resettlement needs any less valid or deserving than prisoners who serve their sentence in Ireland. The Transfer of Sentenced Persons Act came

1 Convention on the Transfer of Sentenced Persons: <https://www.coe.int/en/web/transnational-criminal-justice-pcoc/transfer-of-sentenced-persons>

2 Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32008F0909>

into operation in November 1995. It ratified the Council of Europe Convention on the Transfer of Sentenced Persons and it provides the legislative basis for the operation of the Convention between Ireland and other parties to the Convention. As of 30 December 2020, there had been 563 applications for transfer into this jurisdiction since the Act was first passed. Of those, 81 per cent came from Irish prisoners in the UK. Only 154 of all prisoner applications (approximately 27 per cent) were successful (Department of Justice, 2020).

FNPs may also be involuntarily removed through deportation. Deportation can be a traumatic experience as people may have to leave family behind in a country where they have lived for a significant part of their life (Golash-Boza and Ceciliano-Navarro, 2019). Furthermore, they may be returning to a country to which they feel no attachment, and in which they have no home, and have no family support. Cracknell and Ward (2022) note that these pains associated with deportation can result in people serving a 'double punishment' of both their prison sentence and deportation, and how a prisoner or ex-prisoner returns to their home country will dramatically impact on their resettlement needs (Gavin, 2015). These needs are now considered.

Resettlement for returnees

Most prisoners have experienced a lifetime of social exclusion, and the prison population is generally dominated by those who suffer from personal and social disadvantage, who come from communities that suffer from unemployment, low income, deficient education, bad housing, family breakdown, and drug and alcohol addiction (O'Mahony, 2002; Kirwan, 2013). Resettlement is closely linked with concepts of desistance, rehabilitation and reintegration, and it refers to practical steps which can help a released prisoner be a part of a community (Gavin, 2015). The process is seldom straightforward, and successful resettlement will involve overcoming a set of practical, social, environmental and emotional barriers when reintegrating back into a community (Cracknell and Ward, 2022).

There are six key principles of effective resettlement practice. These are early identification of the needs of an individual; ensuring that resettlement plans are collaboratively produced and not focused solely on risk management; identifying continuity of engagement as a crucial factor in developing the relational aspect between the individual and their Probation Officer; supporting people to access appropriate welfare, treatment and community resources;

the practitioner being cognizant of intersectionality and its impacts upon resettlement; and utilising a strengths-based approach (Cracknell, 2023).

While there is no universally agreed-on definition of resettlement, HMIP (2001, p. 12) stated that it is:

A systematic and evidence-based process by which actions are taken to work with the offender in custody and on release, so that communities are better protected from harm and re-offending is significantly reduced. It encompasses the totality of work with prisoners, their families and significant others in partnership with statutory and voluntary agencies.

This definition emphasises that resettlement is a twofold process, which takes place both prior to, and after, release from prison. It highlights the two key aims of resettlement, which are protecting communities and reducing reoffending, and refers to some of the key actors involved in the resettlement process, such as prisoners, their families, and statutory and voluntary organisations. The literature suggests that there are between seven and nine resettlement pathways to help to ensure that prisoners have as much support as possible to help them make a successful transition to the community. These include supports in the areas of: accommodation; education training and employment; health (including mental health); drugs and alcohol rehabilitation; finance, benefit and debt; children and families, attitudes, thinking and behaviour; domestic abuse; and sex working. (Crow, 2006; Jacobson *et al.*, 2010; Moore, 2011). Based upon the pathways discussed, this paper will consider accommodation; education, training, and employment; mental health; addiction; finance; and family support. These are the pathways most closely linked with other projects focusing on the resettlement needs of FNPs and returnees (Europris, n.d.; Gavin, 2015; Cracknell and Ward, 2022).

Accommodation

Many prisoners lose their accommodation when they enter prison, and upon release from prison, many are left homeless (Social Exclusion Unit, 2002). For example, they may be staying in a hostel, squatting or even staying with friends. The relationship between homelessness and imprisonment is complex. Homelessness is linked to a high risk of reoffending (Hickey, 2002; Seymour and Costello, 2005).

Prisoners generally associate having accommodation upon release with helping them to stop reoffending (Williams *et al.*, 2012). This is not surprising

as having safe and secure accommodation upon release can help provide prisoners with a secure base from which other problems can be addressed (Greater London Authority, 2000). Typically, women are more likely to experience homelessness than men, and upon becoming homeless, many women embark on an unpredictable cycle of movement through emergency accommodation that can last for many years (Mayock and Sheridan, 2013; Kelly and Bogue, 2014). The impact of institutionalisation can often be felt most profoundly when women exit custody to return to the uncertainty of life in the community. For some, this uncertainty can be compounded by a lack of accommodation (O'Neill, 2017).

Gavin (2015) identified accommodation as being essential for the effective resettlement of returnees. One service-provider noted the importance of accommodation in helping to avoid relapsing into addiction and in reducing reoffending, while one service-user stated:

'That's the most important thing, to have a roof over your head, the most important thing. I don't know how people manage when they have nowhere to go.'

Cracknell and Ward (2022) presented similar findings. All returnees in their study emphasised how important housing was to their situation, whether this was being accommodated in a hostel or having access to more stable housing services. One returnee stated, 'Once I got my house, I started moving forward slowly', while a resettlement worker stated:

'I don't think you could even say someone is resettled if they are not in accommodation ... having somewhere stable is where you can kind of start building life again and without that I don't think it's possible to do anything else really.'

