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Foreword

The Inter-Governmental Agreement (IGA) on Cooperation on Criminal Justice Matters provides an all-island framework for effective co-operation and co-ordination on criminal justice matters, including tackling criminal behaviour and working together in the prevention of crime. Cross-border co-operation on justice matters is vital to both of our jurisdictions and the IGA contributes greatly to ensuring that we are doing everything we can to promote good practice in these areas.

The development and enhancement of co-operation under the Agreement is taken forward by several Advisory Groups covering the areas of public protection, forensic science, youth justice, victims' issues, and criminal justice and social diversity issues. The Public Protection Advisory Group (PPAG) is jointly chaired by the Chief Executives of the Probation Board for Northern Ireland and the Probation Service, and its role is to oversee a programme of joint work and advise the Working Group with a view to enhancing protection of the public.

A key element of the PPAG work plan is the development of the *Irish Probation Journal*. This journal, which is a collaboration between the Probation Service and the Probation Board for Northern Ireland, is now in its twenty-first year. Partnership working can be difficult and requires investment of time and resources and commitment from staff. It is therefore a testament to both services that this particular collaboration has been in place for over two decades.

The collection of journals provides a rich source of information about changes and developments in probation practice and criminal justice and social policy. Over the past twenty years, the *Irish Probation Journal* has become a recognised forum for the sharing of criminal justice research, evaluation, analysis and debate on probation and community sanctions, contributing to the diversity and richness of our criminal justice knowledge base. In addition, it demonstrates the value of the synergy between academic research, criminal justice policy, and practice. Indeed, one of the key strengths of the Journal is its support of both academic and practitioner-led research and opinion.

The *Irish Probation Journal* has reached a special milestone and, to mark it, we are delighted to see this very special twenty-first edition – a compendium of previous articles, selected by probation practitioners and leaders, North and South, with their personal commentary and insight of the value, or impact, the selected article has for them in their respective roles.

This special edition features a range of articles which chart the trends in criminal justice and tell the story of how probation practice and wider criminal justice practice have developed as a result of evidence-based research. Trends and changes in policy, such as how we deal with women and young people who have offended, tackling substance misuse and addictions, problem-solving justice, and resettlement and reintegration of people who have offended back into communities are all subjects that have been researched and evaluated within the Journal.

The collective publications provide an important historical record of legislative and policy changes on this island. Indeed, it is of interest to us as leaders to see the broad range of articles which assess the impact of legislative change on areas of practice, including the management of sex offenders, tackling domestic abuse and how we provide services to victims of crime.

It is also of note that many articles over the past two decades comment on the changes in public perceptions and public understanding of criminal justice organisations.

We want to commend all those people who have taken the time to write for this year's edition and we want to thank everyone who has contributed to the Journal since its inception.

We are committed to maintaining our close working relationships and criminal justice co-operation, which ensure safer communities throughout the island of Ireland. The IGA mechanism continues to enable us to deliver effective co-operation between our respective organisations, and the publication of the *Irish Probation Journal* reinforces this.

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Mark Wilson
Director
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Editorial

This year marks the twenty-first anniversary of the publication of the *Irish Probation Journal*. As well as a time for celebration, twenty-first birthdays are a marker of maturity and independence. In this vein, this year's issue of the *Irish Probation Journal* provides a unique look back at the archives of the Journal through the perspectives of probation practitioners North and South. The articles included in this issue have all been specially chosen by practitioners because of their significance to their thinking and practice. Each article is accompanied by a brief explanation providing the rationale for selection.

The first article included in this collection is chosen by Margaret Griffin, Regional Manager in the Probation Service. The article, by Fergus McNeill, is based on the paper he delivered for the Martin Tansey Memorial Lecture in 2009. 'Probation, Rehabilitation and Reparation' explores the changing rationalities shaping rehabilitation over time. McNeill (2009) notes some critiques of rehabilitation and the different legitimation strategies of this shape-shifting concept. He concludes the article by calling for probation practitioners, managers and academics to be involved in helping to shape and redefine what rehabilitation means, both as an idea and as a practice. This call – to bring together voices from practice, management, and academia – resonates with what the *Irish Probation Journal* has done over the course of its history.

The second article included in this collection is an article written by the then Directors of the probation services North and South, Michael Donnellan and Brian McCaughey, and published in 2010. In this piece, the authors highlight the legacy of the historic Good Friday Agreement, which paved the way for a review of the criminal justice system in Northern Ireland and included recommendations advocating for closer co-operation across the two jurisdictions on the island of Ireland. This eventually led to the establishment of the Public Protection Advisory Group (PPAG), which this article specifically addresses. The PPAG identified a number of areas of common priorities between the Probation Board of Northern Ireland and the Probation Service, including best practice in the management of people convicted of sexual offences, information sharing and co-operation, and working with diversity.

The desire for greater co-operation is underscored by the changing political context, but also by an increased emphasis on co-operation between services at a broader European level, including in relation to sharing best practice and facilitating the transfer of supervision arrangements across borders. The pertinence of this is highlighted in the explanation by Gillian Montgomery (now Director of Operations in PBNI, but previously an Area Manager in mid-Ulster) of why she chose this piece, where she describes working in a border area where she saw these issues up close in practice.

The next series of articles chosen by practitioners for this special issue covers different aspects of research, policy and practice. Martynowicz and Quigley's research on the reintegration of prisoners in Ireland, published in the Journal in 2010, is selected by Tim Coughlan, a Probation Officer working in prisons. Tim explains that the findings of the article, which detail some of the challenges facing people leaving custody, in relation to the supports available, still resonate today, particularly in light of a rising prison population. Kate Walshe, a practitioner working in the Probation Service, has selected Phil Bowen's article, published in 2021, which provides a critical review of recent sentencing practice in England and Wales. While neither the Republic of Ireland nor Northern Ireland has seen the same level of punitiveness in penal policy in recent years as our neighbours, it is always instructive to look at nearby trends in criminal justice policy and sentencing. Bowen (2021) charts the ratcheting up of sentencing tariffs amongst successive Westminster governments, which has seen people being sent to prison more frequently and for longer periods. He also highlights some of the continued tensions in forthcoming legislation – between policies that will not do anything to ameliorate a burgeoning prison population and plans to reverse the calamitous privatisation of probation services in England and Wales. Meanwhile, Olivia Keaveney, Director of Operations with the Probation Service, highlights how Anna Connolly's summary of the research on effective practice in probation supervision, published in 2006, shaped her thinking about practice, particularly in relation to thinking about the meaning of quality in probation supervision.

Some of the challenges of practice, particularly meeting the wider needs of people under probation supervision, are highlighted in Paul Thompson's article about housing, published in 2014. In this article, Thompson (2014) highlights some of the challenges of addressing this fundamental area, and discusses how these challenges can be exacerbated when there is resistance to 'offenders' living within communities. Probation's role as a bridge between people under supervision comes through in this piece, which Liz Arthur, Area Manager with

PBNI, has chosen for inclusion, explaining that these issues and probation's role remain as live today.

The next article selected for the issue addresses a key concept that has been influential in practice in recent years. Maruna's (2017) and others' work on desistance has revitalised aspects of criminal justice policy and practice. At its simplest, desistance encourages a shift in our preoccupations regarding why people offend towards an emphasis on why and how people stop offending, and how they can be supported to do so. In this article, chosen by Peter Beck, a Probation Officer in PBNI, Maruna (2017) expands the lens of this work to focus towards 'Desistance as a Social Movement'. Taking inspiration from other movements – civil rights and recovery movements – he envisions the next step as one where desistance migrates from the realms of academic discussion into the communities where it occurs. This is a journey that had already begun at the time when this article was published and has since gained increased momentum.

The next two articles selected by practitioners for the special issue focus on topics that have been particularly relevant to practice in recent years. Collette Lattimore, an Area Manager with PBNI, has chosen Annie McAnallen and Emma McGinnis's article, 'Trauma-Informed Practice and the Criminal Justice System', published in the Journal in 2021. Meanwhile, Stephen Hamilton, Director of Operations, has selected Shane McCarthy's article on restorative justice, published in 2011. Both are topics that have gained increased resonance in practice in recent years.

Finally, probation is often decried for its relative lack of visibility, at least to outside audiences, for whom the image of the prison more readily comes to mind when sentencing and punishment are covered in the media and in wider public discourse. Many will be familiar with news headlines reporting that a person has 'escaped a custodial sentence', while the accompanying news story mentions in small print that the same person has received a community sentence. There is therefore a great deal to be done in raising the visibility of probation and community sanctions and measures, both within and beyond the criminal justice system. Books such as Vivian Geiran and Shane McCarthy's *Probation and Parole in Ireland: Law and Practice* go some way towards achieving this. Tara Kane, a Senior Probation Officer in the Probation Service, chose her review of Geiran and McCarthy's (2022) book for inclusion in this issue, noting that this book, the first of its kind on the topic in Ireland, provides an accessible and comprehensive guide to the subject.

All of the articles in this special edited collection speak to the inter-relationship between research and practice. The contributions to the Journal over the past twenty-one years show that this is not a one-directional journey. Practice has been influenced by the findings of research, but practice has also shaped research. Indeed, a number of the pieces in this collection have been written by practitioners and policymakers. Moreover, practitioners and people who are and have been subject to probation supervision have important insights to share about the nature of what it means to work with and be under the supervision of probation. Probation services and wider society need to listen to and learn more from these voices. It is fitting therefore that the final article included in this issue of the Journal is a new piece by Ian Marder and colleagues, describing the newly formed Criminal justice Open Research Dialogue (CORD) Partnership, which aims to embed a culture of interdisciplinary open research in the field of criminal justice. It is worth underscoring that the *Irish Probation Journal* has been at the forefront of this endeavour for the past twenty-one years – a clearly prescient and necessary voice.

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Probation, Rehabilitation and Reparation*

Fergus McNeill

Selected by Margaret Griffin †

Reading Fergus McNeill's article was quite a profound experience for me. What McNeill said about the challenges and dilemmas intrinsic to probation practice resonated very strongly with my experience as a practitioner and helped me to negotiate questions I had been posing to myself about consent, proportionality and the role of probation in considering and addressing the wider social context in which offending takes place. There is a real challenge for practitioners and the Probation Service to engage with the four principles which McNeill describes as a rights-based approach to rehabilitation: the duty of the state to provide for rehabilitation; proportional limits to the intrusions imposed on offenders; maximising choice and volunteerism within the process; and prison as a last resort. There is also a challenge to us to engage in public discourse about the concept of 'constructive punishment', which involves offenders working on change and facing up to the effects of their offending. In the years since 2009, the Probation Service has begun to meet these challenges, and the introduction of the Probation Service's new probation framework and practice manual, which has co-production as a core foundational principle for probation practice, is a key milestone in this journey.

* This paper is a version of the 2nd Annual Martin Tansey Memorial Lecture, organised by the Association for Crime and Justice Research and delivered on 7 May 2009 at the Dublin Regional Office of the Probation Service in Ireland. It appeared in vol. 6 of the *Irish Probation Journal* (2009).

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Summary: In Scotland and in England and Wales, recent reports and policy documents have sought to recast community penalties as 'payback'. Though the precise meanings of this term and the practices associated with it differ quite significantly in the two jurisdictions, it can be argued in both contexts that the concept of reparation may be supplanting rehabilitation as the dominant penal rationale within probation work. This paper seeks to place these current developments in historical context by exploring how rehabilitation has been understood, practised, celebrated and criticised over the course of probation's history. It goes on to examine what aspects and forms of rehabilitation we should seek to defend and retain, and what forms of reparation are most consistent with probation's traditions and values and most likely to be effective in delivering justice and reducing crime.
Keywords: Probation, punishment, rehabilitation, reparation, payback.

Introduction

At the heart of this paper lies a concern to consider and advance the contribution that probation and rehabilitation can make to curbing the worst excesses that emerge when we lose our reason in relation to penal policy: not an uncommon problem in a field that evokes strong emotions and tests the character of societies. Some commentators suggest that the game is already up for rehabilitation. For example, one of the greatest living sociologists, Zygmunt Bauman – a man twice exiled from his own country and, perhaps for that reason, a particularly acute observer of society and social change – offers this sentinel's warning:

> … the question of 'rehabilitation' is today prominent less by its contentiousness than by its growing irrelevance. Many criminologists will probably go on for some time yet rehearsing the time-honoured yet never resolved *querelles* of penal ideology – but by far the most seminal departure is precisely the abandonment of sincere or duplicitous declarations of 'rehabilitating intent' in the thinking of contemporary practitioners of the penal system. (Bauman, 2000, pp 210–11)

Behind this conclusion lies a characteristically convincing argument too complex to review here. Although instinctively I cling to the belief that he is unduly pessimistic, my respect for Bauman's insight compels me to engage in looking more closely at what is going on with rehabilitation and probation (or as we stubbornly call it, 'criminal justice social work') in Scotland and in jurisdictions further afield.

To that end, this paper has three main purposes. First, I want to explore very briefly the history of the development of rehabilitation as a penal concept and a penal practice, using the history of Scottish probation as a case study. I also intend to review critiques of rehabilitation, and in looking at its varied forms, I want to expose the slipperiness of the concept. Secondly, I intend to discuss what I think is a highly significant and challenging shift in emphasis in criminal justice social work in Scotland and in probation in England and Wales – a shift from rehabilitation to 'payback' as the central and defining concept underlying community sanctions. This is a shift that has significant risks, both potential and considerable. Towards the end, I will try to construct the beginnings of an argument that it may be both possible and desirable to combine rehabilitative and reparative perspectives and practices.

Rehabilitation: A very short history

It is very difficult to pin down exactly what rehabilitation means. Is it a concept or a theory or a practice? Is it a process – the process of *being* rehabilitated – or is rehabilitation the outcome of that process? Is it merely a means or mechanism, a way of bringing about change and restoration, or is the reinstatement of an errant citizen an end in itself? Is rehabilitation a right of the person being punished or is it their duty to rehabilitate themselves? Does the State have the right to compel or require the offender to be rehabilitated, or is it a duty that falls on the State to make provision available to make rehabilitation possible? And in the midst of all these questions, when Bauman says that rehabilitation is dead or dying, which of these things does he have in mind?

Two decades ago, Edgardo Rotman (1990) produced a very useful book on rehabilitation, called *Beyond Punishment*. In a brilliant and brief introductory chapter, he summarises the history of rehabilitation and elucidates four models, in rough chronological order. For Rotman, the story begins with the rise of the penitentiary, as a place of confinement where the sinner is given the opportunity to reflect soberly on their behaviour and on how to reform themselves, perhaps with divine help. This ideal stressed the reformative potential of both contemplation and work, sometimes in combination. But the religious ideas of rehabilitation expressed in the penitentiary evolved rapidly in the nineteenth and early twentieth centuries with the emergence of the 'psy' disciplines (psychiatry, psychology and social work). The idea that rehabilitation was about reforming the sinner, bringing them to acknowledgement of their wrongdoings, invoking repentance and

requiring some penance before restoration was progressively supplanted by a more scientific or medical model. Here, rehabilitation was understood as a form of treatment that could correct some flaw, physical or psychological, in the individual, thus remedying the problem of their behaviour. Moving through the twentieth century, this more medical or therapeutic version of rehabilitation was itself displaced, to some extent, by a shift in emphasis towards a model based on social learning in which our behaviours are understood as learned responses that can be unlearned. In this context rehabilitation is recast not as a sort of quasi-medical treatment for criminality but as the re-education of the poorly socialised.

Rotman (1990) himself, writing in the wake of over twenty years of severe criticism of rehabilitation as a concept and as a set of practices, advanced what he calls 'rights-based rehabilitation', linking this to arguments about the proper limits of punishment and the duty of the State to provide the opportunity for the offender to be restored. For Rotman, the collateral consequences of punishment, including for example the social exclusion that follows release from prison, is morally intolerable because the legally mandated punishment ought to have ended. Whereas the pains of confinement may be legitimate, the pains of release are not.

How did these models play out in Scottish probation history? Documentary research suggests that we can distinguish five eras that cast rehabilitation in quite different ways – ways that are broadly consistent with the scheme that Rotman outlined (McNeill, 2005; McNeill and Whyte, 2007). Initially probation begins in Glasgow in 1905 as a result of concerns about the excessive use of imprisonment, particularly for fine default. To divert such offenders in some constructive way, plain-clothes police officers provided a period of supervision over selected offenders on behalf of the courts. There is little notion at this time of treatment, and no attempt to 'correct' other than through 'mere' oversight. By the time of the Probation of Offenders (Scotland) Act, 1931, however, ideas have moved on to such an extent that the Act prohibits serving or former police officers from being probation staff – perhaps because of the emergence of the therapeutic ideal and a related move away from paternalistic and robust supervision. That said, evidence from an ongoing study exploring oral histories of Scottish probation (conducted by the author) suggests that, as late as the 1960s, the battle between the 'scientific social caseworkers' and the 'boys' brigade lobby' was still raging. One of the most interesting emerging findings from the oral history study is how slow practice can be to respond to changes in official discourse.

In the 1960s, the Scottish juvenile justice system was also reshaped as a result of the Kilbrandon Report (1964). In response to Kilbrandon, The Social Work (Scotland) Act, 1968 created the Children's Hearing System, a radically different way of dealing with juveniles, but it also brought probation services within social work services where the common duty was to promote social welfare. Offenders were thus defined as a group in need, just like people with disabilities, children in trouble, children who were neglected or frail older people.

These organisational arrangements still pertain, but that fact belies significant changes in the ethos and practice of criminal justice social work in the 1990s. If we were following Rotman's prescriptions, we might have expected the emergence of rights-based rehabilitation. Instead, the national standards (Social Work Services Group, 1991) counterbalanced the emphasis on the offender's welfare with the recognition of the need to hold the offender responsible for their behaviour. This was linked to the familiar concept of offence-based or offence-focused practice: doing something about the offending, not just attending to the needs of the offender.

This focus on a 'responsibility model' (Paterson and Tombs, 1998) lasted only six or seven years. In 1997, the first major criminal justice social work disaster, the murder of a seven-year-old boy called Scott Simpson by a sex offender on a supervised release order – Stephen Leisk – triggered a new focus on public protection and risk management and led the Minister then responsible (Henry McLeish – more on whom later) to declare that 'our paramount purpose is public safety' (Scottish Office, 1998 – see also Robinson and McNeill, 2004).

To summarise, Rotman's account of the history of rehabilitation maps fairly well onto the history of Scottish probation – or at least onto its official discourses – but his prescriptions for the future of rehabilitation have been unheeded in the context of the sorts of late-modern insecurities around risk that underlie Bauman's pessimism.

Rehabilitation: Critique

I will return to developments in Scotland shortly, but first it is useful to remind ourselves of what went wrong with rehabilitation and why it became so heavily criticised in the 1970s. This story is not so well known in Scotland, and I think it might not be so well known in Ireland; I suspect that in both jurisdictions, when the English and the North Americans were struggling with the 'nothing works'

agenda, the Celts were not paying much attention. It may not be an exaggeration to suggest that, at least as far as probation was concerned, the 1970s and 1980s involved a kind of hibernation of rehabilitation in Scotland (see McNeill and Whyte, 2007). Primarily because of organisational changes wrought by the Social Work (Scotland) Act, 1968, rehabilitation was not being practised enough to be critiqued and so the 'nothing works' movement did not have the impact in Scotland that it did elsewhere. Nonetheless, critiques of rehabilitation are as important now as they were in the 1970s.

A central point in this connection is that, if rehabilitation has so many meanings and so many forms, we need to take great care when we attack it or when we defend it as a penal practice. This argument was particularly well developed in a book by Gerry Johnstone, where he sums up as follows:

> I have suggested that the types of therapeutic programme and discourse which are usually discussed are the types which are least common in practice, and that the types which are usually ignored are the most common in practice. (Johnstone, 1996, pp 178–9)

Table 1: *Two versions of rehabilitation*

	Medicalsomatic	*Social psychological*
Causes of crime	Material	Environmental
Role of the individual in relation to their condition	Object	Subject
Role of the individual in relation to their treatment	Passive	Active
Treatment targets	Individual	Individual and other social systems

Source: Johnstone (1996).

As Table 1 illustrates, Johnstone (1996) distinguishes between what he calls a medical–somatic version of rehabilitation (the one that gets critiqued) and a social psychological version (the one that gets practised). Briefly, in the medical version, the causes of crime are material; that material cause operates on the individual, who is conceived as an object on whom these forces operate. Evidently this is a very deterministic model. The role of the individual in relation to their treatment is passive; they are a patient in the

same way that they would be in respect of any other material medical problem. The treatment targets are highly individual; little attention is paid in this model to the environment or to the social context and the social pressures that might relate to human behaviour. As a Dutch colleague put it to me recently, this is a 'between the ears' model of rehabilitation.

The social psychological model is significantly different. The causes of crime it posits are in the environment and the way that the environment operates and influences the individual. Nonetheless, the individual is not a passive object on which social forces operate; rather, the individual has agency as an active human subject engaging with those pressures. Hence, the offender is also an active subject in relation to their treatment or the intervention that they are receiving, which is something not done to them but with them. Moreover, the treatment targets do not merely aim to 'fix' something between the ears; they extend 'beyond the ears' and include the social context and the problems that give rise to the behaviour.

The significance of the distinctions between these two models rapidly becomes clear when we examine critiques of rehabilitation. In this respect, an edited collection by Bottoms and Preston (1980), ominously entitled *The Coming Penal Crisis*, emerges as a remarkably prescient piece of work. Bottoms (1980), in a chapter that deals with the collapse of the rehabilitative ideal, sums up its flaws and failings. First of all, rehabilitation was seen as being theoretically faulty in that it misconstrued the causes of crime as individual, when they are principally social and structural, and it misconstrued the nature of crime, failing to recognise the ways in which crime is itself socially constructed. Secondly, rehabilitative practices had been exposed as being systematically discriminatory, targeting coercive interventions on the most poor and disadvantaged people in society. Thirdly, rehabilitation was seen as being inconsistent with justice because judgements about liberty had come to be unduly influenced by dubious and subjective professional judgements hidden from or impenetrable to the offender. Through the development of the 'psy' disciplines, experts emerged with the supposed capacity to 'diagnose' what was wrong with the offender, and the offender was cast as a victim of his or her lack of insight. By implication, unless and until the offender was 'corrected' by the expert, s/he could not be treated as a subject. Fourthly, it was argued that rehabilitation faced a fundamental moral problem concerning coercing people to change. Finally, at the time when Bottoms was writing, the empirical evidence seemed to suggest that, despite its scientific pretensions, rehabilitation did not seem to work.

Of course, this last point has been significantly revised in the decades following, but in the rush to celebrate evidence of effectiveness, Bottoms' (1980) first four criticisms, it seems to me, have been increasingly overlooked. That said, it also seems to be critically important to grasp that what Bottoms is criticising is Johnstone's (1996) medical–somatic model of rehabilitation: the treatment model. As Johnstone (1996) points out, that was not the predominant model in practice, even by 1980. The social psychological paradigm arguably was more influential by the 1960s, at least in some jurisdictions.

So, what do we do about these criticisms? Bottoms (1980) – and this is where his prescience is really striking – suggests five directions we could take in the wake of the crisis around rehabilitation. First, we could revisit rehabilitation and try to fix what is wrong with it; that is, by attending to consent, by committing adequate resources and by conducting our rehabilitative activities in a way that is respectful of liberty. In other words, we could ensure that the intrusions that rehabilitation imposes on the offender are never greater than is merited by their offending behaviour. Secondly, we could embrace a justice model, focused on proportionality and the elimination of arbitrary discretion; at least if we cannot get rehabilitation right, we can try to get fairness in the system. Thirdly, we could take a more radical perspective, a kind of penal abolitionist position, and confront the problem that you cannot have 'just deserts' in an unjust society because the cards are stacked against some people. Their pathways into the criminal justice system are not just the result of their choices, and when we fail to respect the social context within which their behaviour emerges, we are not doing justice at all. Fourthly, and this is a more conservative response, we could pursue incapacitation and general deterrence and try to eliminate the threat that offenders pose, embracing overt social control. Finally, we might turn towards a more reparative ideal that takes the rights and interests of victims more seriously.

The story that unfolded in the 1980s and 1990s is, of course, a complex one. There was, in fact, a flurry of writing about new approaches to rehabilitation, including Rotman's (1990) work (see also Cullen and Gilbert, 1982). The new rehabilitationists (see Lewis, 2005) proposed four principles to guide rights-based rehabilitation: the assertion of the duty of the State to provide for rehabilitation; the establishment of proportional limits on the intrusions imposed; the principle of maximising choice and voluntarism in the process; and a commitment to using prison as a measure of last resort. I have argued elsewhere (McNeill, 2006) that in policy and practice, however, in both Scotland and (especially) England and Wales, what emerged was a

'what works' paradigm increasingly influenced by the preoccupation with public protection and risk reduction. Under this paradigm, probation officers intervene with or treat the offender to reduce reoffending and to protect the public. What is critical about this paradigm is that the 'client', if you like – the person or social group that the probation service is serving – is not the offender. Rather, probation is trying to change offenders to protect the law-abiding (see McCulloch and McNeill, 2007). Within this paradigm, practice is rooted in professional assessment of risk and need governed by structured assessment instruments; the offender is less and less an active participant and more and more an object that is being assessed through technologies applied by professionals. After assessment comes compulsory engagement in structured programmes and offender management processes as required elements of legal orders imposed irrespective of consent (at least in England and Wales, if not in Scotland as yet).

If we take this to be a morally and practically flawed paradigm (on which see McNeill, 2006), then what alternatives confront those of us labouring in the shadow of a larger neighbour whose influence we both respect and resist?

From rehabilitation to payback?

In other papers, I have tried to outline alternative approaches to rehabilitation and offender supervision, particularly drawing on empirical evidence about desistance from crime and how it can be best supported (most recently, McNeill 2009a, 2009b). In this paper, I want to take a slightly different tack. That said, the desistance paradigm compels us to hold to the notion of engaging with the person who has offended as a human subject, with legitimate interest to be respected and with both rights and duties, rather than as an object on whom systems and practices operate in the interests of others. As we will see, this notion is as relevant to reparation as it is to rehabilitation.

My interest in reparation has various roots, but most recently it has been revived by the report of the Scottish Prisons Commission (2008), a commission appointed by the Cabinet Secretary for Justice to examine the proper use of imprisonment in Scotland. The Commission was chaired by Henry McLeish, the abovementioned one-time Minister for Home and Health in the Scottish Office (pre-devolution) and later a First Minister of Scotland. The report (often referred to as the McLeish report) was published in July 2008; the Criminal Justice and Licensing Bill currently before the Scottish Parliament contains a range of measures that respond to the recommendations of this

report. The report contains a very sharp analysis of why the Scottish prison population has risen rapidly in recent years, to a level roughly twice that of Ireland. The key conclusion and central recommendations of the report are these:

> The evidence that we have reviewed leads us to the conclusion that to use imprisonment wisely is to target it where it can be most effective – in punishing serious crime and protecting the public.
> 1. To better target imprisonment and make it more effective, the Commission *recommends* that imprisonment should be reserved for people whose offences are so serious that no other form of punishment will do and for those who pose a significant threat of serious harm to the public.
> 2. To move beyond our reliance on imprisonment as a means of punishing offenders, the Commission *recommends* that *paying back in the community should become the default position in dealing with less serious offenders.* (Scottish Prisons Commission, 2008, p. 3; emphasis added)

The idea that we should pursue a parsimonious approach to imprisonment in particular and punishment in general is not a new one but it is a good one, for all sorts of reasons. The Commission's remedy for our collective over-consumption of imprisonment centres on a range of measures that it considers necessary to enact its second recommendation and make 'paying back in the community' the 'default position' for less serious offenders. Although we might certainly question the extent to which the development of sentencing *options* changes sentencing *practices*, many of these measures speak directly to the nature, forms and functions of probation or criminal justice social work, whether in relation to its court services, the community sanctions it delivers or its role in ex-prisoner resettlement.

Leaving aside the important question of resettlement on this occasion, the Commission's report seeks to recast both court services and community penalties around the concept of 'payback', which it defines as follows:

> In essence, payback means finding *constructive* ways to compensate or repair harms caused by crime. It involves making good to the victim and/or the community. This might be through financial payment, unpaid work, engaging in rehabilitative work or some combination of these and other

> approaches. Ultimately, o*ne of the best ways for offenders to pay back is by turning their lives around.* (Scottish Prisons Commission, 2008, paragraph 3.28; emphasis added)

Several ways of paying back are identified here and elsewhere in the report – through restorative justice practices, through financial penalties, through unpaid work, through restriction of liberty (meaning in this context electronically monitored curfews) and, perhaps most interestingly in this context, through 'paying back by working at change'. Working at change in turn is linked to engagement in a wide range of activities that might seem likely to address the issues underlying offending behaviour (drug and alcohol issues, money or housing problems, peer group and attitudinal issues, family difficulties, mental health problems, and so on). The report also recognises the need for offenders to opt-in to rehabilitative modes of reparation; their consent is required for both practical and ethical reasons.

In setting out a process for paying back, the Commission's report suggests a three-stage approach to sentencing. In stage 1, the judge makes a judgement about the level of penalty required by the offence, with information from the prosecutor and the defence agent. By implication, this is no business of social work, no business of probation; rather, it is a legal judgement about the appropriate level of penalty. But stage 2 considers what kind of payback, what form of reparation, is appropriate and this requires a dialogue not just between the judge and the court social worker, but one that actively engages the offender, too. Stage 3 involves checking up on the progress of paying back; here, the report proposes the establishment of a particular kind of court, a progress court, where specially trained judges who understand issues around compliance and around desistance from crime would have mechanisms at their disposal for handling setbacks and lapses without undue recourse to custody. This court would also have the power to reward compliance and positive progress through early discharge or the lightening of restrictions. Clearly, this model owes much to the development of problem-solving courts in many jurisdictions (see McIvor, 2009).

Around the time of the publication of *Scotland's Choice* (Scottish Prisons Commission, 2008), the UK Government published a report on *Engaging Communities in Fighting Crime*, written by Louise Casey. This sought solutions to perceived problems of public confidence in criminal justice in general and community penalties in particular. The research evidence about public attitudes to punishment in general and to probation in particular is, in

some respects, complex (see Allen and Hough, 2007). First of all, there is no public opinion; there are different opinions from different members of the public; different opinions from the same people depending on what you ask them, how you ask them, what mood they are in and, probably, what has happened to them in the past 24 hours. There is strong evidence that it is something of a myth to suggest that 'the public' are universally punitive in response to offenders. Though most people tend to say that sentences are too lenient, if they are provided with case histories and then asked to suggest a sentence, they tend to sentence similarly to or more leniently than real judges.

With regard to community sanctions, the fundamental problem is ignorance. The most recent British Crime Survey (Jansson, 2008), for example, suggests that only 20 per cent of people surveyed thought that probation in England and Wales was doing a good job. Allen and Hough (2007) sum up the problem beautifully by quoting a focus group respondent who said: 'I don't think probation means anything to many people'. This is a common finding in many jurisdictions; people don't really know what probation is, they don't know what it involves, they don't understand what it is trying to achieve.

Casey's solution was the rebranding (yet again) of community service, this time as 'community payback'. But Casey's concept of payback is quite different from the Scottish Prisons Commission's; it centres on making community service more visible and more demanding. She suggests that it should not be something the general public would choose to do themselves (in other words, it should be painful or punishing) and that offenders doing payback should wear bibs identifying them as such (in other words, that it should be shaming). Contrast these suggestions with the following statements from the Scottish Prisons Commission's report:

> … it is neither possible nor ethical to force people to change. But we are clear that if people refuse to pay back for their crimes, they must face the consequences. (Scottish Prisons Commission, 2008, paragraph 3.31b)

> The public have a right to know – routinely – how much has been paid back and in what ways. This does not and should not mean stigmatising offenders as they go about paying back; to do so would be counter-productive. But it does and should mean that much greater effort goes into communication with the communities in which payback takes place. (Scottish Prisons Commission, 2008, paragraph 3.31c)

In a recent paper exploring the available research evidence about public attitudes to probation in the light of Casey's recommendations, Maruna and King (2008, p. 347) come to the following conclusion:

> Casey is absolutely right to utilise emotive appeals to the public in order to increase public confidence in the criminal justice system. Justice is, at its heart, an emotional, symbolic process, not simply a matter of effectiveness and efficiency. However, if Casey's purpose was to increase confidence in community interventions, then she drew on the exact wrong emotions. Desires for revenge and retribution, anger, bitterness and moral indignation are powerful emotive forces, but they do not raise confidence in probation work – just the opposite. To do that, one would want to tap in to other, equally cherished, emotive values, such as the widely shared belief in redemption, the need for second chances, and beliefs that all people can change.

It is particularly interesting in this context to note that those who we might expect to be most angry and even vengeful in their emotive responses to offenders – crime victims – often seem able to draw on some of these more positive and cherished values. The recently published evaluation of restorative justice schemes in England evidenced this very clearly, though the findings are consistent with many earlier studies of victims' views and wishes:

> In approximately four-fifths of the conferences [n = 346] that we observed, offenders' problems and strategies to prevent reoffending were discussed, whilst discussion of financial or direct reparation to the victim was rare … This was not because victims or their wishes were ignored but rather because *victims, in common with other participants, actively wished to focus on addressing the offenders' problems and so minimizing the chance of reoffending*. In pre-conference interviews … 72 per cent of victims said it was very or quite important to them to help the offender. (Robinson and Shapland, 2008, p. 341, emphasis added)

So, although many of us may have grave reservations while looking south (or east) at Casey-style payback, McLeish's concept of 'paying back by working at change' seems to have strong resonance, not just with probation's rehabilitative origins and affiliations but with what many victims want from justice processes.

Moving forward: Alternatives to punishment or alternative punishments?

Historically, in many jurisdictions, probation and criminal justice social workers have tended to consider themselves as providers and advocates of (usually rehabilitative) *alternatives to punishment*, rather than as providers and advocates of *alternative punishments*. Somehow the notion of punishing, as opposed to supporting, supervising, treating or helping – or even challenging and confronting – seems inimical to the ethos, values and traditions of probation and social work. Certainly, that was once my view, but now I confess I am not so sure. The penal philosopher Antony Duff (2001) has argued convincingly that we can and should distinguish between 'constructive punishment' and 'merely punitive punishment'. Constructive punishment can and does involve the intentional infliction of pains, but only in so far as this is an inevitable (and intended) consequence of 'bringing offenders to face up to the effects and implications of their crimes, to rehabilitate them and to secure … reparation and reconciliation' (Duff, 2003, p. 181). This seems very close in some respects to the ideas of challenging and confronting offending that have become widely accepted in probation work in recent years, partly in response to political pressures to get tough but also, more positively, in response to the legitimate concerns of crime victims that their experiences should be taken more seriously.

But Duff's work also helps us with a second problem, since he recognises, as we have already noted and as probation and social workers have understood for decades, that where social injustice is implicated in the genesis of offending, the infliction of punishment (even constructive punishment) by the State is rendered morally problematic, because the State is often itself complicit in the offending through having failed in its prior duties to the 'offender'. For this reason, Duff suggests that probation officers or social workers should play a pivotal role in mediating between the offender and the wider polity, holding each one to account on behalf of the other. Again, this discomfiting space is one which many probation and social workers will recognise that they occupy and through which, with or without official or public support, they seek to promote social justice within criminal justice.

It may be, therefore, that Duff's work provides some of the conceptual resources with which to populate the concept of payback constructively. To the extent that the new centrality of reparation compels criminal justice social work to engage in punishing offenders, his notion of constructive punishment

and his insistence on the links between social justice and criminal justice might help to buttress a Scottish social work version of payback from drifting in the punitive and probably futile direction of its namesake south of the border. There are other sources that we could also draw upon usefully. Shadd Maruna's (2001) groundbreaking study of desistance, *Making Good: How Ex-convicts Reform and Rebuild their Lives*, is one of several desistance studies that have begun to reveal the importance for ex-offenders of 'making good', and of having their efforts to do so recognised. In a sense, the relevance of the concept of 'generativity' – referring to the human need to make some positive contribution, often to the next generation – hints at the links between paying back and paying forward, in the sense of making something good out of a damaged and damaging past (see McNeill and Maruna, 2007). Bazemore's (1998) work on 'earned redemption' examines more directly the tensions and synergies between reform and reparation, and the broader movements around 'relational justice' (Burnside and Baker, 2004) and restorative justice (Johnstone and Van Ness, 2007) provide possible normative frameworks within which to further debate and develop these tensions and synergies.

Clearly, the closer examination of these synergies and tensions that now seems necessary is beyond the scope of this paper. But in terms of the practical applications for probation, these ideas and developments evoke Martin Davies' (1981) notion of probation as a mediating institution. We can understand this in two ways. Firstly, probation mediates between the sometimes conflicting purposes of punishment – between retribution (but not of the merely punitive kind), reparation and rehabilitation. But equally probation mediates between the stakeholders in justice – between courts, communities, victims and offenders, much in the manner that Duff (2003) suggests.

I worry that under the rubric of public protection and risk, probation risks losing sight of the obligation to try to maintain some kind of balance between these purposes and these constituencies. When public protection is too dominant, probation services find themselves requiring something of the offender but with less recognition of the obligations that flow in the other direction. I understand very well the lure of recasting rehabilitation as risk management and protection; I can see why it seems to make sense to probation services to try to reconstruct their business around making a contribution to public protection when we live in an age of insecurity. Maybe making good to offenders does not have much cachet or cannot seem to attract much public or political support in these conditions. But, as I have

argued elsewhere (McCulloch and McNeill, 2007; McNeill, 2009b), there is a paradox with protection and there are risks with risk. The paradox is that the more that probation promises to protect, the more vulnerable the public will feel; the promise to protect us confirms the existence of a threat to us. Even an exceptionally effective probation service will sometimes have to deal with serious further offences, and when it does, its credibility as an agent of protection will be too easily dismantled. The political dangers of this position have become obvious in the wake of recent events in England

But there is also an ethical problem with the dominance of public protection. When probation accepts the lure of risk management and public protection, it preoccupies itself with things that may happen, with the offender's future behaviour, with potential victims and with the future impacts on communities. I think there is a danger that the more that we preoccupy ourselves with these imaginaries, the less we concern ourselves with the real victims and real offenders and real communities that are with us now. For all of those reasons, I am attracted to the idea of reconfiguring rehabilitation with a reparative focus – I can even live with the word 'payback'. But I can only buy into reparation if it is a two-way street; otherwise, to me it seems morally bankrupt.

To return to where we began, my challenge to you is that probation can wait and see how other stakeholders redefine or replace rehabilitation, or, attending to Bauman's warning, probation practitioners, managers and academics can work out how to do that for ourselves. If we accept that challenge, we can rest assured that we can draw on the accumulated and collective knowledge, values and skills that owe so much to Martin Tansey and others like him; the knowledge, values and skills that also represent such an important part of his legacy.

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The Public Protection Advisory Group: A Model for Structured Co-operation*

Michael Donnellan and Brian McCaughey

Selected by Gillian Montgomery†

Having completed my final-year social work placement with the Probation Service in 2003, I found Michael Donnellan and Brian McCaughey's article on co-operation between the Probation Service and the Probation Board for Northern Ireland a really informative read. When the article was published, I was working in PBNI as an Area Manager in Mid-Ulster, on a team which sits on the Armagh/Monaghan border, and there were frequent requests for transfers between the jurisdictions at that time. The article helpfully outlines the shared common heritage and the fundamental belief in community-based sanctions in both jurisdictions, as well as the differing organisational, political and legislative developments since the 1907 Act. Ultimately, the article reinforces that, despite the different systems and legislative challenges, North–South co-operation on criminal justice matters, currently taken forward via the Public Protection Advisory Group, jointly chaired by the Chief Executives of Probation Board Northern Ireland and the Probation Service, with attendance from Police, Prisons and the Departments of Justice in both jurisdictions, can only enhance public safety on both sides of the border, issues as relevant in 2024 as in 2010 when the article was initially published.

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Summary: On Friday, 10 April 1998, the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland was signed, heralding a historic opportunity for a new political beginning. The Good Friday Agreement, as it became known, included plans for a Northern Ireland Assembly and cross-border institutions; under the section on policing and justice, it made provision for a wide-ranging review of the criminal justice system in Northern Ireland. Arising from the recommendations contained in the review, the Intergovernmental Agreement on Cooperation on Criminal Justice Matters was established, providing a framework for co-operation between the two jurisdictions. That work is continuing through the recently completed 2010 Agreement. Under the auspices of the Intergovernmental Agreement Working Group, the Public Protection Advisory Group (PPAG) was formed as a subgroup and is jointly chaired by the Director of the Probation Board for Northern Ireland (PBNI) and the Director of the Probation Service (PS) (Ireland). The PPAG has provided a formal structure for the engagement of the PBNI and the PS and strengthened connections with the other important stakeholders in the Criminal Justice System. It has been meeting since early 2006 and has addressed a range of topics related to increased cross-border co-operation, the sharing of best practice and cross-border offending. This paper sets the context, traces the history of formalised co-operation between the PS and the PBNI from 1998, and describes the structure, scope and activities of the PPAG as a model for bilateral co-ordination and co-operation.
Keywords: Public Protection Advisory Group, Northern Ireland, Ireland, probation, criminal justice, Good Friday Agreement, cross-border co-operation.

Setting the context

There is a momentum for probation agencies throughout Europe to seek to work collaboratively. Increasingly, probation is extending beyond national boundaries at a professional level, at an organisational level and at an operational level.