Education, training, and employment

Education in prison is a basic right of all prisoners (United Nations, 2015; Council of Europe, 1989). Prisoners engage with educational programmes for various reasons, including to catch up with education that they may have missed out on in childhood; to keep themselves occupied during their time in prison; to survive prison and manage the given time; and to improve employment prospects upon release (Behan, 2014). Those who leave school

early are at greater risk of experiencing long-term unemployment and social exclusion (Robinson and Meredith, 2013). As a socially excluded group, prisoners often truanted from school, left school at an early age, and have poor levels of literacy and numeracy (O'Mahony, 2002; Social Exclusion Unit, 2002; Robinson and Meredith, 2013).

Prisoners who engage with education and training programmes are less likely to reoffend upon release than those who do not (Social Exclusion Unit, 2002). Education and training while in prison can help to prevent criminal activity by increasing employability post-release. Access to employment decreases the likelihood of reoffending following an immediate prison sentence (Blomberg *et al.*, 2011; Kazemian *et al.*, 2009; Uggen and Staff, 2001; Van den Berg *et al.*, 2014). Research has found that educational engagement can lead to a reduction in reoffending of up to 7.5 per cent (House of Commons Education Committee, 2022).

The skills developed by prisoners who participate in education may result in a greater degree of socialisation through learning pro-social norms, which can make it easier for prisoners to obtain and retain a job upon their release (Bazos and Hausman, 2004). This is closely linked with the idea that education can 'help bring prisoners back into society' (Costello, 2014, p. 31) and thus assist with reintegration and resettlement. Securing employment is, therefore, a critical dimension of resettlement.

Stable employment and higher wages are associated with lower rates of criminality, as well as helping to empower individuals and improving their sense of self-worth and self-esteem (Martynowicz and Quigley, 2010; Cafferty *et al.*, 2016; Morris, 2012). However, in some cases, a criminal record will prove to be a barrier to employment. For example, when employers check a person's criminal record, that candidate is often perceived as less suitable for employment, despite an initial decision to hire them (Porter *et al.*, 2022).

There are inconsistencies between prisons in different jurisdictions in the courses and training they offer. Gavin (2015) found that while some returnees may have obtained training or qualification in prison abroad, these were often not recognised by Irish employers, and significant re-skilling was required on return to Ireland. While some returnees were of the view that education and training in prison were important, 'the real issue was their ability to access such courses or even information about them, on their release' (Gavin, 2015, p. 39). Service-users and service-providers identified education, training and employment as being very important in terms of overcoming a criminal record, getting work, and moving on with their lives.

It should be noted that not everyone in the criminal justice system is ready for employment on leaving prison and everyone's starting point is different. This was highlighted in Gavin's (2015) study where one service-provider stated:

'They might say "I'm ready for a job" and the question is "what stops you?" They say "oh I can take a job tomorrow" and when you go through it they have children, they have no child minding, they assume people will help them when they haven't even asked them, nothing's organised. It's all held together by the loosest of threads ... if you organise something too quickly it will fail, it will fall apart and it will compound their already existing sense of failure, and you don't want to do that.'

Cracknell and Ward (2022) found that securing employment on return was important, especially for younger participants in their study. Secure employment was found to impact on participants' sense of 'self', their sense of self-worth and their feelings of progressing towards successful resettlement.

Gavin (2015, p. 44) also noted that for returnees, 'dealing with new technology and new ways of living can be very stressful'. Cracknell and Ward (2022, p. 23) highlighted competence with digital technology and exclusion as being a key theme in their research, noting that many will have:

... missed out on acquiring skills that come alongside development of new technologies.... Many Prisoners Abroad clients experience 'digital exclusion' whereby they are unable to accomplish certain administrative tasks or engage in personal communications now typically conducted through digital devices.

One participant in their research stated:

'I got so much problems I was taking pictures of documents, I had to take pictures of my birth certificate, send it over, because I came in June of 2020, when the Covid was just, it was there. So I couldn't even come in physically to this office, I had to do everything remotely and ... me being away that long, technology had advanced so much, I didn't know anything.'

Mental health

The relationship between mental ill-health and offending behaviour is complex and is of international concern (Australian Institute of Health and Welfare, 2015; Brinded *et al.*, 2001; Simpson *et al.*, 2001; Human Rights Watch, 2015; Lehmann, 2012). A sample of 23,000 prisoners from twelve countries found that 4 per cent of male and female prisoners had psychotic illnesses, 10 per cent of male and 12 per cent of female prisoners had major depression, and 65 per cent of male and 42 per cent of female prisoners had a personality disorder (Fazel and Danesh, 2002). It is estimated that approximately 25 per cent of prisoners in Europe suffer from a significant mental disorder (Fraser *et al.*, 2009) and there are widespread shortages in prison mental healthcare throughout European countries (Salize *et al.*, 2007). Many mental health issues often go undetected and untreated in prison (Offender Health Research Network, 2009) and the prevalence of psychiatric morbidity in the prison population is much higher than in the general population (Singleton *et al.*, 1998; Grubin, 2010).