Ireland is an island with two probation organisations with much in common and a shared commitment in working together, delivering services within their own jurisdictions. Through increased collaboration and co-operation, we have the capacity and commitment to ensure that probation is a robust and valued sanction in the Criminal Justice System across the island of Ireland, and through our working together that our services make a significant contribution to a safer Ireland.

The two services share a common heritage in the Probation of Offenders Act, 1907 and the commitment in it 'to assist, advise and befriend'. The political, social, economic and legislative changes of the past century have contributed to the development of two distinct services in Ireland and in

Northern Ireland. The developments in probation practice over the century have evolved from the offering of general assistance to offenders to evidence-based work in assessing and managing risk and interventions focused on changing the behaviour that contributes to the offending.

Notwithstanding the passage of time and differing contexts politically, legislatively and organisationally, the two services hold strong shared principles as well as the shared belief in the real benefits of community sanctions and the important role that probation can play in the Criminal Justice System.

The Probation Service (PS), an agency within the Department of Justice and Law Reform, has been on a journey of substantial change and modernisation in recent years. In 2006, a rebranded PS with a new management structure, a strengthened in-house corporate structure and a renewed Service Strategic Plan was launched. Staff numbers increased to almost 500; the Service extends to all 26 counties, is available to every court in Ireland exercising criminal jurisdiction and has staff working in all prisons and places of detention.

Legislation has added more and more new functions, including supervision of part-suspended sentences under the Criminal Justice Act, 2006. The Department of Justice and Law Reform, through the Prisons and Probation Policy Division, provides direction, support and co-ordination across the Criminal Justice System.

The Probation Board for Northern Ireland (PBNI) is a Non-Departmental Public Body (NDPB). When policing and justice functions in Northern Ireland were devolved to the Northern Ireland Assembly on 12 April 2010, the Department of Justice was established as a new Northern Ireland Department by the Department of Justice Act (Northern Ireland), 2010. From this date, the Probation Board became an NDPB of the Department of Justice. Prior to this, it was accountable to the Secretary of State for Northern Ireland.

The PBNI believes that the devolution of policing and justice powers presents real opportunities to strengthen and build on what has been achieved to date. There are currently around 420 staff in 31 offices across Northern Ireland, and probation officers work in every part of the community – in, with and through the community.

The PS and PBNI recognise the need to continue to develop initiatives that improve and assist the efforts of those under supervision who want to break the cycle of offending, change their lifestyle and become contributing members of their communities. The shared agenda of the two services, the mutuality of vision, goals and commitment to effective practice provided

both the platform for and impetus to progress the recommendations outlined in the Criminal Justice Review 2000.[1]

Good Friday Agreement

On Friday, 10 April 1998, a comprehensive political agreement – known as the Good Friday Agreement – was signed. The British and Irish Governments signed a new British–Irish Agreement committing them to give effect to the provisions of this multi-party agreement, in particular those relating to constitutional change and the creation of new institutions.

The Good Friday Agreement included provision for a wide-ranging review of the Criminal Justice System in Northern Ireland, to assess the need for reforms and to ascertain the scope for 'structured co-operation between the criminal justice agencies on both parts of the island'. The Review Group reported on its findings in March 2000, making a total of 298 recommendations. The British government accepted the recommendations and published legislation and an implementation plan to give effect to the recommendations.

PROTECT North and South

Two of the recommendations of the Criminal Justice Review were of particular significance in promoting joint working by the PBNI and the PS in the development of a jointly managed and staffed project.

Recommendation 279 proposed 'that the scope for the joint delivery of training, education (including continuing professional development) and the exchange of good practice on criminal justice issues should be examined'; and Recommendation 282 advocated 'fostering co-operation between researchers through joint conferences and seminars and … that specific research projects might be undertaken on an all island basis'.

PROTECT North and South (Probation Reducing Offending through Enhanced Co-operation and Training) was established by the PBNI and PS in direct response to the recommendations. Funded by the Special European Union Programmes Body (Peace II), it was launched in 2004 as a two-year initiative.

The objectives of PROTECT North and South were to 'maximize the opportunity provided by peace, to begin to understand, share and develop professional approaches to assist in the effective management of a range of offenders'. Its four key aims were to:

1 Available at https://cain.ulster.ac.uk/issues/law/cjr/report30300.htm

1. Develop cross-border approaches to the management of offenders
2. Disseminate knowledge of effective models of supervision approaches
3. Promote and engage with local communities
4. Create opportunities for staff exchanges.

By the time the PROTECT North and South project had reached its conclusion in 2006, it had worked on identification of shared issues and hosted conferences (Kennedy, Moore and Williamson, 2005) and seminars demonstrating effective practice. It had progressed the development of a shared protocol for the monitoring of sex offenders and the joint delivery of programmes addressing domestic violence and drink driving on a cross-border basis.

Public Protection Advisory Group

The Criminal Justice Review referred to North–South co-operation on criminal justice matters, recommending that 'a group of criminal justice policymakers from the two jurisdictions be established … to identify and advise on the opportunities for co-operation at government level and between the criminal justice agencies North and South' (Recommendation 278).

The Agreement on Cooperation on Criminal Justice Matters was signed on 26 July 2005 by Minister for Justice, Equality and Law Reform Michael McDowell and NIO Criminal Justice Minister David Hanson, MP. In April 2010, a new Intergovernmental Agreement was signed, which ensured that this framework would remain in place following the devolution of policing and justice powers to the Northern Ireland Assembly.

The Intergovernmental Agreement on Cooperation on Criminal Justice Matters provides a framework for co-operation that includes at least one ministerial meeting per year between the relevant Belfast and Dublin Ministers, who receive reports from a Working Group made up of officials from both jurisdictions.

Under the auspices of the Intergovernmental Agreement Working Group, the Public Protection Advisory Group (PPAG) was formed as a sub-group[2] and is jointly chaired by the Directors of PBNI and PS. Its role is to advise the Working Group on the potential for strengthening enforcement of non-custodial sentences and post-custodial supervision, with a view to enhancing protection of the public.

2 PPAG membership consists of senior representatives from the Criminal Justice Directorate Northern Ireland Office, the Department of Justice and Law Reform, the Northern Ireland Prison Service, the Irish Prison Service, An Garda Síochána and the Police Service of Northern Ireland.

The PPAG has provided a formal structure for the engagement of the services and strengthened connections with the other important stakeholders in the criminal justice systems, North and South. It also provided a forum to address Recommendation 286 of the Criminal Justice Review, which proposed that 'the issue of developing mutual arrangements for continued enforcement of non-custodial sentences and post custodial supervision should be addressed. Arrangements for accessing programmes available in the other jurisdiction should also be considered.'

The terms of reference of the PPAG, revised in 2006, are:

- To examine existing policies and practices on the rehabilitation of offenders in both jurisdictions and elsewhere, to identify best practice and any gaps in rehabilitation services, so that those approaches with a proven record of success are assessed for common adoption
- To develop joint recommendations for the future rehabilitation of offenders, which will also reduce the rate of recidivism, and enhance community safety and social integration.

The PPAG has been meeting since early 2006 and has addressed a range of topics and built on initiatives arising under the PROTECT North and South project. The issues identified include increased cross-border co-operation, the sharing of best practice and addressing cross-border offending.

As common issues emerged, it became increasingly clear that a collaborative approach by the two services in addressing these would be the most effective. The overarching consideration in all our work continues to be the imperative to maximise community safety and prevent victimisation, and we believe this can best be achieved through effective probation and interagency practice. To this end, the PPAG has identified the following priorities.

1. Best practice in the management of sex offenders

The Sex Offender protocol agreed between the services and effective from 1 May 2010 is aimed at enhancing public protection across the island of Ireland by strengthening the management of sex offenders who move between jurisdictions. It provides a framework for the secure and confidential sharing of information between the PBNI and the PS while co-coordinating the supervision and management of sex offenders in the community in both jurisdictions.

The protocol has been informed by up-to-date practice developments, data protection issues and case-management reviews in relation to offenders who moved from one jurisdiction to the other.

The PPAG-supported implementation of an all-island approach to the assessment and management of sex offenders has resulted in the application of agreed risk assessment tools by probation and police services in both jurisdictions. Relevant staff have been trained in RM 2000 (Thornton *et al.*, 2003) and in Stable and Acute 2007 (Hanson and Harris, 2000; Hanson, Harris, Scott and Helmus, 2007).

2. Best practice development in managing diversity

The increasingly multicultural society North and South is an important consideration for all public services in responding to the needs of service-users. Rather than relying on anecdotal information, it was recognised that accurate information about foreign nationals under the management of the PS and PBNI was necessary. A survey was undertaken by both services on 1 May 2009, which provided information on ethnicity, language, location and numbers, as well as highlighting other barriers in accessing probation services.

3. Information sharing and co-operation

The work of the PPAG has advanced the day-to-day co-operation and co-ordination of the two services, facilitating information and knowledge sharing and the development of complementarity and consistencies in practice. A point of contact within each jurisdiction for all transfer requests and information exchanges has been established and has structured communication between the services. It also allows for the collation of information, which is presented to the PPAG on a six-monthly basis.

The development of an international desk in each jurisdiction is particularly noteworthy and establishes a process and structure that will enhance communication and ease the implementation of EU Framework Decision 2008/947/JHA[3] on the application of the principle of mutual recognition to judgements and probation decisions, with a view to the supervision of probation measures and alternative sanctions. Under the Framework Decision, from December 2011, it should be possible to transfer the probation supervision of community sanctions between jurisdictions.

3 Available at http://eur-lex.europa.eu/en/index.htm

Implementation of the Framework Decision is among a number of priority areas in the work programme agreed by the Ministers for action by summer 2011.

The way forward

Ministerial commitment

The first formal meeting of the cross-border criminal justice ministerial group was held in Carlingford on 9 July 2010. The Minister for Justice and Law Reform, Dermot Ahern, TD and the Northern Ireland Justice Minister, David Ford, MLA met to discuss a range of issues, including the work of the PPAG.

Speaking after the meeting, Minister Ahern said:

> There is a real closeness in North/South relations in the justice and policing area that can only be to the benefit of the wider public on both sides of the border … We are also promoting engagement on a strategic level between the various criminal justice agencies with a view to the exchange of expertise, best practice and policy development. We face the same challenges and it is important that we share ideas and co-operate in tackling them.

Minister Ford said:

> I am committed to working closely with Dermot Ahern to drive forward a range of criminal justice initiatives to make Ireland, both North and South, a better and safer place to live. The devolution of policing and justice powers provides an opportunity to enhance the working relationship with the Irish Government. Co-operation between criminal justice agencies is critical.

Value of the PPAG to the criminal justice systems North and South

The PPAG in its work with criminal justice agencies North and South has provided invaluable leadership in joint working across jurisdictions and in the development of all-island initiatives. The achievements to date in the closer working between the services, the shared understanding and the effective systems in place are testament to the important impact of the PPAG. We now have valuable structures in place, enhanced communication and an ongoing sharing and development of knowledge and expertise.

These structures are increasingly important not only for us on the island of Ireland but also throughout Europe, as evidenced in the forthcoming EU Framework Decision on the transfer of community sanctions across jurisdictions.

We need to share knowledge, skills, expertise and experience and have strong communications to ensure that, as offenders cross from one jurisdiction to another, we have a strong and sound management plan in place. Co-operation and communication between agencies and across jurisdictions in how we manage offenders are vital if we are to collaborate effectively and achieve results.

The leadership and vision provided by the PPAG as a model for structured co-operation is undoubtedly making an enormous contribution to keeping communities safer. The strength of the PPAG is in the development of bottom-up practical co-operation and, as the Heads of our respective services, we will strive to see that practical work continue

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Reintegration of Prisoners in Ireland: New Research Findings*

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When I heard of the special edition of the *Irish Probation Journal*, my thoughts transported me back to 2010 and the article 'Reintegration of Prisoners in Ireland: New Research Findings'. I believe that this article has many important messages for the custody and management of offenders in prisons today, as well as many insights into the important role of families and community, including the role of NGOs in supporting reintegration today. A key message for me, a probation officer working in a prison, is the acknowledgement that leaving prison for some can be as traumatic as it is for those who become incarcerated for the first time. The article expresses concern at the sharp increase in the number of people taken into custody, not unlike today, and how stakeholders are attempting to secure extra resources to meet future demands, grapple with the challenges for those imprisoned and the resettlement issues that present, including accommodation, mental health and addiction. The article also looks at the role of the service-providers and those who attempt to assist with the reintegration process. Many of us will be familiar with the challenges raised yet, in in spite of all, I found the article to be essentially optimistic.

* This paper is based on the findings of a research report (Martynowicz and Quigley, 2010). It appeared in vol. 7 of the *Irish Probation Journal* (2010).

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Summary: This article presents selected findings of a study of the provision of reintegration support for prisoners leaving custody in Ireland undertaken by the authors for the Irish Penal Reform Trust. It argues that provision of certain support such as accommodation has improved significantly in recent years, but some important difficulties remain. Considering the sharp increase in the number of people in custody in Ireland, the authors argue that investment in post-release support should form the central part of the State's response to the rise in prison population.
Keywords: Custody, management of offenders, prison, prison policy, rehabilitation, reintegration, reintegration services, resettlement.

Introduction

Return to life outside prison walls can be a traumatic experience. Provision of support, where required and welcomed by those leaving custody, is crucial to the successful transition from prison back into the community and return to independent living. Individual motivation plays a central role in reintegration. Initial support, such as provision of information about accommodation, welfare entitlements and assistance in gaining access to healthcare, however, has the potential to preclude the frustration and sense of rejection by society that may be felt when the basic needs of prisoners are not addressed.

Between September 2009 and April 2010, the Irish Penal Reform Trust conducted a research study to evaluate the provision of reintegration services to prisoners in custody and upon release. The purpose of the research was to assess (where possible) the extent of service provision in Ireland, to assess the impact of post-release support currently provided on reoffending and reimprisonment, and to identify and assess existing barriers to reintegration *vis-à-vis* provision of services. Its purpose was also to enable the Irish Penal Reform Trust to assess the implementation of recommendations made in an earlier report, *Re-integration of Prisoners*, published by the National Economic and Social Forum in 2002 (NESF, 2002).

This paper presents the context of the study, as well as some selected findings.

The context

Prison imposes limitations on the rights of prisoners quite apart from the deprivation of liberty; it has a profound negative social impact on the prisoner, the prisoner's family and his or her community (Irish Penal Reform Trust, 2009). Often, the consequences of even short periods of imprisonment

are permanent or long-lasting for both the prisoner and those close to him or her (Liebling and Maruna, 2005).

On an individual level, experience of imprisonment may lead to institutionalisation, and damage 'is done to prisoners' social functioning and their ties to the lawful community, making them vulnerable to a rapid return to crime when they leave' (Coyle, 2005). Research has also shown that the communities to which prisoners return on their release are characterised by high levels of deprivation and least able to cope successfully with their re-entry (O'Donnell *et al.*, 2007). Reintegration support should therefore be one of the most vital elements of penal and wider social policy to stem reoffending, the increase in prison population and multiple returns to custody.

Imprisonment in Ireland

The daily prison population in Ireland has more than doubled in the past twenty years, from 2,100 prisoners in 1990 to over 4,300 in June 2010. It increased by over 400 prisoners between June 2009 and June 2010 alone, bringing the rate of imprisonment up to 97 per 100,000.[1] Additionally, nearly 950 people were on temporary release (TR) in the community in June 2010.[2] This adds up to over 5,200 people who were subject to custodial sanctions in mid-2010.

Ireland also continues to have a very high rate of committals to prison. Over 13,500 people were committed to prison in 2008 (Irish Prison Service, 2009), up from 11,934 in 2007 (Irish Prison Service, 2008). Nearly 80 per cent of committals are for sentences less than twelve months, with 60 per cent for less than six months (Martynowicz and Quigley, 2010).

Cost of imprisonment and reimprisonment rates

Ireland experiences high reoffending rates, with nearly 50 per cent being reimprisoned within four years (O'Donnell, Palmer and Hughes, 2008). An analysis conducted by O'Donnell *et al.* (2008) of available information relating to over 19,000 prisoners showed that 27.4 per cent of those who leave prisons are back in custody within the first year, increasing to just over 45 per cent within three years.

1 The daily population figure for 25 June 2010 was 4,317 (information supplied to the Irish Penal Reform Trust by the Irish Prison Service on request). On the same day, the number of people on temporary release from prison was 941. The last recorded figure for the estimated population of Ireland was 4,459,300 in April 2009.
2 '938 prisoners on release as jail population hits record level', *Irish Times*, 21 June 2010.

Imprisonment in Ireland is also very expensive. One prison place costs, on average, €92,717 per year (Irish Prison Service, 2009).

This cost does not necessarily translate into high-quality facilities with high-quality provision of rehabilitative services. In many of the prisons, the opposite is true. The Irish prison system is chronically overcrowded and the prisons, as well as service-providers from outside agencies in the statutory and voluntary sector, struggle to engage in a meaningful way with the vast majority of prisoners, despite marked improvements in service provision in recent years (Martynowicz and Quigley, 2010). Provision of support is also made more difficult by the physical conditions prevailing in many of the facilities.

The importance of reintegration support

The increasing number of prisoners in the State translates into an increasing number of people leaving custody each year. The prison environment itself is not conducive to rehabilitation or to preparation for release, due to the inherent nature of imprisonment, as the isolation and disempowerment during a prison sentence can increase one's sense of lack of control (Maruna, 2001). Dependence on the structures in place in prison is often internalised by prisoners over the period of incarceration (Haney, 2001). The constant presence of external controls and their role in regulating prisoners' behaviour can result in the individual's self-regulation becoming muted and, for younger prisoners, underdeveloped (Haney, 2001).

In Ireland, the problem was well illustrated in a research report on the experience of prisoners and their families following release from custody in Limerick Prison (Bedford Row, 2007). Family members were deeply concerned by the level of institutionalisation experienced by prisoners, stating that following release from prison even simple things could be difficult. Prisoners were not, for example, used to eating with other people, having been accustomed to eating alone in a cell (Bedford Row, 2007). The long periods of time prisoners spent in the cells and the negative impact of long periods of lock-up on the prisoners' functioning were among the concerns raised – an issue of utmost importance in Ireland, where 20 per cent of the prison population at any given time is placed in protective custody, often requiring 23-hour lock-up (Inspector of Prisons, 2009). It is therefore clear that support is often needed to counter the effects of imprisonment if prisoners are to be successful in their return to their families and communities.

The 'burden of resettlement' in Ireland

A study undertaken by O'Donnell *et al.* (2007) demonstrated that areas characterised by deprivation, particularly if they are located in a city, experience by far the greatest challenge in terms of accommodating released prisoners. Most importantly, the study looked not only at the number of prisoners being released from prison every year, but also at where they were going following release from custody. In doing so, it considered the potential *burden of resettlement* on communities that are dually and disproportionately affected by deprivation and the task of facilitating the re-entry of community members coming out of prison.

The mapping exercise by O'Donnell *et al.* (2007) showed that a total of 2,335 (68 per cent) of the 3,422 electoral divisions (EDs) in the country had no released prisoners associated with them during 2004. The study reveals that nearly 24 per cent of all prisoners came from 1 per cent of EDs, while less than 5 per cent of the overall population of Ireland came from the same 1 per cent of EDs.[3] When looking at the number of prisoners from certain areas, the study found that there were 145.9 prisoners per 10,000 in the most deprived areas. This compared with a rate of just 6.3 prisoners in the least deprived areas. The authors go on to state that:

> this difference is startling and demonstrates unequivocally that it is the areas already marked by serious disadvantage that must bear the brunt of the social problems that accompany released prisoners. (O'Donnell *et al.*, 2007)

In terms of policy implications, the allocation of resources for reintegration support should be targeted equally at areas that have the highest numbers of returning prisoners, and

> The challenge of connecting ex-prisoners with relevant services, supports and treatment options is of critical importance from a penal planning perspective. (O'Donnell *et al.*, 2007)

While understanding the rate of and reasons for reoffending and reimprisonment is important, post-release integration must also be measured on more than simply rates of recidivism. Underneath the figures of repeat offending lies

3 The 1 per cent of EDs were in the cities of Dublin, Cork and Limerick and the towns of Dundalk, Tralee, Tullamore, Navan, Clonmel, Dungarvan and Mullingar.

a multitude of needs, events, experiences, processes and progression routes. If reintegration is to be a core aim, or even a duty of the Prison Service and other agencies working with prisoners and ex-prisoners, then co-ordinated and appropriate services are required that both address the complex needs with which prisoners present and support desistance from crime in the long term. The next section outlines some of the information available regarding such needs in the prison population in Ireland and internationally.

Service provision *vis-à-vis* need

Often the issues that form barriers to reintegration following a period in custody are the very issues that may have contributed to offending and resulted in incarceration in the first place. It is therefore important to understand some key characteristics of the Irish prison population, and the difficulties faced on an individual level by those who come into contact with the criminal justice system in custody and on release.

Mental health

The rates of mental ill-health observed among prisoners are significantly higher than rates in the population as a whole. Research by Kennedy *et al.* (2005) found that 27 per cent of sentenced men and 60 per cent of sentenced women in Ireland suffered from mental illness. The same study found that 2 per cent of sentenced men and 5.4 per cent of sentenced women suffered from psychosis while 5 per cent of male sentenced prisoners and 16 per cent of female sentenced prisoners suffered from a major depressive disorder.

In the same year, it was estimated that such high rates of mental illness in the prison population would require approximately 376 additional transfers from prison to hospital per annum, and between 122 and 157 extra secure psychiatric beds, in addition to extra mental health in-reach clinics providing services directly in the prison setting. The most recent *Annual Report* of the Irish Prison Service (Irish Prison Service, 2009) notes that, following discussions with the Central Mental Hospital (CMH) in 2008,[4] ten additional beds were opened for transfers from prisons by the CMH, reducing the number of individuals on the waiting list. Unfortunately, the *Report* does not note the size of this reduction.

4 The CMH provides the National Forensic Mental Health Service in Ireland. The Service takes referrals from courts and prisons to provide active assessment, treatment and rehabilitation of all service-users admitted to the CMH. Specialists from the CMH also provide a range of in-reach sessions in the prisons. For more information, see www.centralmentalhospital.ie/en/AboutUs

Addictions

The issue of drug use among the prison population has long been a recognised feature of the Irish prison system. In the past, statistics showed that prisoners with a history of drug use greatly outnumbered those with no such history (O'Mahony, 1997). It has also been observed in the Irish context that rates of drug use remain high while individuals are in prison.

Seymour and Costello (2005) found that of prisoners who had been homeless prior to imprisonment, two-thirds used illicit drugs while in prison. In 2008, Longe provided an analysis showing that more than 20,000 voluntary tests were carried out each year to monitor drug use and responses to treatment in all prisons (Longe, 2008). The tests included those carried out on committal to prison (new entries) as well as on prisoners already in the establishments. The study therefore assumed that some of the positive test results related to drugs or alcohol consumed outside the prison. Between one-third and half of those screened tested positive for at least one drug. Cocaine and alcohol were detected in a small number of tests (Longe, 2008).

Homelessness

The connection between crime, custody and homelessness is of particular importance, as prisoners released without a place to stay are more likely to reoffend (Social Exclusion Unit, 2002). In re-entering a life of homelessness on release, individuals are exposed to higher risk in the same situation that may have contributed to their imprisonment in the first place. Even those wishing to desist from crime may find themselves with a perceived limited set of opportunities to change. The reality of homelessness as a problem facing those leaving prison should not be underestimated. Seymour and Costello (2005) found that one in four prisoners in Dublin had been homeless on committal, and that over half of prisoners had experienced homelessness at some stage in their lives.

Barriers to employment experienced by ex-prisoners

Ex-prisoners encounter numerous barriers in accessing and staying in work. A report by the National Economic and Social Forum on *Creating a More Inclusive Labour Market* (NESF, 2006) identified these obstacles as including 'low self-esteem, lack of educational qualifications and training, insecure housing, lack of recent job experience, difficulty in setting up a bank account and discrimination in trying to get a job.' Having a criminal record was also

identified as a barrier to accessing employment. This is important, as unemployed ex-prisoners are twice as likely to reoffend as those in full-time or even part-time employment (Law Reform Commission, 2007).

Furthermore, a 2005 study highlighted that only 41 per cent of prisoners in Dublin were in full-time employment prior to imprisonment (Seymour and Costello, 2005). In the same year, the annual average unemployment rate was 4.4 per cent.[5]

The Council of Europe recommends that criminal policy be aimed at prevention and social integration, and has identified having a criminal record as a feature that may jeopardise the convicted person's chance of social integration (Council of Europe, 1984). In Ireland, section 258 of the Children Act, 2001 provides that where an offence is committed under the age of 18, and following a three-year conviction-free period, the person shall be treated as not having committed the offence and is not obliged to disclose their convictions. Unfortunately, while control and access to criminal records can 'critically' affect the chances of social integration (Redmond, 1997), with research showing that employers are less likely to hire an ex-offender (NESF, 2002), no such provision yet exists in Irish law for adult offenders.

Education

Employment options for former prisoners are further impacted on by educational disadvantage. In line with academic studies (for example, Seymour and Costello, 2005), a research paper published by the Irish Prison Service found that 'a significant number of prisoners have virtually no literacy skills' (Morgan and Kett, 2003). The study found that rather than there being a directly causal link between low educational attainment and engagement in crime, there is a relationship whereby sometimes 'poor literacy skills restrict a range of life-choices (particularly employment), and thus become a pre-disposing factor in criminal activities'.

Research by the authors very clearly shows that prisoners often present with multiple needs, and service-providers are more often than not required to address complex issues in their support for individuals leaving prisons (Martynowicz and Quigley, 2010).

The next two sections focus on some selected findings relating to service provision currently available in Ireland at a systemic level as well as provision by selected areas of need.

5 Central Statistics Office, *Seasonally Adjusted Standardised Unemployment Rates.* Available at www.cso.ie/statistics/sasunemprates.htm

Research findings: Some systemic issues

In 2002, the NESF report noted a number of key issues that needed to be addressed if the reintegration of offenders in Ireland was to improve their chances of desisting from crime in the long term and lower the potential for reimprisonment (NESF, 2002). The report stated (p. 30) that:

1. After-care services for ex-prisoners were patchy and lacked a national framework
2. Available initiatives covered only a small number of ex-prisoners
3. There was a need for greater linkages between prison-based and community initiatives.

While the research by the authors (Martynowicz and Quigley, 2010) found evidence of improved co-operation between prison-based programmes and agencies and those based in the community – particularly in those prisons that are piloting Integrated Sentence Management (ISM) as described in the following sections of this article – serious concerns remain as to the provision of after-care services and the number of prisoners whom such provision effectively covers.

'Post-code lottery' and the need for co-ordinated national framework

Despite important developments in the reorganisation of the Irish Prison Service, and the establishment in 2002 of the Regimes Directorate, with responsibility for creating a more integrated approach to reintegration, the provision of after-care services for prisoners and ex-prisoners on a practical level remains patchy (Martynowicz and Quigley, 2010). There still appears to be no uniform approach to provision of reintegration services in individual prisons. Access to a variety of support mechanisms – including homelessness advice and drug and mental health services – is dependent on the facility in which a prisoner finds himself or herself on sentence, or even on remand. Provision of services such as homelessness and welfare advice, or drug addiction support in the community, also varies between areas of the country, often limiting access to reintegration support when required (Martynowicz and Quigley, 2010).

There are many reasons for such a situation, according to those interviewed for the authors' study (Martynowicz and Quigley, 2010). These include:

1. Differences in the nature and characteristics of the prison population in various prisons (for instance, reintegration work and case management were seen as more effective in addressing needs in those prisons with a large proportion of long-term prisoners)
2. The geographical location of the prison and the post-release location of ex-prisoners (for example, it was seen as easier and more effective to work with prisoners in the Dublin area who were released from prisons in Dublin, and much less possible to plan the release of prisoners at Portlaoise and Midlands Prisons as very few ex-prisoners would reside in the immediate vicinity of those prisons post-release)
3. The rural versus urban divide in relation to availability of and access to dedicated post-release support services in rural communities, with most services concentrated mainly in cities and larger towns (Dublin and Cork in particular).

While these reasons are clearly valid, interviewees also expressed the view that some of the services should be provided regardless of the location of the prison or the nature of its population, and the Irish Prison Service should take overall responsibility for equality of service across all of the prisons (Martynowicz and Quigley, 2010). According to the findings of the authors' research, differences persist in:

1. Access to mental health support and treatment, including psychiatric and psychological support
2. Access to appropriate therapeutic environment, including appropriate facilities to meet with counsellors and psychologists in the prisons
3. Access to drug treatment, including availability of drug-free facilities in the prisons
4. Access to education, work and training
5. Access to programmes addressing offending behaviour
6. Access to appropriate information about the range of services available to prisoners while in prison and on release.

Focus on high-risk offenders

Currently, the Probation Service in prisons prioritises work with: prisoners who are subject to post-release supervision orders; sex offenders (who may also fall within the previous category); and life-sentenced prisoners who are released on licence/supervised temporary release. Yet even with those

priorities, the practice of engagement with prisoners appears from the authors' findings to differ across individual prisons, with the Probation Service in some establishments making contact with all prisoners committed on sentence (at least initially) while in others, contact is made only with those who fall into the categories outlined above (Martynowicz and Quigley, 2010).

This prioritisation of resources by level of risk leads to a lower level of resources being made available to those who pose little or no risk of committing serious crimes but who could still benefit from increased support.

A number of the interviewees commented that this focus often leaves prisoners who do not pose high risk on their release with very limited access to support while their needs in relation to accommodation, training and employment, addiction services and other support are often equal to, if not higher than, those of high-risk offenders (Martynowicz and Quigley, 2010). While resources are directed into the supervision of high-risk offenders and their management in the community, they may not be available to those in equal or even greater need of support on release who do not fall in that category.

Limited reach of the Integrated Sentence Management model

In the course of this study, the researchers had the opportunity to familiarise themselves with the model of Integrated Sentence Management (ISM) currently operational, at various stages of development, in four prisons, including Arbour Hill and Wheatfield prisons in Dublin.

ISM provides a case management structure to co-ordinate service provision, sentence planning and management as well as release planning for prisoners who are committed to prisons on sentences of twelve months or more.[6] Engagement by a prisoner in the ISM process is voluntary. Following an initial assessment, referrals are made to services within the prison (such as Education or Work and Training) and outside agencies providing in-reach services (such as homeless advice). The ISM system includes a development of a Community Integration Plan in preparation for release.

Initial indications are that, where provided, ISM is working well, providing a co-operation tool for the Irish Prison Service, the Probation Service and providers of other services, such as drug counselling, accommodation and health care. Any assessment of its effectiveness in terms of improved integration back into the community, however, is so far very limited. The ISM

6 For more information on ISM, see www.irishprisons.ie/prisoner-services/integrated-sentence-management/

system is new and it has not been running for long enough for the first sample of prisoners to be released and its impact assessed. Such an assessment of effectiveness should be conducted before ISM is introduced nationally.

An analysis of all committals on sentence to Irish prisons between 2005 and 2008 (Table 1 below) indicates that under the current design of the ISM model, it will be available to only around 20 per cent of all sentenced prisoners. While this may be significant in terms of the number of prisoners on ISM at any given time in the prisons (in relation to the resources that are needed to operate the system with long-term prisoners), it will not offer support to the vast majority of those who are leaving prison following completion of short-term sentences.

This is the most significant shortcoming of the current ISM system, as those on short sentences are often more likely to reoffend (National Audit Office, 2010; O'Donnell, *et al.*, 2008). Moreover, the ISM system will not 'catch' those who are coming back to prison on a regular basis for consecutive short-term sentences and who may present with a high level of unaddressed needs.

Table 1: *Committals on sentence by sentence length, 2005–2008*

Year	*Total no. of sentenced committals*	*Under 12 months (%)*	*Under 6 months (%)*	*Under 3 months (%)*
2005	5,088	3,944 (77.5)	2,982 (58.6)	1,962 (38.6)
2006	5,802	4,607 (79.4)	3,473 (59.9)	2,253 (38.8)
2007	6,455	4,952 (76.7)	3,667 (56.8)	2,293 (35.5)
2008	8,043	6,424 (79.9)	5,020 (62.4)	3,526 (43.8)

Source: Irish Prison Service (2006, 2007, 2008, 2009).

While the introduction of ISM is welcome, the authors submit that with its limited reach, there is a need for the introduction of additional systems that would ensure that an assessment of the needs of all prisoners is undertaken and support provided where needed. Reliance on the ISM as the main tool supporting reintegration runs the risk of falling short of meeting the needs of prisoners, and also of not meeting the requirements of international standards in this area.

In particular, it runs the risk of not meeting the obligations of the prison authorities under the European Prison Rules (Council of Europe, 2006) which require that:

1. As soon as possible after admission (committal on sentence), a report should be drawn up about the individual situation of *each* prisoner, together with a proposed sentence plan and the strategy for preparation for their release (Rule 103.2) (emphasis added);
2. Individual prisoners should be encouraged to participate in drawing up their sentence plans (Rule 103.3);
3. Such plans should, as far as practicable, include work, education, other activities during the sentence, and a plan of preparation for release (Rule 103.4);
4. Where applicable and necessary, social work and medical and psychological care may also be included in the regime for individual prisoners (Rule 103.5);
5. Particular attention is to be paid to providing appropriate sentence plans and regimes for life-sentenced and other long-term prisoners (Rule 103.8).

A note on the use of temporary release

The use of structured release on a temporary basis is considered of utmost importance in preparation for transition from life in prison to life back in the community. The 1982 Council of Europe Recommendation on Prison Leave (Council of Europe, 1982) considers temporary release (TR) a means of facilitating the social reintegration of prisoners and urges national authorities to grant prisoners leave to the greatest possible extent, 'not only on medical, family and social grounds but also for educational and occupational purposes' (van Zyl Smit and Snacken, 2009). In van Zyl Smit and Snacken's view,

> Procedures for early release are of particular importance because of their role in limiting the overall use of imprisonment … and assisting with reintegration of prisoners.

As stated in the data above, in June 2010, almost 1,000 prisoners were on TR in the community. The main concern with the use of TR in Ireland has been that it is mainly used as a 'safety valve' to release pressure on prison places rather than to support reintegration in any meaningful way. While there are

obvious advantages to the use of TR as a measure that, in effect, improves conditions in prisons through preventing even higher levels of overcrowding, the overall balance appears to be tilted towards such narrow use. Opportunities may therefore be missed in relation to its use as a preparatory resource in planning for eventual release.

In the course of the study, the authors found that the lack of planning for release, and the continuing use of TR to relieve pressure on prison spaces rather than using it as a structured tool to support post-release integration back into the community, impact negatively on ex-prisoners' access to post-release support (Martynowicz and Quigley, 2010). One of the ex-prisoners, in interview, stated about his experience that:

> you are told at 6.20 p.m. that you are supposed to pack because you are coming out; couple of hours later you are out.

This experience is in line with the findings of the Brown, Evans and Payne (2009) report, which states that:

> Many current and ex-prisoners interviewed noted that, prior to release, there was little preparation for release, bar ensuring that prisoners had provided a release address. Current and ex-prisoners and practitioners noted that the short notice periods often given to prisoners of their release can affect the co-ordination that can take place. Those serving short sentences or released on Temporary Release (TR) are often only given, at most, a few days' notice. Some ex-prisoners reported they were only told on the day of their release and given a few minutes to pack their bags.

The authors' research confirms that prisoners are often given only short notice of their release, and that many are still released at times when accessing support is particularly difficult – on Friday evenings and on Saturdays (Martynowicz and Quigley, 2010). This appears to be particularly true for prisons experiencing overcrowding, where there is need to free-up places at short notice to take in prisoners committed by the courts. It mostly applies to prisoners on short sentences or those who have already been assessed as suitable for early release. Short notice of release may undermine the work being done with a prisoner prior to release. Some of the service-providers noted that this can lead to prisoners being 'lost' by their organisations on release, or the vital support needed in the first few days post-release is not provided at all (Martynowicz and Quigley, 2010).

Provision of information regarding available services and access

Of great concern to the authors in this study was the fact that even where services are available in prison and in the community, information about what is available is not always provided on committal to prison, during the sentence or in preparation for release (Martynowicz and Quigley, 2010). Former prisoners interviewed for the study stated that they were often left to their own devices in relation to finding out what services were available during the sentence and how to access them. Often, such information was gained only through their contacts with other prisoners and not from those charged with providing custody or services.

Additionally, during the course of the research, the authors found that prison culture has a significant impact on the ability and willingness of prisoners to access services available to them in prisons – a situation that has a knock-on effect on their willingness and ability to access services on release (Martynowicz and Quigley, 2010). This is of particular concern.

As in the Brown *et al*. (2009) research, interviewees stated that not only can their relationships with other prisoners negatively impact on access to services (for instance, when a prisoner experiences bullying due to their willingness to engage with community welfare officers or with probation officers) but – more worryingly – their relationship with some prison staff can have the same effect, with access made harder as informal 'punishment' for breaches of discipline (Martynowicz and Quigley, 2010). This finding is of particular concern, as prevention of access to services and information as a disciplinary measure is wholly inappropriate and should, if it is practised, cease.

Selected research findings – Areas of need

A list of priorities

All those who participated in the study (Martynowicz and Quigley, 2010) were asked to provide their 'wish list' – a list of services or other provisions that would make their work on reintegration easier and more effective or, in the case of ex-prisoners, would contribute to an easier transition to life in the community following a period in custody.

Respondents pointed to the need for extensive improvements in many areas, including provision of mental health services; increased provision of addiction counselling and other addiction services; provision of accommodation on release, including transitional and supported housing; provision of 'sheltered employment'; provision of programmes in the prisons dealing with

offending behaviours; and provision of more structured activity in the prisons, including easier access to education and vocational training.

The next two sections present the findings of the study in relation to mental health provision and access to accommodation as two examples of issues where further improvements are most urgently needed.

Mental health provision

The 2006 report of the Expert Group on Mental Health Policy, *A Vision for Change*, asserted that:

> every person with serious mental health problems coming into contact with the forensic system should be afforded the right of mental healthcare in the non-forensic mental health services. (Department of Health and Children, 2006)

In keeping with these recommendations, the Irish Prison Service has seen the introduction of the mental health Prison In-reach and Court Liaison Service (PICLS) in Cloverhill remand prison provided by specialists from the Central Mental Hospital.[7] This service offers mental health screening and one of its core aims is to divert those with serious mental health problems away from the criminal justice system. In 2008, the service diverted 91 individuals to community-based mental health services, up from 19 such referrals in 2005.[8]

Despite some progress in the area of diversion to appropriate community-based mental health services, large numbers of individuals experiencing mental health difficulties continue to be imprisoned. While praising the work of projects such as the PICLS project operating in Cloverhill Prison in Dublin, service-providers commented on the ongoing inadequacy of mental health provision across the prison system, and the often-experienced difficulties of linking ex-prisoners with services on release (Martynowicz and Quigley, 2010).

Accommodation and homelessness

Homelessness and the provision of suitable accommodation was by far the most frequently mentioned difficulty facing prisoners and the service-providers supporting them on release (all findings in this section are from Martynowicz and Quigley, 2010). It is clear from our research that improvements have

7 For more information on the Prison In-reach and Court Liaison Service, see https://www.hse.ie/eng/national-forensic-mental-health-service-portrane/nfmhs-services/
8 'Project diverted 91 mentally ill prisoners', *Irish Times*, 17 October 2009.

been made in provision of assistance to address homelessness on release, in particular through initiatives such as the in-reach service provided by Focus Ireland in Dublin, Cork and Limerick, as well as in-reach provided in ten prisons by the Community Welfare Officers of the Health Service Executive's Homeless Persons' Unit.[9] It is important to note that services such as Focus Ireland's in-reach are co-funded by the Irish Prison Service, increasing the capacity of community-based providers in prisons.

On the other hand, it is important to note that former prisoners reported that on release they were often provided only with a free-phone number that they could contact to arrange short-term, emergency accommodation, often of a very low standard. Service-providers reported facing additional problems in securing accommodation for particular groups of ex-prisoners: foreign national prisoners not entitled to State assistance; ex-prisoners with mental health needs and/or drug addictions; sex-offenders and those who had been convicted for arson.

Of particular concern was what appears to be a complete lack of appropriate accommodation for ex-prisoners presenting with dual diagnosis of mental health difficulties and drug addiction. This, combined with virtually non-existent provision of other services required by this particular group, leads to significant gaps in support for this high-need population.

Service-providers offering assistance in the area of homelessness are concerned that local councils are not keen on placing prisoners and ex-prisoners on their housing lists, and expressed a view that a history of imprisonment can seriously hinder the individual's chances of obtaining council-owned accommodation. One of the interviewees commented that if prisoners 'ring from within the prison, the chances [of getting on the housing list] are nil'.

Lack of fixed release dates also appears to prevent a number of prisoners from registering on housing lists and makes it difficult for community-based service-providers to offer support on this. Interviewees stated that all local authorities should be required to treat ex-prisoners in housing need as a priority group and should not be able to refuse assessment or refuse to place someone on their housing list because of criminal convictions.

9 Figures for 2009 indicate that 759 prisoners accessed assistance provided by the Community Welfare Officers alone (additional information supplied by the Irish Prison Service in correspondence with IPRT researcher, April 2010).

Conclusions

Not all ex-prisoners will engage with reintegration services; not all prisoners require such engagement or are willing or ready to avail of the support available. For those who choose to engage, such provision is vital if they are to be successful in staying out of prison. The former prisoners interviewed for our research were determined to improve their lives and were highly motivated. At the same time, they acknowledged that it was the support offered by community-based projects that helped them to overcome the initial shock of coming out of prison (Martynowicz and Quigley, 2010).