The prevalence of mental illness amongst offenders on probation is high (Gulati *et al.*, 2019; Cotter, 2015) and time in custody can have an adverse impact on mental health (O'Neill, 2017). Research has found a high prevalence of mental illness among women who are newly committed to prison (Bartlett and Hollins, 2018), and women in hostels have been found to suffer from poor mental health and need additional outreach support (Morris, 2012). Approximately 50 per cent of all people supervised by the Irish Probation Service who present with mental health problems also present with one or more of the following issues: alcohol and drug misuse, difficult family relationships, accommodation instability. These issues may severely impact on a person's ability to engage with resettlement services (Power, 2020).

Martynowicz and Quigley (2010) highlighted the inadequacy of mental health provision across the prison system, as well as the difficulties of linking former prisoners with mental health services on their release. More recently, the Irish Inspector of Prisons (2019, p. 38) stated that 'Ireland is currently not meeting its obligations to ensure adequate healthcare provision for mentally ill prisoners who are not receiving the treatment they require'. There are significant unmet psychological and psychiatric needs amongst those subject to probation supervision in Ireland. Gavin (2020) found that Irish prisoners in England and Wales, where the vast majority of ICPO clients are in prison, experience depression, paranoia, fear, isolation and loneliness. These can be

viewed as a crisis for the individual and in some cases resulted in acts of self-harm and attempted suicide.

Despite the increased risk of mental health issues for FNPs, very few participants in Gavin's (2015) study reported suffering from mental ill-health either prior to or during their incarceration, or post-release/return. Those who did report suffering from mental health issues were very critical of the availability of services in Ireland. One service-provider noted that it can be difficult to get returnees to engage with mental health services. Some service-providers were concerned that some returnees needed counselling, but they did not necessarily recognise it themselves. It was suggested that perhaps some returnees were putting on a brave face and simply wanted to forget about the past and move on. More than one ex-prisoner and service-provider mentioned the need for counselling services for returnees, with one service-provider stating:

'Something like therapeutic counselling to deal with the mental health issues ... they haven't yet dealt with. It would be wonderful if we had something to offer them here, just so that they could go somewhere confidential and talk through it all. Perhaps there's some counselling available, but it might not be specific to the experiences that people found in foreign prisons.'

Gavin (2015) described how most returnees will experience a sense of alienation, or 'reverse culture shock'. One service-provider described people returning to Ireland, particularly after a long period away, as being 'completely shell-shocked on arrival'. Cracknell and Ward (2022) also found that returnees went through a process of cultural adaptation upon their return to the UK. One area of concern identified by returnees and service-providers was the period immediately prior to and after release from prison as being a period of high anxiety. For those who have been in prison for a long time, seeing how life has changed on the outside and dealing with new technology and new ways of living can be very stressful. Upon entry to prison, prisoners often report what is known as entry shock. This anxiety on release might best be described as re-entry shock.

Addiction

The relationship between offending, imprisonment and substance misuse, be that the misuse of drugs or of alcohol, has been well documented in both the

criminal justice and medical literature for decades (Fazel *et al.*, 2006; Jones and Hoffmann, 2006; Seddon, 2010; O'Mahony, 2019). Prisoners are more likely to suffer from alcohol abuse than from drug abuse and, due to its widespread, low-cost availability, alcohol abuse is more likely to be overlooked (Tigue, 2010). Upon entry to prison, alcohol problems are not generally identified, nor is the severity of alcohol-related withdrawal (HMIP, 2010).

Use of illicit drugs is very common in prisons (Boys *et al.*, 2002; Strang *et al.*, 2006) and it is estimated that drug dependency amongst prisoners is approximately 800 times higher than that of the general population (Singleton *et al.*, 1998). Although the current data for illicit drug use in prisons across Europe is considered scarce (Carpentier *et al.*, 2012; van de Baan *et al.*, 2022), what is known is that many people enter prison with an existing drug dependency, while others initiate drug use in prison (Bullock, 2003; Strang *et al.*, 2006). Motivation factors often include a need to self-medicate and relief from the monotony of prison life (Penfold *et al.*, 2005).

Access to treatment for substance misuse is important during imprisonment and post-release (Chandler *et al.*, 2009; de Andrade *et al.*, 2018). Although drugs in prison are a serious problem, a period in prison may also be the first opportunity that some people get to avail of treatment and support for their addictions. This support is essential for effective resettlement. Morris (2012, p. 165) highlighted the importance of support and treatment for helping people move beyond 'the chaos and challenges that offending brings'. O'Neill (2017) reported widespread misuse of alcohol and drugs (including prescribed medication), and Rooney (2021) found there to be low levels of offender engagement with alcohol and drug intervention services.

Gavin (2015) highlighted treatment for drug and alcohol addiction as being a major factor when it comes to successful resettlement. Alcohol amongst the Irish population in Australia and the UK was highlighted as a cause for concern, especially in terms of binge drinking, which was seen to be more and more socially acceptable. Gavin (2015) also found that stable accommodation was important to support people in dealing with addiction, as referrals to support services will often come through a GP, and an address is often required to register with a GP.

Finance

Financial stability and ensuring that former prisoners have sufficient money to support themselves in the period immediately following release is essential for effective resettlement (Social Exclusion Unit, 2002; Gavin, 2015). The

Prisoner Finance Gap refers to the gap in financial support experienced by many prisoners on release. It has been identified as 'an issue that is likely to present a significant barrier to the effective resettlement of offenders back into the community' (Meadows *et al.*, 2010, p. 7). For ex-prisoners who experience this gap, there is an increased chance of reoffending in the first few weeks post-release (Citizens Advice Bureau, 2010). This makes recently released prisoners both economically vulnerable and economically insecure, and despite the large number of prisoners who return to their communities each year, little is known about how former prisoners make ends meet post-release (Harding *et al.*, 2014).