The needs of prisoners returning to their communities following release are vast (Bedford Row, 2007; Brown *et al.*, 2009). This has been confirmed by the authors' study in which practitioners as well as former prisoners identified the need for extensive improvements in areas such as mental health support, addiction counselling, homelessness, education and provision of information (Martynowicz and Quigley, 2010).

It is therefore of concern that recent budget cuts are resulting in increasing caseloads for professionals working in the field and often threaten the very existence of services, particularly those led by voluntary and community organisations (Martynowicz and Quigley, 2010). This is happening against the backdrop of ever-increasing numbers of people imprisoned in Ireland, and an ever-increasing number of people who are likely to be in need of support following release from prisons.

Some important initiatives in service provision have been developed in recent years. It is clear from the authors' study that organisations in both the statutory and voluntary sectors provide high-quality services that support significant numbers of ex-prisoners on release. It remains true, however, that equivalence of provision is yet to be achieved across the Irish Prison Service, the Probation Service and in the support offered to and by community-based projects. It needs to be kept in mind that effective reintegration of prisoners is central not only to their individual progress and moving away from crime (desistance from crime), and to prevention of continuous returns to prison, but also to a reduction in overall number of people imprisoned in Ireland.

Considering the high cost of providing prison places, it is clearly in the interest of the State to invest in post-release support, and it is in the interest of society to support such investment.

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A Smarter Approach? Sentencing and Politics in England and Wales*

Phil Bowen

Selected by Kate Walshe†

This article explores sentencing practices in England and Wales over the past thirty years. It highlights the importance of probation supervision as well as our critical role in the courts and the need for local ties to the community. Importantly for me it notes how England acknowledged its mistake in terms of the part-privatisation of its probation service in 2013 and how vital it was for the government to reverse this implementation. In terms of my own practice, it was a reminder of the influence of sentencing practices in the work of probation. It set out how public opinion can influence political decision-making, which in turn impacts on sentencing policies. Recent considerations in Ireland that the solution to overcrowding in our prisons is to create more prison places are of concern. As Bowen reflected, 'community supervision is not there simply as an alternative to custody but as a set of sentences which have their own moral, ethical, transformative and instrumental value'. For me, this article is a reminder of the importance of probation supervision as an effective means of actively addressing criminogenic risk factors and in turn a means of creating safer communities for all.

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Summary: On 15 March 2021, the Police, Crime, Sentencing and Courts Bill ('the Bill') was introduced into the House of Commons. This was the same day that Members of Parliament debated the police's handling of the Clapham Common vigil for Sarah Everard who had vanished on 3 March and whose body was found a week later in distant woodland (Siddique, 2021). It was a time when unity of purpose and concerted cross-bench collaboration were required. Instead, we witnessed political division and posturing. The Home Secretary, the Rt Hon. Priti Patel MP, accused Labour of being soft on crime — saying that opposing the Government's whole Bill at second reading was tantamount to opposing measures that would ensure that 'vile criminals responsible for [rape] will spend at least two thirds of their time behind bars' (Hansard HC, 2021). As a riposte, Sir Keir Starmer MP, leader of the Opposition (and a former Director of Public Prosecutions), tweeted out that the Bill meant: 'Attacking a statue = 10 years in prison; Rape sentences = 5 years in prison' (Starmer, 2021) It was yet another opportunity wasted, in a long tradition of missed opportunities. As the Bill has progressed through the House of Commons, the two main parties remain locked in what has become the familiar and default political argument when it comes to sentencing policy in England and Wales. This argument, apparently the only real game in town, is to try and 'out-tough' each other in a predictable and reductive game of high-stakes poker: '10 years for attacking a statue.' 'I see you and raise you "Whole Life sentences for abduction and murder of a stranger".' This paper discusses the challenges and opportunities of the Police, Crime, Sentencing and Courts Bill against the backdrop of legislative and policy changes in sentencing over the last three decades.
Keywords: Sentencing; the Police, Crime, Sentencing and Courts Bill; White Paper; justice policy; probation; professionalisation; community; prison; treatment.

Sentencing policy in England and Wales since 1993

An inglorious tradition

The debate around tough sentencing is not new. Sentencing has been a political hot topic for decades in England and Wales. The Prison Reform Trust, a charity, estimates that since 2003 sentencing changes alone account for an increase of around 16,000 prison places, largely attributed to a range of increases to those sentenced to ten years or more (Prison Reform Trust, 2020). The average custodial sentence length for prisoners sentenced to immediate determinate custody has risen annually since, increasing by 5.2 months up to 2019.

The Ministry of Justice's own analysis, in its report titled *Story of the Prison Population*, covering the period from 1993 to 2012, suggests that the primary reason for this sentencing inflation is tougher sentencing and enforcement outcomes. As the report states:

> Legislative and policy changes have made sentence lengths longer for certain offences (e.g. through the introduction of indeterminate sentences for public protection, mandatory minimum sentences and increased maximum sentences) and increased the likelihood of offenders being imprisoned for breach of non-custodial sentences or recalled to custody for failure to comply with licence conditions (as imposed on release from prison). (Ministry of Justice, 2013)

In short, the prison population is primarily a consequence of political choices made in Parliament, not the inexorable consequence of changes in the level or nature of crime in society.

The incentive to make the political choices that have been made is clear enough — in England and Wales, opinion poll surveys throughout this period have shown that the public does not believe that sentences are long or harsh enough (Hough and Roberts, 1999). The public concern is that our existing punishments do not 'fit' the crime — 'People have a firm belief in an "eye for an eye".... They worry that too many people avoid the correct sanction' (Transform Justice, 2017). This well-documented public punitiveness has remained constant, despite the compelling evidence that shows that the public is largely unaware of what actual sentencing practice is and consistently underestimates the length of current sentences. The public's continuous desire for more punishment has remained even though multiple research studies have consistently shown that when members of the public are presented with specific case scenarios and asked to make their own sentencing decisions, many impose punishments less harsh than those actually given by our courts. (Hough and Roberts, 1999)

So, despite the evidence that a more nuanced approach may be possible, political parties have, almost invariably, sought to 'get tougher' on crime. As a result, custodial sentencing policy has moved in one direction: more people in prison. In a world so heavily dominated by a public perception that the system is too soft, political platforms have overwhelmingly promised more; this, generally, has meant increasing sentencing and introducing new classes of crime, all of which have had the consequence of pushing the prison population up. There seems to be a shared view across the political system that this is what voters want, and a belief that a more nuanced approach to sentencing might result in heavy losses in electoral support.

The result of this is, as we have already seen, that prison sentences have got longer and longer over the past thirty years. Yet sentencing inflation has

not quenched this public thirst for more retribution and more deterrence: after thirty years of it, a 2019 poll suggests that 70 per cent of the population still believe the justice system to be too lenient, whilst only 3 per cent of those questioned believed sentencing to be too harsh (YouGov, 2019).

'...where has the Treasury been...?'

Moreover, these political incentives toward sentencing inflation have not been punctured, or even slightly depressed, by countervailing financial incentives. As the dust settled following the financial crash in the late 2000s, it was clearly going to be a time of austerity for public services. At the time, optimistic prison reformers argued that we could not afford the prison population we had (Howard League for Penal Reform, 2015). We needed prison-demand reduction, they argued. Logically, so the argument went, the Treasury and the Ministry of Justice should have argued with Number 10 that if we had fewer people in prison (and, therefore, fewer prisons), this would be a sure-fire way of reducing spending, and for the Ministry to contribute to the broader austerity agenda. Yet, as we know looking back from 2021, it did not happen. At a Criminal Justice Alliance Conference in 2015, Sir Alan Beith, a Liberal Democrat and outgoing chair of the House of Commons Justice Select Committee, said: 'We have known for years that we, as a country, have too many people in prison…. With all the cuts we have had, where has the Treasury been in penal policy?' (Beith, 2015).

The answer is, unfortunately, straightforward. Officials and, perhaps more importantly, Ministers involved in the Spending Reviews of 2010 and 2015 knew the political downsides and electoral risks they would be taking in proposing prison population-reduction policies — it would mean exposing themselves and their party to the charge of being weak on crime. At the same time, all the principal actors knew that the financial upside of prison-population reduction policies was likely to be negligible. For while the logic of penal reduction makes intuitive financial sense, it takes the closure of prisons and a reduction in prison staff to achieve any substantial saving for the exchequer. Saving hundreds or even thousands of pounds is unlikely to lead to anything other than a little bit of spare capacity in the prison estate.

In this sense, reversing sentencing inflation was not worth it in 2010 or 2015. It was not worth the political fallout of adopting politically unpopular policy choices for small and potentially un-cashable savings. From a financial perspective, the macro-outcome may *look* irrational (prisons are expensive

and almost everyone admits that we send some people there who are just caught in tragic circumstances), but the decisions producing that outcome have been arrived at through people's *entirely rational* decisions. In short, the political risks of reversing sentencing inflation are obvious and the financial benefits obtuse and marginal.

A smarter approach?

It was therefore unsurprising that the Government's White Paper, *A Smarter Approach to Sentencing*, published in 2020, and the subsequent Bill currently before Parliament, followed the broad trends that have dominated sentencing for the past thirty years.

From one perspective, the policy outlined in these documents fits easily into that inglorious tradition: policy primarily geared toward ever-increasing use of prison. This is despite the Government's own impact assessment suggesting that Prison Services and the Youth Custody Service will face: 'increased population and longer times spent in custody for some offenders, which may compound prison instability, self-harm, violence and overcrowding' (Ministry of Justice, 2021b). The cost of this political choice is the same as it ever was: the impact will be felt by offenders and their families, as serving longer periods in custody 'may mean family breakdown is more likely, affecting prisoner mental health and subsequent reoffending risk' (Ministry of Justice, 2021a).

Perhaps the most perplexing part of this equation, though, is that there is strong evidence that these approaches do very little actually to make the public safer. The Government's own assessment of the Bill suggests that there 'is, however, limited evidence that the combined set of measures will deter offenders long term or reduce overall crime' (Ministry of Justice 2021b). In answer to a Parliamentary Question on 1 March 2021, Minister Chris Philp suggested that:

> [T]he deterrent effect of sentence severity has received a high level of attention in wider research literature. The evidence is mixed, although harsher sentencing tends to be associated with limited or no general deterrent effect. (Hansard, 2021)

Consider, for example, the Government's proposals on minimum custodial sentences. This will change the current law and restrict the courts' discretion

to depart from mandatory minimum custodial sentences: unless the court is of the opinion that there are 'exceptional circumstances' to do so. This change, which will apply to 'three-strike' offences of drug trafficking and burglary, and to 'two-strike' offences involving knives, has been advanced without any real argument as to why it is necessary. Such minimum custodial sentences are unlikely to deter crime and reoffending and are likely to impact disproportionately on specific communities. The Government's Equality Impact Assessment states that '30- to 39-year-olds are overrepresented in the total population of those sentenced for these offences' and that 'BAME (Black, Asian, Minority Ethnic) individuals appear to have high representation in the Class A drug trafficking cohort and possession of or threatening with a blade' (Ministry of Justice, 2021a). The proposed changes are therefore likely to impact further on these groups, accentuating existing disparities, for very questionable public-protection benefits.

A Bill of two halves

It is easy to feel a certain amount of despair at the continuing inability of the English and Welsh polity to have a constructive conversation about law and order and public protection. However, I would argue that there are, in the less-noticed provisions of the Bill and in the Government's White Paper, grounds for hope. The Government's White Paper admits that:

> …failures in sentencing lead to never-ending cycles of criminality, with low-level offenders stuck in a revolving door of crime … our system of sentencing is not properly equipped to support them to address … [the] causes of their offending. (Ministry of Justice, 2020)

In recognition of that, the Government recognises that it needs a far-reaching set of reforms to community supervision.

The return of probation

Arguably, a functioning probation service is the most important part of delivering a criminal justice system that rehabilitates and reintegrates. However, the last eight years of community supervision policy have been dominated by coping with the ill-thought-through reform of probation, known as 'Transforming Rehabilitation'. At the centre of these reforms was a policy of part-privatisation: in 2013, the reforms dissolved the extant 35 self-governing

probation trusts and created 21 Community Rehabilitation Companies (CRCs) to manage offenders who pose a low or medium risk of harm. It created a public-sector National Probation Service (NPS) to manage offenders who pose higher risks. The purpose of this reform was to reduce reoffending by opening the market to a range of rehabilitation suppliers from the private and voluntary sectors; it was believed that paying providers by results for reducing reoffending would encourage innovation.

From its earliest days, the reforms were problematic. In 2017, the National Audit Office reported that CRCs were not achieving performance targets and that, despite the Ministry's interventions, the underlying financial model meant that CRCs carried significant and unsustainable risks to their income, which was undermining their ability to transform their businesses (National Audit Office, 2017). In July 2018, the then Justice Secretary, David Gauke, acknowledged that the quality of probation services being delivered was falling short of expectations; he announced that the Ministry would terminate its CRC contracts 14 months early, in December 2020 (National Audit Office, 2017). In March 2019, Dame Glenys Stacey, Chief Inspector of Probation, concluded that:

> …both the public-sector National Probation Service (NPS) and privately-owned Community Rehabilitation Companies (CRCs) are failing to meet some of their performance targets … the probation profession has been diminished … in the day-to-day work of probation professionals, there has been a drift away from practice informed by evidence. The critical relationship between the individual and the probation worker is not sufficiently protected in the current probation model. (HMI Probation, 2019)

Against that backdrop, the current Lord Chancellor, the Rt Hon. Robert Buckland, MP, took the brave decision in 2020 to reverse the previous probation reforms completely, and re-unify and nationalise the probation service, including bringing the delivery of unpaid work and accredited programmes back into the public sector.

Prizing professionals

So, we are now, finally, entering a post-probation-privatisation world. Within that context, the sentencing White Paper and its subsequent Bill were, and are, golden opportunities to reimagine and refashion a probation service

that is wholly fit for purpose. And, in that more specific area, a number of proposals are welcome. For example, the White Paper signals a clear intent that, as part of rebuilding probation, we need to give properly trained probation officers the powers and the flexibility they need to build dynamic, responsive supervision that helps individuals on their path to desistance. The White Paper states:

> We want probation practitioners to vary orders, to have the time, support and tools to develop effective relationships with those they supervise, to deliver effective interventions directly, and to place offenders with other rehabilitative services. (Ministry of Justice, 2020)

The Bill includes powers for probation officers to have more discretion, allowing them, for example, to vary and adjust orders based on the changing circumstances of the person under supervision. These powers include flexible enforcement of court-imposed requirements that would allow the Responsible Officer to adjust and vary these requirements to encourage and influence changes in offender behaviour. This focus on probation officers' professional skills, and encouragement of professional discretion, marks a significant change in government policy, which hitherto had focused on structural and financial changes to deliver better outcomes. Instead, the White Paper places trust in highly skilled professionals to use their training to make the best judgement calls they can.

Professionalisation

Moreover, in moving to a world where the professional relationship between a probation officer and a service-user is seen as the principal agent for improving outcomes, rather than the incentives of the structural organisation of the service/market, the Government is also recognising that the professional empowerment agenda ought to be accompanied by reform to the ways in which professionals are both supported and held to account for their actions. There is a notable, albeit tentative, commitment in the White Paper to 'explore options to improve the professionalisation of the probation officer and probation support officer role' (Ministry of Justice, 2020). The goal of professionalisation of probation has been a subject of interest for a long time (Howard League for Penal Reform, 2016, and others) There has always been a range of employers operating in the community supervision space,

including public-sector, private-sector and voluntary-sector bodies. The split in the probation service brought about by the Transforming Rehabilitation reforms accentuated this diversity, fracturing the probation service into a National Probation Service and 21 Community Rehabilitation Companies.

At the time of the Transforming Rehabilitation reforms, there was discussion about how to ensure that the probation service, as a whole, retained consistent, coherent and agreed standards and qualifications. However, this work never crystallised, meaning that training, job roles and professional development have become highly varied across these organisations. The result is that we have a workforce where some practitioners who manage offenders hold a professional qualification in probation at post-graduate level, but there are also increasing numbers of practitioners with a range of different qualifications and some who have none. The lack of attention to professionalisation has also meant that England and Wales remained an outlier in the British Isles: in Scotland, Ireland and Northern Ireland, probation officers are all qualified social workers and are therefore required to be registered on a centrally maintained register of qualified professionals, to engage in continuous professional development that is necessary to maintain registration, and to abide by any identified set of ethical and professional standards.

In the new world of a newly national, integrated probation service, with its emphasis on professional empowerment, professionalisation is back on the agenda. Unlike when it was discussed under the Transforming Rehabilitation reforms, there is now a new and fresh opportunity to set consistent, coherent and agreed standards and qualifications to which all practitioners, managers and leaders in probation can adhere, because of the new emphasis on probation officer skills and judgement.

In this new world, mechanisms in which we can both improve practice on a continuous basis and hold professionals accountable for their decisions, through a central professional registration and de-registration process, make sense, in a way that they never made sense in a policy world focused on marketisation and financial incentives as the main driver of better outcomes. The professionalisation agenda offers the chance to remake probation in England and Wales both an integrated and a *regulated* service, open to external scrutiny and comparison with other closely allied professions, including health, social work, social care and the law. In a recent policy paper on the topic, the author outlined that this can be done by: (i) establishing a new licence to practise for probation and other offender management roles, analogous to those used in social work and other professions; (ii) creating a register to monitor those who

can practise; (iii) creating an independent regulatory body to oversee the right to practise and to improve and support standards through requirements for professionalisation (Centre for Justice Innovation, 2020).

Improving probation's role in court

Away from that broader probation organisational reform agenda, the nationalisation of the probation service, combined with the thrust of the White Paper's proposals on community supervision, means that we can now finally deliver some common-sense, practical changes.

A good example is probation's role in court. Our research (Whitehead and Ely, 2018) found that the relationship between courts and probation had been buffeted by a number of reforms since 2012, most notably the split of probation into Community Rehabilitation Companies (CRCs) and the National Probation Service (NPS). Moreover, court timeliness targets and the court service's programme of court closures had hampered the ability of probation to deliver high-quality pre-sentence advice. For example, the use of the most comprehensive written reports (Standard Delivery Reports) has fallen by 89 per cent in six years and now stands at only 3 per cent of all reports — less than a third of the national target. While, in our own work, we had noted that English and Welsh probation practitioners already had to deliver pre-sentence reports much quicker than fellow professionals in Ireland and Northern Ireland, our findings painted a worrying sense that trust of sentencers in the delivery of community sentences was fraying, in large part because of the perceived quality of probation's performance in delivering reports at court.

Therefore, it is welcome that, in April 2021, the Ministry of Justice, HMCTS and the Probation Service announced the development of an Alternative Delivery Model, designed to improve the quality of information presented to court in 15 pilot sites. The Alternative Delivery Model comprises three components: (i) encouraging and monitoring a before-plea Pre-Sentence Report (PSR) process (set out in the nationally available PSR before plea protocol) — seeking to identify defendants earlier in the criminal justice system; (ii) maximising the capability of the National Probation Service to deliver higher-quality reports on the day, through targeted training and development; (iii) delivery of short-format written reports for three priority cohorts that are understood to have more complex needs. These are female offenders; young adult offenders (18–24 years of age); offenders who are deemed to be at risk of custody. The priority cohorts were identified as commonly having complex needs, and therefore requiring a more

comprehensive, written PSR, rather than an oral report. It is important to note that Black, Asian and Minority Ethnic populations generally show an over-representation in the offender population, and the evaluation of the pilot will analyse the data to identify if it is possible to discern any impacts for people from ethnic minority communities.

Restoring the Probation Service's emphasis on expert advice to judges about their sentencing options, through high-quality oral reports and pre-sentence reports in court, is a vital step in winning back judges' trust in community supervision. And these moves are possible only in a world in which probation is being put back together again, and where the emphasis is on improving practice, and not on marketisation.

Investing in treatment

Another welcome development is the White Paper's signal that the Ministry is seeking to re-invest large sums of money in offender treatment. If we now know one thing that makes a real difference to reoffending rates, it is the importance of swift access to high-quality treatment. Recent research for the Ministry of Justice and Public Health England suggests that drug and alcohol treatment led to a 33 per cent reduction in reoffending in a two-year period (49 per cent for individuals with alcohol misuse problems) (Ministry of Justice and Public Health England, 2017). Recent research into the Mental Health Treatment Requirement found a clear positive impact on anxiety and depression, social problem-solving, emotional regulation and self-efficacy (Long, Dolley and Hollin, 2018). It also found improvements in work and social adjustment, as well as in criminogenic risk factors.

However, the three treatment requirements (known collectively as Community Sentence Treatment Requirements (CSTRs)[1] that courts can use as part of a community sentence are rarely used as part of community sentences — the latest available statistics show that alcohol treatment, drug treatment and mental health treatment requirements were part of only 3 per cent, 4 per cent and 0.5 per cent of orders respectively.