Most ex-prisoners will rely on the benefits system upon their release, but they will often experience a delay in receiving their benefits post-release. Many face significant challenges when it comes to attaining any form of financial stability, including difficulties in accessing bank accounts, outstanding debts, and poor financial management skills. Furthermore, many prisoners enter custody with a history of debt and financial problems which, left unaddressed, often get worse during their time in prison, and the system leaves many almost penniless in the weeks immediately after release (Gavin, 2015).

In the UK, benefits will usually end when someone is sent to prison. In some instances, Universal Credit housing costs can be paid for up to six months. Prisoners serving thirteen weeks or less can continue to claim Housing Benefit through the local authority, while those held in custody on remand are entitled to Housing Benefit for up to 52 weeks. Prisoners in the UK also receive a discharge grant on their release. This is a one-off subsistence payment of £82.39.

Family support

Families can play a vital role in supporting prisoners through their sentence as well as supporting ex-prisoners upon their release (Farrall, 2004; HM Inspectorate of Prisons, HM Inspectorate of Probation and Ofsted, 2014; Farmer, 2017). Strong family ties can result in a former prisoner having too much to lose by reverting to offending behaviour (Jardine, 2014; Cid and Marti, 2012). Family visits while in prison are an essential component of the rehabilitative process, and they perform several functions. They may be a reminder of the world outside and its associated responsibilities, allowing prisoners to continue their role as family members. They can smooth the adjustment of both family and prisoner to release and may reflect a promise of continued support on release (Shafer, 1994).

Those who do not have active family support during their imprisonment are more likely to reoffend in the first year after release, when compared to those who have family support (Mills and Codd, 2008; Cluley, 2009). Family support may help to reduce offending behaviour by providing guidance, advice and encouragement. It may involve building up confidence and giving ex-prisoners a reason not to go back to prison.

Female prisoners often face high levels of stigma, and Morris (2012) found that many women become isolated from friends and family when they receive a custodial sentence. Female offenders are twice as likely to experience difficulties in the family/marital domain as their male counterparts (Kelly and Bogue, 2014). Imprisonment can also have a lasting and damaging impact on the family of prisoners. This is especially true for female offenders who are mothers, and specific supports should be introduced to encourage family contact for women in prison (O'Neill, 2017). To combat these issues, it is important for support services to be put in place to help women to rebuild relationships with their family and friends. Such contact could help promote effective resettlement.

Gavin's (2015) research demonstrated the important role that family plays for returnees. This was considered in terms of how family can relate to the other resettlement pathways, especially accommodation. Several returnees noted that without the support of their family, resettlement would have been very difficult. This went beyond simply having a place to stay upon their return. Emotional and moral support were also highlighted as being of vital importance, and family was also seen as being a motivating factor for returnees to reintegrate successfully into society. Participants also highlighted the role that family played while they were in prison. Family support helped participants get through their sentence and provided them with a sense of perspective on their position. One returnee stated:

'They brought me back to thinking straight, they helped me realise that I hadn't lost everything. I'd just lost time, and it was time to start rebuilding.'

Gavin (2015) also noted that there are times where family may be seen as a hindrance to successful resettlement. For example, there may be situations where returning to the family home means returning to an environment of unemployment, addiction and violence. In such situations, where the family dynamic is problematic, it may prove beneficial to the returnee to separate from their family. Cracknell and Ward (2022) considered family from a

different point of view. In their study, they found that most returnees had no pre-existing family or friendship ties in the UK. Many respondents had left the UK as children, so their family support network was in the country from which they had returned. This proved to be very difficult for returnees.

Discussion

Safe and stable accommodation is vital for securing employment and benefits, registering with a GP and availing of drug treatment. Ex-prisoners might be able to stay with family in some cases, but where this is not an option, they may be able to access sheltered accommodation specifically designed for ex-offenders, rent in the private sector, or access social housing or homeless services. Sheltered housing facilities designed for ex-prisoners provide key worker support, as well as access to training and addiction services (Gavin, 2015).

In Ireland, there is currently a housing shortage and a homelessness crisis. This has seen rent costs soar, making it close to impossible for recently released prisoners or returnees to access the private rental market. Limited accommodation and high rents mean that ex-offenders can often access only substandard or unliveable accommodation (Seymour, 2004). Furthermore, there are just under 60,000 households on social housing waiting lists around the country. Gavin (2015) has noted that for those returnees who cannot stay with family, 'it is a bleak picture in terms of accommodation' (p. 36).

Education, training and employment are important for prisoners while in prison, but also post-release. Prisoners have often disengaged with educational services at an early age, and many have poor literacy and numeracy skills. Education and training pre- and post-release can help prisoners in terms of obtaining employment, as well as having an impact in terms of socialisation.

Employment post-release is important. It can help former prisoners by providing them with some daily structure and routine and giving them a sense of dignity. Having secure employment is closely related to the finance pathway as it can be a means of obtaining financial independence. Furthermore, for those who can obtain employment upon release and demonstrate some financial independence, it might make it easier for them to find secure accommodation. For those unable to secure employment on release, it is important that there is access to the social welfare system or, at the very least, access to educational and training courses.