[1] The three types of CSTR are: Mental Health Treatment Requirements (MHTR), Drug Rehabilitation Requirements (DRR) and Alcohol Treatment Requirements (ATR). They consist of treatment that will be arranged as part of the sentence and can last a maximum of three years as part of a Community Order and two years as part of a Suspended Sentence Order. (Related to CSTRS, Rehabilitation Activity Requirements — RARs — were introduced in 2015 and are intended to address non-dependent alcohol misuse, and emotional/mental health needs that do not involve a diagnosis. RARs have seen significant uptake but are distinct from CSTRs because they involve a lower level of need and intensity of intervention.)

The low use of treatment requirements has primarily been driven by a lack of treatment provision — for example, Dame Carol Black's review of drugs concluded that: 'the amount of un-met need is growing, some treatment services are disappearing, and the treatment workforce is declining in number and quality' (Black, 2020, p. 3). Moreover, the removal of the previous ring-fence on treatment spending for offenders has been associated with these decreases (Centre for Justice Innovation, 2021).

In this crucial area, the Government has committed in its White Paper to the expansion of its treatment provision (Ministry of Justice, 2020). It has promised to 'achieve 50% coverage of mental health provision by 2023/24' and to expand drug and alcohol treatment (though we await more detail). The noise currently emanating from officials is that, given the upcoming Spending Review, there will be a real, clear commitment to ensure that, by the end of this Parliament, higher-quality offender treatment provision is rolled out nationally. Certainly, in this author's view, the roll-out of Community Sentence Treatment Requirements nationally would be a crucial step on the way to getting back to a place where probationers can rapidly access the treatment where and when they need it.

Problem-solving justice

Alongside reforms to probation practice, changes to its role in court, and a reinvestment in treatment provision, the Government's reforms embrace, in a number of ways, problem-solving justice reforms, designed to divert, resolve and de-escalate criminality. For example, the White Paper and the Bill set out a new framework for 'out of court disposals' (OOCD), designed to help police forces and others to maximise the opportunities to place vulnerable, complex and low-risk offenders into effective, evidence-led out-of-court disposals and diversion schemes. The Government's move to this simplified OOCD system stems from the National Police Chiefs Council recommendation to do so in 2016, and fifteen forces already operate a simplified framework, designed to provide: 'a simplified framework for the public and practitioners to understand and work from, and will provide wider national consistency and scrutiny; simpler charging processes will allow more efficient and streamlined processes' (NPCC, 2017, p. 5). By moving to a new framework, in which there will be two statutory tiers and the continuation of an informal tier of diversion away from any formal disposal, the Government is largely meeting that aim.

Another reason to be hopeful relates to the Government's commitment to make more creative use of problem-solving approaches at court, using opportunities at court to tackle reoffending and provide opportunities for reparation. As the White Paper outlines, there is a broad and developed international evidence base on different types of problem-solving courts. The strongest body of evidence is for adult criminal substance-misuse treatment courts, which seek to reduce the substance misuse and reoffending of offenders with substance-misuse needs who are facing custody. In this area, the Government proposes to pilot a substance-misuse model, which aims to draw people out of short- to medium-length custodial sentences (0–24 months' custody), by targeting repeat and prolific acquisitive offenders who have substance-misuse issues and providing access to treatment and other services to improve their wellbeing. A number of other jurisdictions, including Scotland, Northern Ireland, Ireland, Australia, Canada, New Zealand and the USA, deploy problem-solving court models to promote rehabilitation and provide alternatives to custody (O'Hare and Luney, 2020). England and Wales are significantly behind other jurisdictions in using this type of approach.

Conclusion

The White Paper and the Bill demonstrate that there remains a conflicting approach to sentencing and offender-management policy in England and Wales. Within the Bill, we can see the continuation of a custodial sentencing policy, driven by a penal politics, both of which are substantially unchanged from the broad trends set thirty years ago. For example, the fettering of judicial discretion around minimum sentencing is depressingly familiar territory and could have been issued by any Lord Chancellor who has held the post over the past thirty years.

Yet, what I have also tried to argue is that, in the proposals they advance about the future of community supervision, they also constitute a new shift. At the very least, the community-supervision aspects of the White Paper and the Bill, when viewed alongside the nationalisation of probation and the broader trends of Ministry of Justice policy in this area, build a picture which suggests that the last eight years of chaotic privatisation are definitively over. More positively, one can see in these policy shifts a new emphasis on the centrality of probation professionals, on their ability to use their skills and judgements to make better decisions to change outcomes. Within that context, the probation professionalisation agenda is a natural policy outgrowth, and,

arguably, there are now the environmental factors around that suggest that, this time, it may well happen.

Both these trends strongly suggest that there has also been a shift in policy thinking within the Ministry, from a model of transformation in which marketisation was supposed to drive better outcomes and accountability, to one in which the professional, and, by implication, their relationship with service-users, is seen as the cornerstone of change. This shift is a welcome rejection of the theory that market-like structural changes are the key to transforming rehabilitation, and it suggests a realisation within the Ministry that sound policy should be founded on an evidence-based, human-centred approach to community supervision.

Moreover, the proposed investment in increasing the treatment services available, increasing the use of out-of-court disposals and diversion, and piloting new problem-solving justice initiatives are suggestive of a new approach to community supervision focused on improving the lives of some of the most vulnerable, trying to steer as many of them as possible away from prison, and away from the harmful collateral consequences of deep and longer-term criminal justice system involvement.

Admittedly, some people will feel that these reforms are a tale of going back to the future — indeed, a criminal justice system marked by a national probation service, empowered to exercise its professional judgement, supported by adequate treatment resources and sat within a broader criminal justice system that tries to divert and de-escalate and problem-solve, does not sound too far from the system that was present in the mid-2000s. After the last eight years of reform, however, that is not a bad place in which to end up.

Of course, we need to recognise that the hope of these parts of the 'smarter approach' being advocated for by Government is just a start. The scars of probation privatisation and the operational challenges posed to all criminal justice systems by COVID-19 are significant challenges in their own right, and they have the potential to slow down and undermine the successful implementation of these reforms. There are already concerns that there are not enough probation professionals to deliver change (HMI Probation, 2021), though the Ministry is investing in probation officer recruitment (Dunton, 2021).

Moreover, there are systemic challenges posed within the new model of probation — it suffers, in this author's view, from no real commitment to or accommodation with the localism agenda that we have seen in English and Welsh policing. In my view, probation is fundamentally a community service — people who commit crime invariably are from our communities, they

offend in our communities, and if they go to prison, they will return to our communities. Therefore, probation is crucially a local, community agency, relying on local collaboration between services, including the police and others. However, there is a risk that what we will have is a fundamentally national probation service driven top-down from HMPPS headquarters in London, and where the ties to local communities and local agencies, perhaps most importantly the police, are weaker than they ought to be.

We should also not be so naïve as to think that all of this positive progress is inevitably going to make a difference to the impact of the custodial sentencing provisions, and the negative effects they are likely to have on the prison population and on marginalised communities. Even if the community-supervision reforms are successfully implemented and they do deliver improvements to community supervision and prevent some people from receiving damaging prison sentences, we know that a healthy and effective probation system does not axiomatically produce lower prison populations. Sentencing inflation, especially for serious and violent offenders, has been shown in the past to override all this good work, and we can anticipate this happening again.

Yet, seeing community-supervision policy only in the context of its influence on the use of incarceration is, in my view, a fallacy — or, at least, far too narrow an approach to community supervision. It is difficult to envisage a future justice system that does not need an effective community-supervision system in its own right, regardless of the state and level of incarceration. There will always be offences and offenders whose offending requires a response that involves combinations of restrictions of liberty in the community and ones that are less intrusive than incarceration, reparation in and to the community, and purposeful supervision and intervention to change the life course of the offender. Community supervision is not there simply as an alternative to custody but as a set of sentences which have their own moral, ethical, transformative and instrumental value. The White Paper and the Bill have some serious shortcomings, but both at least have the virtue of setting out a new shift toward a smarter approach to community supervision. For England and Wales, those are virtues worth recognising.

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Effective Practice in Probation Supervision*

Anna Connolly

Selected by Olivia Keaveney†

Joining the Probation Service in 2019, I quickly realised the tremendous wealth of experience and knowledge across the service. I was hugely impressed by the ongoing commitment to social work theory and evidence-informed practice. On my own journey, I came across this article in the *Irish Probation Journal* that significantly influenced my approach to the work. 'Effective Practice in Probation Supervision' I believe to be every bit as relevant today as when it was penned eighteen years ago. The article highlights the importance of personal effectiveness, effective interventions as well as organisational effectiveness in achieving our overall goal of reducing risk of harm and further offending while contributing to public safety. This article has guided my day-to-day management practice as well as enhancing my knowledge and understanding of key concepts in quality probation supervision. As Director of Operations, I now find myself revisiting this article. Connolly's emphasis on ensuring quality assurance at key points of service delivery by use of audits of case-management plans is one key message I found particularly pertinent. In summary, this article has been instrumental in providing me with a clear framework and practical strategies guiding our approach to the delivery of effective probation supervision to achieve better outcomes for staff, clients and the communities we serve.

* This paper appeared in vol. 3 of the *Irish Probation Journal* (2006).

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Summary: This article presents the research on effective approaches in working with offenders on supervision from three interlinked perspectives: personal effectiveness, effective interventions and organisational effectiveness. It suggests that such a holistic approach to effective practice provides guidance to probation organisations in relation to the official goals of public protection and achieving a reduction in offending as well as what might be termed the instrumental goals of probation officers and offenders. It concludes that elements of traditional social work, when at its best, are part of the effective package.
Keywords: Effective practice, personal effectiveness, effective interventions.

Introduction

There is a robust and growing body of research that offers guidance on effective approaches or practices in working with offenders on probation supervision. Use of research findings as a primary source of knowledge for practice is referred to as empirical practice. Empirical practice in probation involves a worker employing his/her knowledge of what the research findings reveal about which practices are effective in engaging offenders, assisting them to desist from crime and responding to their needs. Knowledge about which approaches work enables probation officers to achieve improved outcomes, that is, less offending, better compliance with supervision and ultimately a better service to offenders and other stakeholders (Home Office, 1998).

Appraising the research evidence provides a context in which probation staff and management can discuss and clarify their goals and determine the most effective strategies to achieve them. Furthermore, a commitment on the part of the probation organisation to evidence-based practice enables it to respond more confidently to demands for accountability and public scrutiny.

Effective practice in supervision may be looked at from three perspectives:

1. Personal effectiveness in working with offenders
2. Effective interventions and programmes
3. Organisational effectiveness in working with offenders.

These three interlinked perspectives provide a useful framework for the presentation of the research findings.

Personal effectiveness in working with offenders

There has been a growth in interest in effective approaches to practice, and in personal effectiveness in particular, that assist probation officers to supervise offenders effectively. A number of researchers have explored what it is that offenders valued about the supervision they received (Beaumont and Mistry, 1996; Mair and May, 1997; Rex, 1999; Calverley, *et al.* 2004). All of these studies gave out consistent messages that offenders appear to value having someone to talk to about their problems, receiving practical help or advice, being treated with respect and being helped to keep out of trouble and to avoid reoffending.What also emerges from these and other studies is a description of the personal characteristics of the probation officer that assist in helping offenders engage in supervision and desist from crime. Probation officers who establish relationships characterised by loyalty and optimism, which are active, participative, purposeful, prosocial and explicit in their negotiation of role boundaries and mutual expectations, are more effective. Trotter (1993) emphasises the need to harness relationship skills in a specific manner with criminal justice clients. He states that, in addition to relationship skills, as outlined above, three key practices of the effective probation officer are role clarification, prosocial skills and problem-solving skills.

- Role clarification
  The dual role of the probation officer as helper and social controller with responsibility for public protection can be difficult for offenders to understand, and exploring the implications of a statement such as 'My job involves making sure you carry out the conditions of the court order. It is also an equally important part of my work to help you with any problems which might have caused you to be put on probation' can assist understanding (Trotter, 1999, p. 50). The effective probation officer:
  - Balances the investigator and helper roles and is careful not to adopt an exclusively forensic role or an exclusively helping role
  - Talks about his/her role in managing a court order and, in particular, emphasises the aim of helping the offender to address the problems that have caused him/her to be put on probation
  - Discusses expectations – what is negotiable and what is not
  - Discusses his/her authority and how it can be used.

- Prosocial skills
  The use of prosocial modelling was consistently, strongly and significantly correlated with lower offence and imprisonment rates in Trotter's 1993 study and is viewed as a core competence for practice by all people who work in probation (Home Office, 2000). The effective probation officer:
  — Models prosocial behaviours and comments
  — Encourages and rewards the comments and/or behaviours that he/she wishes to promote
  — Challenges pro-criminal rationalisations and behaviours, not in a critical or judgemental way but with a focus on why the offender feels and acts that way and on positive ways of dealing with the situation
  — Aims for four positives or rewards to every negative or challenging comment.
- Problem-solving skills
  The effective probation officer:
  — Encourages the offender to define the specific and real problems which he/she faces – with a focus on the problems which have led to being on probation
  — Reaches agreement with the offender on the problems to be addressed
  — Reaches agreement with the offender on goals and ways to achieve them
  — Has ongoing contact with the offender and if referrals are made, they are made as part of a problem-solving process.

In Trotter's 1993 study, probation officers who used these practices had better outcomes in terms of higher rates of compliance on probation supervision orders and lower rates of recidivism and subsequent imprisonment over a four-year period.

Bonta (2004) also emphasises the importance of relationship skills and of structuring skills in bringing about change in offenders. Structuring skills include prosocial modelling, effective reinforcement, effective disapproval, problem solving and community advocacy. Many of these structuring skills are essentially the effective practices outlined by Trotter; for example, Bonta's 'effective disapproval' mirrors Trotter's key practice of identifying, discouraging or confronting anti-social comments or behaviours by balancing at least four

positives to every negative or confrontational comment. Community advocacy, however, is an emerging area that has to do with managing referrals and can be described as giving information about resources, monitoring use of resources, following up with the resources agencies and providing assistance to overcome obstacles.

Much of the research on personal effectiveness in working with offenders is not new to probation officers. What is important therefore is the commitment at both personal and organisational levels to applying the findings consistently. Bonta looked at probation officer interventions over six months using his structuring skills criteria. He discovered that probation officers had reasonably high relationship skills but did not engage in the structuring skills that the research suggests are important. In about two-thirds of cases, he found appropriate reinforcement being given; however, there were very few instances of prosocial modelling. Probation officers linked people into community resources but offered little follow-up support for use of these.

The mobilising of resources and, in particular, what is described as the 'building of social capital' for offenders is a key theme in the desistance research of Farrall (2004). In Farrall's research, motivation and the social and personal contexts of the offenders are dominant forces in determining whether the obstacles which they face are resolved. There is evidence that probation officers can improve offenders' chances of success by supporting changes in their employment and family relationships, in particular, and by enhancing their personal motivation.

Case management and case planning are critical to orchestrating the various strands of the supervision programme. Huxley (1993) describes a co-ordinating model of case management which encompasses assessment, planning, referral, some advocacy, direct casework, support and reassessment. In the context of the Probation Service (PS), the case management approach adopted is one where the probation officer works directly on some problems with the offender, while linking with in-house providers of groupwork programmes and/or outside agencies in relation to other offender needs. The probation officer plans and co-ordinates the various interventions, ensuring that needs/risks are addressed over time. Case management is sometimes referred to as 'casework' in the PS and in other social work agencies.

Her Majesty's Inspectorate of Probation (2002) suggests that case management involves tackling the multiple risk factors for criminal behaviour – such as drug abuse, homelessness and unemployment – which characterise most supervised offenders. The evidence from the United Kingdom (UK)

indicates that programmes or structured probation interventions will not work unless delivered in the context of effective case management (Kemshall *et al.*, 2002).

Case management involves having a case-management plan with SMART (specific, measurable, achievable, realistic and time bound) objectives that are reviewed at regular intervals with the client and that are monitored by the organisation. Kemshall *et al.* (2001), in their study of the implementation of effective practice, looked at 297 case files and described how the supervision plans lacked focus on objectives and outcomes, with staff confusing objectives with descriptions of the routes that lead to achieving them.

Motivational interviewing skills have proven effectiveness in the engagement of offenders in changing their behaviour (Trotter 2000). In order to engage offenders to make the necessary changes, their motivation has to be identified and tackled. Although probation officers are aware of this need, Kemshall *et al.* (2002) suggest that insufficient attention is being given to motivating clients in the early stages of case management and there is a need to be explicit in supervision plans about how motivation is going to be enhanced and encouraged.

Positive approaches to securing compliance are receiving increasing attention. Offenders tend to be poor completers, thus it makes sense to deploy the full range of strategies for promoting compliance and to avoid over-focusing on coercive threat. Bottoms (2001) outlines a number of strategies that probation officers could utilise proactively:

- Make attendance the norm: Trotter's practice of 'clarifying what is negotiable and what is not' is paired with efforts to make attendance the norm, such as arranging appointments to coincide with other activities such as 'signing on' and exploring and reducing possible obstacles to attendance;
- Reward compliance: This involves reducing restrictions or lessening the demands that the overall community supervision imposes, for instance fewer ongoing appointments conditional on progress;
- Offer a graduated system of positive rewards: These may include early termination of supervision for good behaviour.

The above examination of the key effective practices and characteristics of the probation officer that assist in implementing the effective supervision of offenders reveals that elements of traditional work are part of the effective

package. The majority of these elements are drawn largely, though not exclusively, from the helping or social work research and literature.

Effective interventions and programmes

When the goals of intervention have been outlined, it is important to pay attention to how they are addressed. The guidelines for effective programmes outlined below apply to structured one-to-one programmes as well as to groupwork programmes run by probation officers.

- Respond to the learning style of offenders. The learning styles of most offenders require active, participatory methods of working, rather than a didactic mode on the one hand or an unstructured experiential mode on the other (McGuire, 1995)
- Have a clear model of change backed by research evidence. Probation officers should specify which risk factor a programme or intervention will reduce and how it will do so. A theoretical model or evidence from existing research should support the methods used (Antonwicz and Ross, 1994). A programme, whether one-to-one or group, is described by Chapman and Hough (1998) as:

  > A planned series of interventions over a specified and bounded time period which can be demonstrated to positively change attitudes, beliefs, behaviour and social circumstances, designed to achieve clearly defined objectives based on an identifiable model or empirical evidence. (p. 8)

- Thus, an individual probation officer who wishes to target a risk factor such as drug addiction will look to the research evidence on effective interventions with drug-users and design the series of interventions accordingly or access an accredited or evaluated programme. There will be occasions when probation officers are piloting new approaches which have not hitherto been researched or evaluated. In such circumstances, it is important to state the gap in the research evidence, to outline why the particular approach is being adopted and to commit to evaluate the new approach thoroughly.
- Target criminogenic needs which are identified in the risk assessment. Probation officers in the PS use a risk assessment tool, the Level of Service Inventory – Revised (LSI-R) with adults and the Youth Level of Service – Case Management Inventory (YLS-CMI) with juveniles, to help

identify criminogenic needs. In using these tools, probation officers assess and address risk factors under the following key potential areas of risk known as criminogenic needs: education and employment, financial management, family, accommodation, use of leisure, companions, alcohol and drug use, mental health and attitudes (Andrews *et al.*, 1990). The risk assessment instrument assists the probation officer to make more accurate assessments of the likelihood that an offender will reoffend and the interventions required to address the offending. Offenders with high levels of risk or of criminogenic needs will require a high level of intervention and those with low levels of risk or of criminogenic needs will require little or no intervention (Andrews *et al.*, 1990).

- Use methods drawn from behavioural, cognitive or cognitive–behavioural sources in order to achieve cognitive and behavioural change. Research confirms the effectiveness of cognitive–behavioural interventions when change in anti-social thinking and behaviour is the goal (Lipsey, 1992; Losel, 1995; Andrews, 1995). Many practitioners believe that using relationship skills and facilitating insight will effect the necessary behavioural changes. It has been suggested that while psychotherapeutic-type strategies may be effective for other problems, there is little evidence that their continued use in offence-focused work with offenders is rewarded by useful outcomes (McGuire, 1995). Nevertheless, relationship-building skills, structuring skills and motivational skills are important for engaging the client and maintaining his/her participation in cognitive–behavioural and other interventions (Andrews, 2000).
- Use methods that are multi-modal (Lipsey, 1992; Losel, 1995), that is, methods which incorporate a wide range of components or techniques aimed at a number of different targets. This recognises that changing behaviour is a complex task and needs to be broken down into parts to be worked on, using a range of techniques. For example, McMurran and Hollin (1993) identified the relevant components of intervention for young offenders who are substance-abusers as behavioural self-control training, problem-solving skills training, emotion control training, social skills training, relapse prevention and general lifestyle modification.
- Use skills-oriented methods which are designed to enhance skills in such areas as problem solving, relapse prevention, conflict management and employment (Lipsey, 1992; Losel, 1995). In order to learn new skills in

these and other areas in which offenders have difficulties, there is a need to offer opportunities for structured learning in one-to-one or in group situations (Golstein and Keller, 1987). The requisite skills are described, demonstrated, practised and reinforced by the probation officer in a structured, sequential manner. Role play, role rehearsal, coaching and modelling are useful methods of teaching new skills.