Access to mental health and addiction treatment is important during a prison sentence as well as post-release and can be of vital importance for

effective resettlement. A period in prison can exacerbate existing mental health and addiction issues as well as creating them. Access to necessary services can often depend on having an address or suitable accommodation, especially if such access comes through a GP referral. Poor mental health or addiction may also impact on a person's ability to obtain or hold on to employment or engage with education or training programmes.

Poor mental health and addiction are sometimes linked with homelessness. A person may become homeless because of their mental health problem or addiction, or they may develop mental health problems or addiction issues as a result of being homeless. The homeless population is over-represented in both of these areas (World Health Organization, 2011; Homeless Link, 2014). Another issue of concern is that of dual diagnosis, whereby people present with mental health and addiction issues. It is often the case that mental health treatment cannot be obtained until a person is taking steps to deal with their addiction. Addiction treatment, however, cannot be obtained until they are taking measures to deal with their mental health issues. Thus, a vicious circle emerges.

When considering the impact of these pathways on returnees, it becomes clear that family is the most important resettlement pathway. Families can help with accommodation, with finances and with employment, as well as providing moral and emotional support. Codd (2008) found that prisoners who received at least one visit during their incarceration were three times more likely to have accommodation arranged on release.

Having an address can allow a returnee to register with a GP, which might help with accessing mental health and addiction treatment, if required. It may also help when it comes to securing financial assistance or benefits. Family members can also play a key role in securing employment as they may have wider networks and social circles to which the ex-prisoner may not be able to gain access (Farrall, 2004). One study found that 51 per cent of prisoners who had employment, training or education lined up on their release had made these arrangements through family members.

Family can also be a key source of support and encouragement for former prisoners who are failing to obtain work (Gavin, 2015).

Conclusion

This paper has highlighted the resettlement needs of FNPs who return to their home country after a period of imprisonment abroad. In many ways, their

resettlement needs are similar to those of all other prisoners. There are concerns over accommodation, healthcare, addiction issues, employment and education, and family contact, to name but a few.

These issues are, however, compounded when a prisoner is serving their sentence in another country. For example, there may be a language barrier, additional travel costs making visitation impossible, and concerns over immigration and deportation, which have the potential to tear families apart.

Based upon our findings, family contact with prisoners should be supported by all agencies, where possible. Families may also need emotional, social, and financial support when they have a loved one in prison, as well as support to prepare them for their release and upon their return.

Family support can prove to be the most effective resettlement pathway for returnees, as it can provide accommodation, financial support, employment opportunities and help in dealing with poor mental health or addiction. Quite simply, an offender's family 'are the most effective resettlement agency' (HM Inspectorate of Prisons, HM Inspectorate of Probation and Ofsted, 2020, p. 5) as they can often be 'the strand that links together all the other resettlement pathways' (Gavin, 2015, p. 50).

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Twenty Years A-Growing: Reflections on Two Decades of the *Irish Probation Journal*

Paul Doran and Vivian Geiran*

Summary: This brief commentary recalls the origins of North–South cooperation in probation work and, in particular, references the evolution of the *Irish Probation Journal* (IPJ) since its launch in 2004, acknowledging the contribution from various editors, editorial committees, advisory panels and contributors, as well as support from ministers and departments of Justice. Reflecting on significant trends in the justice world internationally, with a particular focus on probation, the paper sets out the contribution of *IPJ* to probation policy and practice on this island. This includes remembering where the two services, the Probation Service and the Probation Board for Northern Ireland, have led the way – in relation to rehabilitation and reintegration, restorative justice, problem-solving justice, community service/unpaid work, addressing victim issues, service-user involvement, community engagement and their shared commitment to social work. The authors acknowledge the impact of significant political developments, including Brexit, devolution of justice in Northern Ireland (NI) and the changing patterns of crime in both jurisdictions. Finally, the paper anticipates some of the challenges and opportunities for both services over the next twenty years and the authors’ thoughts on how the *Irish Probation Journal* can play a role in shaping that future. The authors approach subjects covered and offer reflections and opinions from our own respective and unique positions as inaugural editors of *IPJ* and experience in the fields discussed.

Keywords: Criminal justice, probation, North–South cooperation, research, victims, community, sanctions, supervision, social work.

Introduction

There is a now well-established commitment to cross-jurisdictional co-operation in probation work between the Irish Probation Service (PS) and the Probation Board for Northern Ireland (PBNI), as outlined in Doran (2015),

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Donnellan and McCaughey (2010) and Lamont and Geiran (2017). This co-operation has been evidenced in practice through cross-border contacts and collaboration at all levels, including annual joint senior management meetings, participation in joint training and other events and co-working in individual cases.

While occupying a uniquely 'insular' reality, in the sense of sharing the same land-mass, probation on this island has long been outward-looking too, in the sense of connecting with, learning from and contributing to probation and all it means, in the international context. For example, the heads of the two services were founder members of the Confederation of European Probation (CEP), established in 1981. The practical manifestation of joint working at organisational and 'frontline' level, North and South, as well as in reflecting on and developing good practice, was given new effect and impetus with the launch in 2004 of the *Irish Probation Journal (IPJ)*.

In our editorial in the first edition of *IPJ*, we expressed a hope that the Journal would become an annual record of issues facing probation staff in the two services and help the development of professional practice within the overall objective of reducing crime and the harm it does. Following the Belfast/Good Friday Agreement in 1998, a review of criminal justice recommended closer co-operation between the services but the success of *IPJ* has been down to the practitioners, editors and authors who have taken responsibility to make this co-operation a reality.

Our founding vision was to provide a forum for Probation Officers to share good practice and evidence of research-led effective initiatives, especially among a profession who were traditionally reluctant to highlight and record success in writing. We had contact with the *Probation Journal*, published by the National Association of Probation Officers (NAPO) in the UK, but wanted to establish a unique journal on the island of Ireland, reflecting our strong relationship despite the different legal jurisdictions, and sponsored directly by the two services. To that end, we recruited an editorial committee of practitioners and an advisory panel of academics with strong connections to criminology and social work. These groups have played the role of 'critical friends', which is important in ensuring community awareness and support for the work of probation, as well as reflecting contemporary developments in criminal justice. We also persuaded our heads of service and sponsoring departments to support the initiative and finance the 'product'.

International developments

The last twenty years or so have seen huge changes in politics, technology and responses to crime throughout the world. At a European level, a number of transnational organisations and networks have contributed hugely to the growth and strengthening of probation practice across the continent, and committed individuals from Ireland, North and South, have contributed to the bodies promoting this development. Such bodies include the European Union (EU), as well as Council of Europe (CoE), Confederation of European Probation (CEP) and the European Forum for Restorative Justice (EFRJ), among others. We would argue that this island has 'punched well above its weight' in its contribution to probation policy and practice internationally, through those European entities, to the enhancement of probation as a professional practice in this part of the world and to how probation is perceived internationally.

Some significant developmental themes have been the growth of research-based interventions, increasing professionalisation of probation work and the growth of focus on 'who works?' (e.g. Durnescu *et al.*, 2020) in addition to 'what works?', as well as the greater involvement of victims and communities, particularly in restorative justice, and the importance of the voice of service-users and all those experts by experience. The two services have been at the centre of these developments, and we are delighted that *IPJ* has featured and highlighted significant research initiatives and other milestone developments.

When Probation Officers wish to consider the context of their work or seek guidance on effective practice in a specific area, they have an easily accessible resource at their fingertips, particularly as all editions are available online from the respective service websites. *IPJ* has facilitated and nurtured writing by Probation Officers and provided a strong platform for those researching probation-related subjects to have their work published in a respected and peer-reviewed journal. The voice of Irish probation staff, experts and academics has been heard throughout these islands, Europe and beyond and we are confident that this will continue in future years despite the challenges from Brexit, the growth of populism and changes in attitudes to people who offend, as well as through the need to learn from the views of victims and an often critical media.

Developments in Ireland

When the *Irish Probation Journal* was launched in 2004, powers relating to policing and justice had not yet been devolved to the Northern Ireland

Assembly.¹ However, by 2010, we had the unique situation where both justice ministers, North and South, were former social workers.

Despite the challenges from the financial crisis in 2008 and the following years, the Journal had become an indispensable guide to the study of contemporary criminal justice issues, and was without parallel among criminal justice organisations on the island. In a development arising from the Belfast/Good Friday Agreement, the two services joined with other justice agencies to form the Public Protection Advisory Group (PPAG)² in 2010, under ministerial direction and jointly chaired by the heads of the probation organisations. This led to an annual PPAG conference, which has since served as a venue for the annual publication of the *Irish Probation Journal*. An important development was an increase in articles provided by partner agencies, particularly prison and police services, as well as non-governmental organisations (NGOs), which in turn served as a backdrop for closer collaboration and an extension of the rehabilitation ethos across the justice systems.

The shared commitment to social work and community engagement by the two agencies has been consistently highlighted in articles and cited by colleagues across Europe as a model for probation practice grounded in research-led and community-focused practice. As well as increasing opportunities for practice-led evidence to be described and discussed, the Journal has led to a strengthening of the vital links between probation practice and academia, adding value to both.

Future challenges and opportunities

There is no doubt that the growth of populism has been a challenge to rehabilitation services throughout the world, and Brexit has served as a specific challenge in cross-border co-operation in Ireland. Some might argue that Brexit may result in opportunities for even stronger co-operation between the two probation organisations on the island. In a similar way, while the COVID-19 pandemic impacted on all of us, the lessons learned and adaptations made, including increased use of ICT in our work, create possibilities for enhanced communication and co-operation, and other benefits.

1 The Northern Ireland Act, 1998 (Devolution of Policing and Justice Functions) Order 2010 provided for devolution to the Northern Ireland Assembly of legislative power in relation to policing and justice matters.

2 The Belfast/Good Friday Agreement (GFA), signed on 10 April 1998, led to a review of the criminal justice system in Northern Ireland from which a framework for co-operation between the two jurisdictions, North and South, was developed and the PPAG was established.

There will always be financial pressure on and within the parent organisations, and *IPJ* editors, in particular, have had to display many negotiating and social work skills – problem-solving, role-modelling and resilience – to ensure that the Journal is produced each year. One dilemma, for example, is whether to continue to produce a hard copy or move to an exclusively digital format; our bias as former Probation Officers of a certain vintage is to maintain a tangible product. Thankfully though, there are committed individuals and leaders who will guide future developments based on effective communications and media best practice.