- Recognise that offenders have multiple problems, including interpersonal and internal difficulties as well as external pressures (Palmer, 1992). Thus, notwithstanding the effectiveness and importance of cognitive–behavioural interventions for targeting offending behaviour, there is a need to draw on other social work methods and techniques, such as linking, task-centred work, solution-focused therapy, crisis intervention, advocacy, case management and family counselling, in order to address behaviour in the context of family and community (McGuire, 1995; Ross *et al.*, 1995). This is not to suggest an unconsidered 'scattergun' approach, and probation officers will need to think clearly about which methods are likely to be effective.
- Consider personal effectiveness in working with offenders (as outlined above).
- Attend to programme integrity, which involves attention to the delivery of a programme as stated in its design (Hollin, 1995). Evaluate what was delivered against a plan that specified what was intended.
- Evaluate the outcomes. Work needs to be monitored and evaluated in order to assess its effectiveness. Evaluation is itself a critical and inseparable part of being an effective practitioner, and the use of a risk assessment tool such as LSI-R offers the opportunity to re-apply the risk assessment on completing the intervention in order to evaluate the outcomes.

Organisational effectiveness in working with offenders

It has been suggested that effectiveness can be achieved when practice is directed and supported by effective management and information systems (Roberts, 1996; Losel, 1995). To be effective, organisations working with offenders need to:

- Have accurate risk assessment and review the validity and reliability of the instrument on an ongoing basis

- Ensure that there are supervision plans in place in which the offender is involved
- Provide what is needed internally and make requisite connections to ensure external provision. Hence the importance of partnership arrangements and agreements with other agencies. Many plans encourage the notion of referral but do not emphasise following through on referral and helping people across thresholds;
- Have case managers who have clear roles and responsibilities and are supervised
- Have case managers who have case-management plans, which are reviewed and modified according to progress, with consideration for early terminating for good progress
- Specify what constitutes good practice and monitor that it is in place.

The implementation of effective practice requires a strategic and whole-system approach in which attention is given to supporting the mechanisms and processes required to ensure effective delivery. Evidence-based practice should be seen as a continuing interrelationship between research and practice. A probation service which has a culture of evidence-based practice is more likely to evaluate and test models of good practice. Much research remains to be done and many complex questions regarding effective responses to the problems of offending remain to be answered.

Probation Service

In an earlier research study, I concluded that the Probation Service (PS) was applying the research evidence in its practice but only to a limited extent (Connolly, 2001). Since the introduction of risk assessment instruments in 2005, the integration of evidence-based practice has progressed apace, but much remains to be done. There are a number of key mechanisms, some of which are being put in place by PS management, which will assist the process of integrating the research evidence into practice:

- Communicate clearly what is required and what is no longer required. The publication of standards for practice presents an ideal opportunity to state clearly what is required.
- Integrate effective practices into the performance development objectives of PMDS (Performance Management Development System), for example incorporating such objectives as 'All staff contact with

offenders will exhibit prosocial modelling' or 'All service delivery must contain SMART objectives as evidenced in case-management plans'.
- Include references to the research evidence where appropriate in policy and practice documents or, alternatively, research briefings should accompany the policy and practice documents.
- Communicate effectively with staff, face-to-face, to increase awareness of, and belief in, effective practice.
- Ensure quality assurance at key points of delivery by use of audits of case-management plans and discussions with customer panels which include offender perceptions.
- Establish a steering group which would identify and promote effective practice and establish 'champion' groups to focus on specific areas of work, such as female offenders or sex offenders.
- Model the effective practices and actively reward good practice.

Conclusion

The research evidence provides a map for the probation officer in search of effectiveness and moves away from a practice culture characterised by individual probation officers practising forms of social work based on theoretical or personal preference. Raynor (1996) argues that the consequences of such individualistic practice can be biased outcomes for offenders.

Much of the research about personal effectiveness is derived largely from the field of social work, whereas the research about effective interventions is drawn largely from the field of psychology. Utilising the research evidence to address offending behaviour and promote compliance with supervision will involve probation staff using social work skills and values. The research literature confirms that much of what is considered good practice in social work is also good probation practice (Coulshed, 1991;Trotter, 1999).

Effective application of the research evidence also has implications for the work of projects and partnerships created between the probation organisation and the various agencies involved in community-based work with offenders. Where projects funded by the probation organisation have criminal justice aims, such as the integration and rehabilitation of offenders, the research knowledge provides guidelines in relation to appropriate interventions and clarity in relation to the respective roles of partner agencies. For example, Raynor (2004) suggests that projects which provide social integration are more likely to be associated with reductions in offending if they adopt a 'responsibility model'. Such a model views the offender as

responsible for his/her behaviour and offending and as capable of making changes; viewing the offender as a victim of social circumstances is described as a 'deficit model'.

The research on effectiveness has become almost exclusively associated with the effectiveness of groupwork programmes. There is now a need to a have a broader approach that will ensure that all aspects of effectiveness are integrated into probation practice. The broader framework of research evidence outlined in this article provides guidance for probation organisations and for individual probation officers on how best to achieve the official goals of public protection and reduced offending, and other person-related goals which are not as prominent in official documents but which are expressed by both probation officers and offenders (Robinson and McNeill, 2004). These goals include such things as addressing housing, employment and support problems, many of which are instrumental in achieving the official goals. The research framework presented in this article allows for a holistic, personalised approach to the supervision of offenders that offers a realistic expectation of meeting both public and person-related goals.

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

Paul Thompson

Selected by Liz Arthur†

In 2014, Paul Thomspon wrote about the age-old problem of how to meet the housing needs of offenders, particularly individuals who have committed sexual and violent offences, following release from custody. In ‘‘Not in My Back Yard”: The Challenge of Meeting the Housing Needs of Offenders’, Paul highlights the critical role of stable and sustainable accommodation for people who have offended, in preventing further offending. He outlines the challenges of engaging with the wider public and explaining the checks and balances in place within approved accommodation to help manage risk. His comment that ‘community confidence in reintegrating offenders back into the community is critical’ remains as relevant today, ten years on. He sets out the pressures of moving individuals on from hostel accommodation, a situation which unfortunately has only got worse since 2014, given the pressures on social housing and the cost-of-living crisis. What has not changed since 2014 is probation’s recognition and, in many instances, strong partnership with accommodation-providers who work alongside us to help reintegrate people back into communities and protect the public from harm.

* This paper appeared in vol. 11 of the *Irish Probation Journal* (2014).

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

Introduction

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

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

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

Does accommodation really impact on reoffending?

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

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

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

There is limited recent local research on the impact of homelessness on reoffending in Northern Ireland; however, the Northern Ireland Housing Executive through its 'Supporting People' funding stream has agreed that some of its budget can be used to help conduct local research in 2014. This will be important to support the work carried out in providing for the accommodation needs of offenders. We do know, however, that in 2012–13, for the offenders on PBNI's caseload commencing supervision in the community, 'lack of stable or suitable accommodation' was identified by their supervising officers as contributing to the offending behaviour of some 26 per cent of the caseload. The figure for young offenders was significantly higher (44 per cent).

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

> Links between homelessness and offending are well established and suitable housing has been identified as one of the key factors that can reduce re-offending. It's recognised that suitable and secure accommodation is the main pathway for the resettlement and reintegration

> of ex-prisoners and ex-offenders back into the community. Despite the considerable involvement of housing advice agencies and voluntary-sector organisations – in terms of offering advice and support – gaining access to secure and stable housing remains a key challenge. (UU, 2012)

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

PBNI accommodation strategy

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

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

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

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

The strategy identified a number of key objectives, including:

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

We will now look at these in more depth.

Ensuring suitable moves on accommodation and floating support

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

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

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

Addressing the needs of vulnerable groups

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

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

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

The Corston report, *A Review of Women with Particular Vulnerabilities in the Criminal Justice System*, published in 2007, identified housing as a major concern for female offenders, in particular, because women's lives tend to be more disrupted than those of men by custodial sentences (Baroness Corston, 2007). A number of barriers were identified in relation to accommodation – the application process, a shortage of accommodation options and the issues relating to access to children. Other issues specific to women offenders include that their offending is most often associated with poverty and financial difficulties and that their financial situations are further strained by having sole responsibility for children.

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

Foreign nationals with no access to public funds present a particular challenge to the criminal justice agencies. There are no mainstream budgets

to address this issue and it is likely that it will be a priority area of work as the number of foreign nationals entering Northern Ireland increases.

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

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

Approved accommodation

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

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

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

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

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

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

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

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

As part of the inspection, PBNI compiled data to assess residents' progress after they left the approved premises. This was done by sampling

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

The data also showed that:

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

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

Engaging with communities

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

PBNI and partners have sought to have in place an integrated communications and engagement strategy to help support the development of the accommodation strategy. That strategy seeks to explain the key

messages around accommodation. It is clear from the evidence (CJINI, 2013) that a key message to local communities has to focus on the fact that there is a much lower rate of reconviction of offenders while they are living in approved premises (3.1 per cent) than for offenders who accessed mainstream accommodation services (36.6 per cent).

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

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

Agencies such as probation fully understand and appreciate the concerns of local communities about sex offenders but it is our view, and indeed the view of the Public Protection Arrangements Victim Sub Group, that the benefits of approved premises outweigh the concerns. The strategy for PBNI and others will be to continue to engage with communities in an open and upfront manner, in order to listen to concerns and show them the work we do in making communities safer.

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

Conclusion

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

Community confidence in reintegrating offenders back into the community is critical. PBNI, working with its statutory, voluntary and community partners,

has a proven track record in assessing and managing the risk posed by offenders in the community and reducing rates of reoffending.

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

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

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Desistance as a Social Movement*

Shadd Maruna

Selected by Peter Beck†

Shadd Maruna's article reviews the phenomenon of desistance from crime. I first came across this article when researching rehabilitation and it inspired me to conduct my own research within PBNI, exploring probation officers' understanding and application of the theory. Positioning desistance theory as a seminal proponent of a probation officer's knowledge base, this article offers a succinct exploration of the struggles in defining the concept, alongside why it's a 'big deal' for criminal justice practice and policy. Maruna challenges us, the practitioners, to think differently about how we work with individuals in the criminal justice system, shifting the focus from rehabilitation (what works) to desistance (how it works). The article reframes the conventional understandings of desistance theory, that of an individual process or journey, to a more contemporary understanding aligned to emancipatory principles, more akin to a social rights movement as Maruna ascribes. Understanding how desistance works for individuals is a challenge for all practitioners to contend with and this article aptly offers some well-considered direction.

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Summary: Desistance from crime has been a considerable success story for academic criminology. The concept has deep roots but did not emerge as a mainstream focus of study for the field until the 1990s movement towards developmental or life-course criminology. From these origins, however, the term has taken on a life of its own, influencing policy and practice in criminal justice. This paper briefly reviews this history, then explores what might be next for desistance research among numerous possible futures. I argue that the most fruitful approach would be to begin to frame and understand desistance not just as an individual process or journey, but rather as a social movement, like the Civil Rights movement or the 'recovery movements' among individuals overcoming addiction or mental health challenges. This new lens better highlights the structural obstacles inherent in the desistance process and the macro-social changes necessary to successfully create a 'desistance-informed' future.
Keywords: Desistance, social movement theory, mass incarceration, stigma.

Introduction

Research on the subject of desistance from crime has expanded impressively in recent decades. As recently as two decades ago, hardly anyone had heard the term, and even the criminologists who created the concept could not decide how we were going to spell the word (Laub and Sampson, 2001). Ten years later, the concept appeared to be almost ubiquitous in criminal justice discussions, not just in academia, but even across a smattering of criminal justice systems ranging from Singapore (Day and Casey, 2012) to Scotland (McNeill, 2006). For instance, the US Department of Justice (2011) funded a $1.5 million field experiment of 'desistance-based practices' in probation, and desistance research featured strongly in the Evidence Report of the UK Ministry of Justice's Green Paper 'Breaking the Cycle', announcing the original plans for the so-called (and short-lived) 'rehabilitation revolution' in England and Wales (Ministry of Justice, 2010).

Certainly the concept has had considerable impact on both prisons and probation practice in Ireland, North and South, largely as a result of work by Healy (2012; Healy and O'Donnell, 2008), Marsh (2011; Marsh and Maruna, 2016), Seaman and Lynch (2016), and others (e.g. Baumer *et al.*, 2009; Dwyer and Maruna, 2011; Maruna *et al.*, 2012; Vaughan, 2007). In the clearest sign that the concept has come of age in Ireland, the Irish President, Michael D. Higgins, addressed the Cork Alliance conference[1] on the subject of 'The Ethics of Supporting Desistance from Crime', in September 2016.

1 http://www.corkalliancecentre.com/

In what follows, I will briefly outline the idea behind desistance and why it has had such a transformational impact on justice practices. Then I will turn to the question of what is next for desistance thinking. I argue that the next chapter of the desistance story will largely be written by desisting ex-prisoners themselves. That is, I see desistance moving from a scientific area of study to a social movement, like the Civil Rights movement or the 'recovery movements' among individuals overcoming addiction or mental health challenges. Reframing the understanding of desistance as not just an individual process or journey, but rather a social movement, in this way better highlights the structural obstacles inherent in the desistance process and the macro-social changes necessary to successfully create a 'desistance-informed' future.

What is desistance? And what is the big deal?

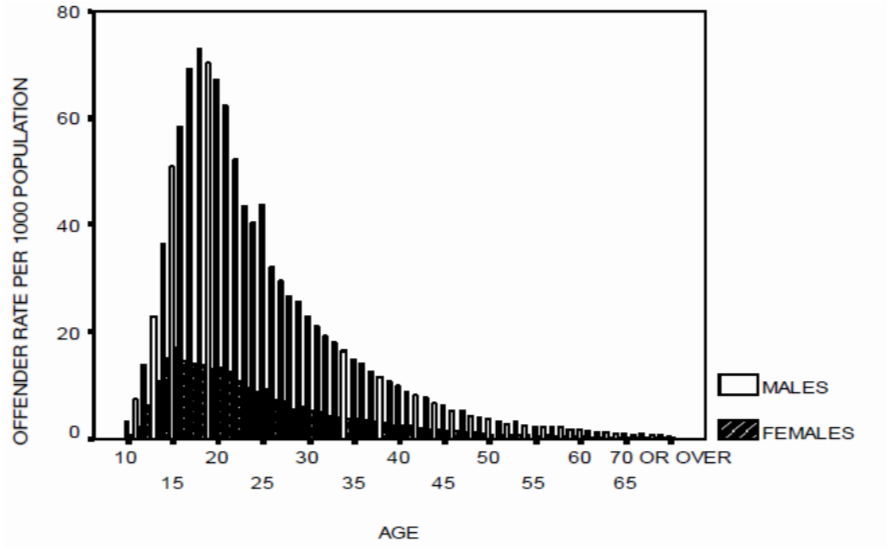
At the heart of desistance research is a very simple idea: people can change. Although crime has long been understood as a 'young man's game' (and here the gender choice is intentional), criminal justice policy and practice, especially in the US, have unfortunately been based on the notion that the 'offender' is somehow different from the ordinary person and 'once a criminal, always a criminal' (Maruna and King, 2009). Desistance research, in this context, was a recognition of the vast number of 'false positives' in this pessimistic assumption of risk. That is, most of the people we label as 'offenders' actually spend only a short time in their lives involved in criminality.

Longitudinal cohort studies of young people over time (e.g. Farrington, 1992) demonstrate that most of us engage in criminal behaviours in our youth, but almost all of us 'grow out' of such things as we age and move into different roles in society (employment, parenting, and so forth) (see Sampson and Laub, 1993). Even for the individuals whose crimes become known to the criminal justice system, participation in 'street crimes' generally begins in early adolescence, peaks rapidly in the late teens or early twenties, and dissipates before the person reaches 30 years of age (see Figure 1).

Beginning in the 1980s, criminologists started to label this process 'desistance from crime', understood as the long-term absence of criminal behaviour among those who previously had engaged in a pattern of criminality (Maruna, 2001). Today, there is a thriving body of research on the topic from a new generation of scholars seeking to understand how and why individuals are able to desist despite the considerable obstacles they face in

reintegrating into society (see especially exciting new works such as Abrams and Terry, 2017; Hart and van Ginneken, 2017; Rocque, 2017; Weaver, 2015). Indeed, Paternoster and Bushway (2010) have argued that 'Theorizing and research about desistance from crime is one of the most exciting, vibrant, and dynamic areas in criminology today.'

Figure 1: *Recorded offender rates per 1,000 relevant population by age-year and sex, England and Wales, 2000*



Source: Bottoms *et al.* (2004).

Of course, there is nothing new about studying offender rehabilitation or (its opposite) criminal recidivism. Thinking about this change process in terms of desistance, however, is a unique lens. Indeed, the term 'desistance' was initially used in the literature to refer to the opposite of rehabilitation – one either was rehabilitated by the State or else they desisted on their own, spontaneously. This notion of 'spontaneous desistance' is now out of fashion, but there are still important differences between desistance and rehabilitation as concepts.

Rehabilitation is typically explored in the aggregate and with a focus distinctly on the effectiveness of 'programmes' or institutions in generating change. With rehabilitation research, the question is 'what works?' and getting to the answer typically involves programme evaluation research

privileging randomised controlled trials (RCTs) or quasi-experiments (see Gendreau *et al.*, 2006; MacKenzie, 2012). Desistance research, on the other hand, focuses on individual journeys and not on programme outcomes. The question is 'how' does desistance work, and getting to the answer often involves longitudinal studies of individuals over time (e.g. Farrall, 2004; Bottoms and Shapland, 2010) or qualitative research on the self-narratives of individuals who have moved away from crime (see e.g. Fader, 2013; Halsey, 2006; King, 2013; Leverentz, 2014; Maruna, 2001; Veysey *et al.*, 2013).

The shift in focus from rehabilitation ('what works') to desistance ('how it works') has had subtle but important implications for criminal justice practice, echoing the debates in the field of drug addiction work between 'treatment' and 'recovery' (see Best and Lubman, 2012; White, 2000). As rehabilitation was typically conceived as a sort of 'medical model', complete with language like 'treatment effects' and 'dosage', the focus was on assessing individual deficits (risks and needs) and identifying the most appropriate expert treatment strategy to 'correct' these individual shortcomings or fix broken people.

The desistance perspective, instead, focused less on treatments than on relationships, including those with practitioners or other prisoners, but also including a much wider web of influences across the life course, including families, employers, communities and beyond (see Porporino, 2010; Weaver, 2015). Along with this came a shift in focus from 'correcting' individual deficits to recognising and building individual strengths (Maruna and LeBel, 2003), framing individuals in the justice system as people with 'talents we need' (Silbert, cited in Mieszkowski, 1998), and designing interventions that provide opportunities for them to develop and display this potential (Burnett and Maruna, 2006).

Perhaps the most interesting implication of the research so far has been for the potential role of former prisoners as 'wounded healers' (Maruna, 2001; Perrin and Blagden, 2014; LeBel, 2007), drawing on their experiences to help others avoid their mistakes and benefit from the inspiration of their achievements. As one such mentor (sometimes called a 'credible messenger') told me, the reintegration process is a minefield for ex-prisoners and 'There is only one way to get through a minefield: you have to watch the guy in front of you, and if he makes it through, you follow in his footsteps' (field notes).

Of course, this sort of mutual aid is an idea with old roots and is not original to desistance theory. In fact, Albert Eglash, the social scientist who is credited with coining the term 'restorative justice', wrote the following more than a half century ago:

> Our greatest resource, largely untouched, to aid in the rehabilitation of offenders is other offenders. Just how this resource is to be effectively tapped as a constructive power is a matter for exploration. Perhaps Alcoholics Anonymous provides some clues. (Eglash, 1958–59, p. 239)

Yet the concept of the wounded healer was something of a natural fit for desistance research. After all, if the core message of desistance research was that there was much to learn from 'success stories' who move away from crime, then surely the same thing could be said in the criminal justice environment. The wounded healer could deliver the desistance message (people can change) directly on the frontlines of reintegration work where it can have a direct impact. As a result, projects such as the work of the St Giles Trust that draw heavily on this peer-mentoring model are often called 'desistance-focused' (see Barr and Montgomery, 2016), and the proliferation of this model in contemporary criminal justice practice may be one of the primary achievements of desistance work to date.

What on Earth next?

As the desistance idea has clearly made a big impact in a relatively short span of time, it is interesting to ask where the idea is going next – if, indeed, it is not simply to be replaced by the next passing intellectual fad. As in the familiar academic cliché, 'more research is needed' on the subject and new and interesting findings will continue to emerge. However, as someone who has been involved in desistance work for two decades now, my view is that scientific research – at least the types we have become familiar with based in universities and justice institutions – will begin to take a more secondary role as desistance theory changes shape in the near future. The desistance concept has already evolved over the past few decades. It has moved from being a purely scientific/academic idea to a much more applied topic, animating practice and policy. I argue that the next stage of this evolution will be the emergence of desistance as a social movement.