In addition to providing an annual record of issues facing probation staff, *IPJ* has contributed to emerging evidence on contemporary criminal justice issues, such as restorative justice, problem-solving justice and service-user involvement. The COVID-19 pandemic has required fresh approaches in delivering services and, building on trust and confidence developed over the last two decades, the services have worked closely together in sharing best practice in the most difficult circumstances. This experience will be valuable moving forward, as one of the key lessons learned in producing *IPJ* is that complex problems require collaborative solutions.

New and emerging challenges will have to be grappled with and addressed. These include the growth in so-called ‘white collar crime’, cybercrime and the use of ICT and artificial intelligence (AI) in criminal justice and in probation work. Meanwhile, a range of longer-standing, and no less important, challenges – such as mental health and illness and the changing nature of substance misuse – remain as high on the probation agenda as ever. *IPJ* will undoubtedly maintain its importance and relevance as a forum for discussion of such issues, sharing research and learning, and for celebrating good practice and developing even better practice.

Conclusion

There is no doubt that our initial hope that *IPJ* would help to develop professional practice has been realised thanks to the efforts of staff in the two probation services and others, supported by the departments of Justice and ministers, and all who have contributed to *IPJ* over the years. Since 2007, after we stepped down as co-editors, the hardworking *IPJ* Editorial Board has been led by a series of co-editors – Jean O’Neill, Gail McGreevy and Lisa Maginnis (PBNI) and David O’Donovan, Suzanne Vella, Gerry McNally and Ursula Fernée (PS) – with the dedicated support of the advisory panel and external reviewers.

The *IPJ* has provided a valuable space and forum for ideas and discussion, sometimes reflective, sometimes challenging, but always informative and helpful. In the process, *IPJ* has earned an international reputation as a valued and respected source of knowledge and opinion and remains a unique example of North–South co-operation in the criminal justice field.

The original editorial committee was concerned that we would struggle to attract sufficient articles for the second edition: after twenty years of publications, including over 200 articles, not to mention numerous book reviews, practice pieces, practitioner reviews and comment pieces such as this one, we need not have worried.

While probation work recognises the impact of crime on victims, as well as the many adverse childhood experiences endured by people on supervision, it must also promote a sense of hope and belief in change for the better. The place and importance of the contribution of *IPJ* and all its contributors is well-established. The twentieth edition of the *Irish Probation Journal* is an occasion to be celebrated, as well as a strong and well-established foundation to build for the future.

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Book Reviews

Addiction Debates: Hot Topics from Policy to Practice¹

Catherine Comiskey

London: Sage Publications Ltd (Sage Swifts Series), 2020

ISBN: 9781526495761, 136 pages, hardback, £45.00

With the publication of this book, Catherine Comiskey has made a welcome contribution to the field of drug and alcohol services in Ireland. While Paul Griffiths of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) says in his foreword to the book that it makes a contribution internationally at a time of great flux for the world of drug use, policy and treatment, it is the national contribution it makes that is of particular interest to me as clinical lead of an Irish treatment service, Tabor Group.

Comiskey achieves the desired dynamism of setting out her work in terms of 'debates'. Each of the seven 'hot topics' forms a part of the structure of the book. She 'tops and tails', with Chapter 1 setting the motions and Chapter 9 concluding the debate and setting out a 'conceptual framework for the future'.

The hot topics are covered in Chapters 2 to 8: prohibition or legalisation; abstinence or harm reduction; drug consumption rooms and the local community; harm to children of substance-using parents; ageing drug-users; trade wars; and challenges to research policy and practice.

There is plenty to chew on here for the politicians, the policymakers, the treatment purchasers and the treatment providers, as well as those impacted by substance use. The breadth of her referencing within each chapter shows us a seasoned academic and researcher as she succinctly presents the hot topic.

Of particular interest to me, from a treatment-provider perspective, are the hot topics of treatment models, hidden harms to children, and ageing population of drug-users.

¹ Reviewed by Mick Devine, Clinical Director, Tabor Group (email: mdevine@taborgroup.ie).

While I am convinced that abstinence-based treatment models do need to feel the heat of these hot topics and get involved in evidence-based treatment outcomes, I consider Comiskey's presentation of the abstinence-based model to be unbalanced. It is presented as a model that is dependent for its efficacy on the policies of prohibition, the 'war on drugs', and Nancy Reagan's advice to us all to 'just say NO'. My own experience as a treatment practitioner in the abstinence-based model is that it has efficacy, is effective, is centred on the needs of the individual and the family and produces good outcomes. Its contribution to the debate had disappeared by the end of the chapter.

I would like to have heard more about Comiskey's experience of the 'controversy over treatment' and 'such heated debates from practitioners over the merits of their service', and how clients 'still feel stigmatised when they attend treatment' (p. 26).

Hidden harms to children is the hot topic of Chapter 5. Again, evidence from the USA, Australia, the UK, Scotland and Ireland is presented succinctly, and the global spectrum provided is welcome. While the scale of the challenge posed here is frightening, it is very welcome that our politicians, policymakers, treatment purchasers and treatment providers are challenged to take account of their needs and include improvements in children's experience as a necessary evidence base for the efficacy of treatment. It is good to reinforce the fact that grandparents, school and community play a part in limiting the adversity visited on children through a parent's substance use.

It is also welcome to have the perception that our drug-user is a young person challenged in Chapter 6 about our ageing drug-using population. Again, Comiskey's presentation is clear and concise and presents the reader from various interest groups with very helpful priorities from the World Health Organization, among other authorities, in responding to this client group with policies and treatment design.

There is a risk in structuring the material in terms of 'debates' and 'hot topics', as it tempts the adversary in us to come to the fore and seek to take sides and win the debate. Maybe the time has come to unite the field and overcome divisions between treatment providers, community, statutory and voluntary sectors, and treatment purchasers. There is also the necessary risk of fuelling the stigmatisation of the substance-user with such graphic and overwhelming material. Even the word 'addiction' is stigmatising and perhaps we do our service-users a favour by including them within the cohort of the population impacted by a chronic health challenge and adopting the term 'substance use disorder'.

Particularly within the Irish context, the exclusion of alcohol from the 'debate' is unfortunate.

Overall, Comiskey leaves us with rich material to contemplate and much guidance for policy and service planning into the future. Her succinct presentation of the 'People First Framework' for policy and practice development invites us all to new thinking and innovation (pages 117–9). This is most welcome.

The Desistance Journey: Into Recovery and Out of Chaos²

Graham Cambridge, Orla Lynch and James Windle

London: Palgrave Macmillan, 2022

ISBN: 9783031112683, 168 pages, hardback, €42.79

In the preface, the authors introduce their intention that *The Desistance Journey* should be accessible to both academics and those working with, or affected by, offending and addiction. It is a short, lucid and insightful text that is sparing in its use of jargon and gives centre-stage to the voices of people with lived experience. As the authors promise, it is a practice-friendly account of the work and findings derived from the academic work by Graham Cambridge in completing his PhD, and provides a 'multi-disciplinary holistic account of *doing desistance and recovery* [authors' italics]'.

The Desistance Journey is based on in-depth interviews with 40 men from Cork who had been involved in the criminal justice system; most served time in custody and had experience of addiction. The interviews were conducted by Graham Cambridge who was born and raised in Cork, in a similar environment to his interviewees. In his growing up in communities marked by economic deprivation, poverty, crime, addiction and marginalisation, he shared many experiences similar to those of the men he has interviewed. His awareness as an 'insider', using their shared connections and understanding, has given him unique access to their 'lived experience', to their reflections, their voices and their experience of the change journey.

Following the introduction, Chapter 2 describes current academic literature on desistance from crime and rehabilitation from addiction. Chapter 3 outlines the context of Cork City as the research site, highlighting the

² Reviewed by Gerry McNally, Assistant Director, the Probation Service (email: GPMcNally@probation.ie).

economic and social deprivation of marginalised areas, and the fact that such communities are over-represented among the people in prison in Ireland. Chapters 4 and 5 focus on the methodology and findings in Graham Cambridge's research and findings.

Chapter 5 and particularly Chapter 6 are rich and insightful in their use of interviewee quotations. They describe the poverty, neglect, abuse and trauma that these men have experienced. Fear, the need for respect, self-preservation and a toxic form of masculinity are clearly at their core, men who have not only been prisoners of the State but are also prisoners in their daily lives, of the 'street rules'.

The use of vivid quotations stands out in illustrating the lived realities in their world:

'You were respected if you fought, you were not respected if you could debate, you were not respected because you were intelligent, you were respected because you were not afraid to fight.' (P15) (p. 66)

'I had a name, and a reputation, so fellas were fighting me for their reputations, at this stage it was all reputation. I was doing the macho thing again.' (P21) (p. 68)

'Respect, we got respect and we were left alone, that was the key – we were left alone.... And many a time I would have got a clatter, a beating, but I stood up again and got more respect for it.' (P39) (p. 69)

The reality of addiction is starkly visible in the interviews:

'I never committed a crime sober.... The money that I got from crime went on drink and drugs.' (P15) (p. 74)

As is the normality of prison life:

'I fitted in there. I felt like I belonged in there. I was with people who were taking drugs and had the same ideology as me. It was easy for me to fit in....' (P15) (p. 89)

Chapter 7 and the conclusion reflect the burden and challenges in desistance and change, and in sustaining each step along that difficult path. Going

straight is seen as cultural betrayal (p. 79), old loyalties can be overwhelming (p. 109) and change can be a lonely road.

There is an interrelatedness between crime and addiction, locking the individuals into a cycle. A headline message throughout the book is that you cannot have desistance without recovery. Desistance from crime was seen as a by-product of overcoming addiction. Recovery can be particularly difficult because it is so at odds with their values, behaviours and way of life (p. 127), needing a maturing process that is part of change and growing a new identity. There are difficult stages in establishing a new identity, including deconstructing and shedding the previous identity, challenging relationships and working to establish that new identity.

Throughout *The Desistance Journey*, addressing toxic masculinity, the shifting of the interviewees' view of themselves as hard-men without hope, and that locked-in identity are central and fearful challenges. One can only be impressed by the openness and frankness of the interviewees and the perspicacity of the interviewer in revealing the inner feelings, vulnerabilities and fears in that lonely journey towards desistance. It's a tough world and not everyone survives.

The closing comment makes a universal point that needs to be recognised and heeded:

In order to recover and desist you have to live *an honest life* [authors' italics]. Not doing crime, not consuming drugs or alcohol is not success ... being kind, thoughtful and introspective and contributing to society were key parts of the process.

We could all learn from that.

Congratulations to Graham Cambridge, Orla Lynch and James Windle on the publication of this invaluable book. It deserves everyone's attention and, in particular, should be an essential text for all who work with people in the criminal justice system, addiction services and community development.