Social movements, of course, are powerful forces that by their nature tend to take societies in surprising new directions. The remarkable achievements of the Civil Rights movement in the United States are a well-known example. Yet it is still shocking to realise that it was only in 1955 that Rosa Parks refused to give up her seat on a segregated bus, and in 2008, Barack Obama was elected President of the United States. To move from 'back of the bus' to the first

African-American president within the lifetime of a single generation would seem unthinkable, except when one realises the phenomenal mobilisation and civil rights organising that took place during those five decades.

The struggle for LGBT rights in Ireland tells a similar story. Until 1993, same-sex sexual activity was a criminal offence in Ireland, yet in 2015, in a historic referendum, the Irish public voted overwhelmingly to legalise same-sex marriage and the country currently [2017] has an openly gay Taoiseach. Again, the speed of this shift in public opinion can only be explained as a result of a sweeping social movement for LGBT rights, led by members of the LGBT community: members themselves emerging 'out of the closet' and finding their voice on the public stage.

Similar social movements have transformed the fields of mental health and addiction recovery, where formerly stigmatised groups have collectively organised for their rights. Sometimes referred to as the 'recovery movement' (Best and Lubman, 2012), groups of advocates for 'service-users' and 'disability rights' have played crucial roles in advocating for patient rights in the health-care system, working to reduce discrimination against individuals struggling with a variety of health issues, but especially humanising individuals with formerly stigmatised health needs. In a transformative essay calling for the development of a 'recovery movement', William White (2000) wrote:

> The central message of this new movement is not that 'alcoholism is a disease' or that 'treatment works' but rather that permanent recovery from alcohol and other drug-related problems is not only possible but a reality in the lives of hundreds of thousands of individuals and families.

As a result of this organising, there has been a discernible backlash against professionalised, pathologising medical treatments in favour of support for grassroots mutual-aid recovery communities (see e.g. Barrett *et al.*, 2014).

I see this as an inevitable next step on the journey for the desistance idea, as that concept moves from the Ivory Tower to the professional world of probation and prisons, back to the communities where desistance takes place. Indeed, something like a desistance movement (although it would never label itself this) is already well under way across jurisdictions like the US and the UK, partially as an inevitable outcome of the arresting and convicting of so many people. Today it is estimated that around 70 million Americans have some type of criminal record – roughly the same number as have university degrees. Moreover, the ready availability of these records (complete with mugshot

pictures and other identifying information) on the Internet has forced millions of these individuals 'out of the closet' against their will (see Lageson, 2016). It is no wonder then that, even in conservative voting regions of the Midwest (so-called 'red' states), there has been widespread popular support for 'second chance' legislation like efforts to 'ban the box' enquiring about criminal records from applications for public employment. As with any other dramatic change in legislation, these efforts have been led by grassroots organisations, in this case drawing on ex-prisoner activists themselves.

All of Us or None (AOUON) is one such group. Based in California, AOUON is a national organising initiative of formerly incarcerated persons and persons in prison. On its website and in its brochure, this organisation states that: 'Advocates have spoken for us, but now is the time for us to speak for ourselves. We clearly have the ability to be more than the helpless victims of the system.'[2] Another prominent example on the east coast is the organisation Just Leadership USA (JLUSA – say it aloud) led by Glenn E. Martin. Martin, an ex-prisoner and formerly a leader in the wounded healer-based Fortune Society organisation in New York, founded JLUSA with a mission to cut the number of people in prison in the US by half by 2030. Already JLUSA has been a leading voice trying to secure the closure of the scandal-ridden Rikers Island jail facility in New York. Interestingly, one of the core weapons such groups utilise is their personal self-narratives. Martin, for instance, has said:

> We [at JLUSA] use that narrative to discuss the system, telling the truth about race and class discrimination in a way that helps people see how the reality of criminal justice does not match up to their ideas about either justice or fairness. People respond to anecdotes. You may forget data but you don't forget stories. (Bader, 2015)

Similar dynamics have seen the emergence of equally prominent and successful ex-prisoner groups in the United Kingdom (UK). On its website, the national charity UNLOCK points out that there are an estimated 11 million people in the UK with a criminal record – numbers that suggest a near necessity for a social movement.[3] UNLOCK seeks to provide 'a voice and support for people with convictions who are facing stigma and obstacles because of their criminal record'. Another ex-prisoner-led organisation that

2 https://prisonerswithchildren.org/about-aouon/
3 http://www.unlock.org.uk/

has grown with remarkable speed in the UK is User Voice, founded in 2009 by former prisoner and bestselling author Mark Johnson. User Voice has argued that the key to improving rehabilitation is to give prisoners themselves more power to influence how prisons operate. More than a slogan, User Voice has been able to put this vision into reality with its elected prisoner councils (Schmidt, 2013) that can currently be found across 30 prisons in the UK.

Of course, Ireland has a longer-standing and more complicated relationship involving ex-prisoner activists, considering how many of the country's early leaders spent time in British jails for their roles in the revolution that led to the founding of the Republic. In the north of Ireland, politically motivated ex-prisoner groups on all sides of the conflict (loyalist, republican, and various splinter groups) have formed long-lasting and successful mutual-aid and activist organisations to campaign for ex-prisoner rights and support struggling communities (Dwyer and Maruna, 2011; McEvoy and Shirlow, 2009). The link to desistance with such groups is tenuous and controversial, of course, as their membership is explicitly limited to those incarcerated for political reasons.

Still, like the New Recovery Movement, all these groups recognise that there is a 'common bond' between all persons who were formerly incarcerated and that 'helping "the brothers" was essential for continued group identity' (McAnany *et al.*, 1974, p. 28). By providing a supportive community and a network of individuals with shared experiences, these groups can be interpreted as transforming an ostensibly individual process into a social movement of sorts (Hamm, 1997). Thinking of desistance in this way shifts the lens away from individual journeys to a much more collective experience, drawing attention to the macro-political issues involved in crime, justice and reintegration in ways that are often masked in the typical medical language of treatment and rehabilitation.

Importantly, none of these organisations in any way see their primary mission as involving desistance, and few even use that word. For the most part, they are not rehabilitation organisations and typically do not get involved in offering treatment programmes or the like. Instead, they advocate for criminal justice reforms, in particular by 'breaking through social prejudice' (Siegel *et al.*, 1998, p. 6). Yet, ironically, the work they do (whether intended to be desistance-based or not) certainly does support desistance. Indeed, it might be the most important work they could do if they wanted to promote desistance. After all, the primary challenge that ex-prisoners face in reintegrating into society is stigma (Maruna, 2001), and although each person manages stigma differently, it is experienced collectively.

In research among other stigmatised groups, Wahl (1999, p. 476) found that 'involvement in advocacy and speaking out are self-enhancing, and the courage and effectiveness shown by such participation help to restore self-esteem damaged by stigma' (see also Shih, 2004). In addition, like getting involved in helping behaviours as 'wounded healers', becoming involved in advocacy-related activities can give meaning, purpose and significance to a formerly incarcerated person's life (Connett, 1973, p. 114). For example, Nicole Cook, a graduate of ReConnect – the Women in Prison Project's advocacy and leadership training programme for formerly incarcerated women – states:

> One thing I recognize as an advocate: people respect you more when they see you are not afraid to stand up for what you believe in … Now you have a chance to prove to yourself and to everyone else, that 'I made it — I was incarcerated, I felt worthless, hopeless, and all the other negative emotions you go through when in prison'. To transform into a person who speaks out and advocates for other women, that's awesome. (Correctional Association of New York, 2008, p. 5)

Conclusions: 'Nothing about us without us'

In this paper, I have tried to sketch three distinct phases of the desistance idea. First, there were the academic contributions. Research on individual change in criminality posed a clear and important challenge to traditional academic approaches to criminological research, and situating crime in 'a life-course perspective' became perhaps the most dominant new paradigm in the field in the 1990s. Second, these insights were followed by impacts on criminal justice practice in the real world. Desistance moved from an Ivory Tower jargon word to a style of delivering justice-related interventions that foregrounded the strengths and expertise of ex-prisoners themselves to act as mentors, 'wounded healers', and architects of their own 'rehabilitation'. Finally, in the coming third phase, I would argue that the real 'action' in desistance will move away from both the universities and the criminal justice agencies and be centred around grassroots activist and advocacy work from organisations like JLUSA and User Voice.

Importantly, though, I am not arguing that there is no longer any role for traditional criminological research on individual desistance trajectories. In fact, even from this new, social movement lens, important questions remain

about individual differences in coping and adaptation. In this regard, Thomas LeBel's (2009; LeBel *et al*., 2015) ground-breaking research provides probably the ideal example of work that recognises desistance as a social movement, but also seeks to understand individual outcomes. For instance, with a sample of over 200 ex-prisoners, his survey research found that having an 'activist' or 'advocacy' orientation is positively correlated with psychological wellbeing and, in particular, satisfaction with life as a whole. Moreover, he found a strong negative correlation between one's advocacy/activism orientation and criminal attitudes and behaviour. This indicates that advocating on behalf of others in the criminal justice system may help to maintain a person's prosocial identity and facilitate ongoing desistance from crime.

That said, advocacy work is not for everyone and it is certainly not without risk. Writing about activists from other stigmatised groups over half a century ago, Goffman (1963, p. 114) noted that:

> The problems associated with militancy are well known. When the ultimate political objective is to remove stigma from the differentness, the individual may find that his very efforts can politicize his own life, rendering it even more different from the normal life initially denied him — even though the next generation of his fellows may greatly profit from his efforts by being more accepted. Further, in drawing attention to the situation of his kind he is in some respects consolidating a public image of his differentness as a real thing and of his fellow-stigmatized as constituting a real group.

Such questions will be essential as the ex-prisoner movement grows internationally.

On the other hand, I would argue that traditional research practices will inevitably have to adapt in important ways to this new environment in order to remain true to the desistance idea. That is, research endeavours will need to move out of the Ivory Tower and become more inclusive, collaborating with community organisations and involving research 'subjects' themselves in the data analysis and interpretation. For instance, activists in the disability rights and neurodiversity movements have insisted that in the future there be 'nothing about us without us' (*Nihil de nobis, sine nobis* in Latin) (Charlton, 1998). They argue that if experts want to convene a conference on the problem of clinical depression or prepare a report on the prevention of autism, the voices of those who have been so labelled need to be represented in the discussion. Important policy-level discussions of individual lives should

not take place 'behind the backs' of the very communities that are affected by the policies, and the inclusion of such voices has led to impressive progress in the scientific and public understanding of these issues.

Indeed, this is a natural stage in the study of any scientific topic involving human beings. Eighty years ago, it would have been possible to have a government panel or expert conference on the subject of 'the negro family' in the United States (US) that featured only the voices of white experts. Today, such a thing would seem an absurdity and an offence. Not that white scientists cannot make important contributions to such discussions: they can, and do, but were they to do so without collaboration and dialogue with African-Americans themselves, their analyses would inevitably involve a process of 'othering' and dehumanisation. Likewise, for decades, outsider experts would write about homosexuality sometimes as a 'crime', sometimes as a 'sin', sometimes as a 'disease', but always as the actions of the deviant 'other'. Today, such voices can still be heard, of course, but they are always in competition with the far more widely recognised experts on LGBT issues who work alongside or from within diverse LGBT communities.

Importantly, the 'nothing about us without us' revolution is already starting to emerge in academic criminology in the form of a movement called Convict Criminology (Richards and Ross, 2001). Largely consisting of ex-prisoner academics, Convict Criminology has made important strides in changing the way in which crime and justice are researched in both the US (see Jones *et al.*, 2009) and the UK (Earle, 2016). Even criminology education at the undergraduate and graduate levels has recognised the need for a move away from 'behind their backs' thinking. Prison-based university courses involving prisoner students and university students learning about criminology together have spread rapidly throughout the US, UK and beyond, as a result of the dynamic work of organisations like Inside Out (Pompa, 2013) and Learning Together (Armstrong and Ludlow, 2016). These courses have had a transformative impact on the way both students and university lecturers think about how criminology should be learned, while also opening important opportunities for prisoners to realise their own strengths and academic potential.

Far from undermining mainstream criminological teaching and research practices, such developments should breathe new life into the traditional classroom or research enterprise, making criminology more relevant, up to date and (indeed) defensible as an academic area of study. That is, inclusive social science is *good* social science. As such, I think the future is going to be

a bright one for desistance research, and I look forward to working with the next generation of thinkers (and doers) in this area.

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Trauma-Informed Practice and the Criminal Justice System: A Systematic Narrative Review*

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Selected by Collette Lattimore†

When I reflect on the number of articles I have read over my sixteen-year probation career, this article on trauma-informed practice stands out – acting as a catalyst for me to learn more and enhance my skills as a social worker. In 2021, I was in the middle of my own professional development journey, having stepped up to begin an Area Manager role in PBNI as well as being a relatively newly qualified practice teacher. I had a distinct desire to improve the service we provided to service-users. This article started that conversation for me by highlighting the need for a strengths-based approach to this strand of social work, coupled with the importance of recognising trauma – 'seeing and hearing it', rather than avoiding or misinterpreting it. The authors very ably and succinctly delve into the pertinent issues and direct the reader to draw their own conclusions and to pursue further learning. The article fuelled my desire to gain more knowledge on trauma-informed practice and to understand how I model this as a practitioner, manager and educator to the people with whom I come into contact. For me, the impact of articles like this on my practice reflects the old fourteenth-century proverb, 'Great oaks from little acorns grow'.

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Summary: Enthusiasm for trauma-informed practice has grown exponentially in the last two decades. The concept was coined by Harris and Fallot (2001), and rather than provide treatment, this approach aims to ensure that all services are trauma-aware, safe, compassionate and respectful (Levenson and Willis, 2019). Given the prevalence of trauma experiences among the justice-involved population (Bellis *et al.*, 2014; Olafson *et al.*, 2018; Levenson and Willis, 2019; Ford *et al.*, 2019), local and international criminal justice agencies have sought to integrate trauma-informed practice into service provision. This paper highlights key themes from a systematic narrative review of the international criminal justice research on trauma-informed practice in the criminal justice system. All included studies focused on justice-involved women and young people, both girls and boys, but none of the studies involved justice-involved men. Five key themes were identified. Firstly, recognising trauma was important to support recovery and avoid re-traumatisation. Secondly, safety was a central consideration for justice-involved women, young people and for staff. Thirdly, trauma was experienced in abusive relationships, but healthy relationships supported recovery. Fourthly, gender-responsive, trauma-informed and flexible services, including programmes, had positive benefits for women. Finally, where practitioners were committed to trauma-informed practice, they were important mediators for its integration into organisational practices.
Keywords: Trauma-informed practice, criminal justice, justice-involved women, justice-involved young people, probation, PBNI.

Introduction

The recent interest in trauma-informed practice has materialised from the seminal Adverse Childhood Experiences (ACEs) study by Felitti *et al.* (1998), which established an evidence base for a range of personal and social determinants that impact on wellbeing in the longer term (Bellis *et al.*, 2019). Locally, Northern Ireland has high levels of mental illness, suicide rates and poverty (O'Neill *et al.*, 2015). Ferry *et al.* (2014) reported a substantial proportion of the population as impacted by chronic trauma exposure, associated with the colloquially termed 'Troubles'. Dalsklev *et al.* (2019) found Troubles-related trauma significantly predicted reoffending for those with previous violent convictions. Given Northern Ireland's unique legacy of the 'Troubles', with the associated fallout of transgenerational trauma and the international literature confirming the disproportionate prevalence of trauma among the justice-involved population, arguably, criminal justice practitioners in Northern Ireland are likely to be interfacing regularly with individuals affected by trauma exposure.

The Safeguarding Board for Northern Ireland, which is made up of key statutory, community and voluntary partner organisations, commissioned a

rapid evidence review to explore the international literature. This review by Bunting *et al.* (2018) concluded that trauma-informed practice held potential for the criminal justice system in Northern Ireland. They proposed that this could be achieved through a commitment to thoughtful planning, resources and ongoing review, suggesting it could be beneficial not only for individuals but for their extended networks, communities and society. Building upon Bunting *et al.*'s (2018) work, this systematic narrative review explores the specific components of trauma-informed practice within international criminal justice settings. Branson *et al.* (2017) suggest that trauma-informed practice needs to be uniquely tailored to individual systems, so this review has been a driver for the implementation of trauma-informed practice in PBNI.

Despite the international interest and plethora of literature, trauma-informed practice is an evolving concept that lacks a coherent conceptualisation (Champine *et al.,* 2019). A systematic review by Branson *et al.* (2017) found relative consensus on the core domains of trauma-informed practice but a lack of agreement on the specific practices and policies within the justice system. In the USA, the Substance Abuse and Mental Health Services Administration, which is at the forefront of advancing trauma-informed practice, recognises three core elements: realising the prevalence of trauma; recognising the impact of trauma on both recipients and providers of services; and incorporating this knowledge in responses (SAMSHA, 2014). Trauma-informed practice is a person-centred and whole-system approach, which differs from trauma-focused interventions that target underlying trauma. The key difference is that it does not directly address trauma but adopts a universal approach to promote safety, trustworthiness, support, collaboration, choice and empowerment, whilst recognising cultural, historical and gender issues (SAMSHA, 2014). This is thought to benefit everyone, not only those with trauma histories (Pate and Geekie, 2021).

Services that fail to recognise trauma can negatively impact on outcomes for service-users and can be experienced as retraumatising (Sweeney *et al.*, 2018). McCartan (2020, p. 10) suggests that trauma-informed approaches contextualise offending within an individual's lived experience of trauma, as opposed to being 'over-sympathetic'. According to Levenson and Willis (2019), this facilitates an understanding of offending behaviour that provides a strengths-based framework to deliver interventions to maximise self-determination and personal ownership of change. However, the justice system is a challenging setting for trauma-informed practice, and there is debate about its legitimacy (Petrillo, 2021), not least due to the correctional

nature of the system itself. It has attracted some criticism due to the lack of emphasis on tangible practice (Hanson and Lang, 2016; Becker-Blease, 2017) and was described by Sweeney *et al.* (2018) as a fuzzy and complex concept. Specific to criminal justice, Miller and Najavits (2012, p. 2), suggest that its implementation requires an understanding of criminal justice priorities which have their 'own unique challenges, strengths, culture, and needs'. Nonetheless, they conclude that the practice can support the development of prosocial coping skills, safer environments, improved staff morale, and better outcomes for justice-involved individuals in custody.

Method

The aim of this review was to examine the international empirical evidence on the efficacy of trauma-informed practice within justice settings and to consider how this may translate to PBNI practice. The objectives were to explore the available primary evidence relating to trauma-informed practice in justice settings; to establish whether the evidence base for trauma-informed practice in justice settings was sufficiently robust; and to consider what could have application from the research to offer insights for the integration of trauma-informed practice in PBNI.

A systematic narrative review was chosen as it employs a rigorous and explicit methodology to identify, critically appraise and synthesise findings from empirical research (Taylor *et al.*, 2015). This approach is widely accepted as the 'gold standard of evidence for practice' (Killick and Taylor, 2009, p. 214).

Search Strategy

In July 2020, three databases, PsycINFO, Criminal Justice Abstracts and Social Care Online, were systematically searched using two concept groups — 'trauma-informed' and 'criminal justice'. Retrieved articles (n=261) were mined against predefined inclusion and exclusion criteria, with 17 studies selected for their relevance to trauma-informed practice in justice settings. Information was extracted, and the articles were quality appraised. A thematic analysis was employed to identify and report on the identified patterns across the papers (Braun and Clarke, 2006). A structured narrative synthesis, focusing on the relational aspects between the studies (Popay *et al.*, 2006), was utilised to report on the findings.

Inclusion criteria included peer-reviewed empirical research within justice settings, where trauma-informed practice was referenced in the title, abstract

or keywords. A date range was considered but ultimately not imposed, to avoid arbitrary bias, and only grey literature was excluded to ensure that studies met the peer-review standard.

Limitations

This review adopted an established systematic approach to minimise bias, but limitations were observed. Primarily, the challenge of defining trauma-informed practice and the nuances of language across jurisdictions may have resulted in relevant articles being missed by the search terms employed. The review was limited to peer-reviewed studies indexed on three databases, and relevant articles could have been filtered out where trauma-informed practice was absent from the titles, keywords and abstracts. Human error and subjectivity may have influenced data collection, data extraction and synthesis. The heterogeneity of the studies provided breadth for analysis, but methodological limitations, including small sample size and low statistical power, were observed. Quantitative studies on trauma-focused programmes collectively demonstrated their value but offered limited insights into the practical reality of implementing trauma-informed practice as a universal concept. By their nature, there was a lack of generalisability across the qualitative studies, but despite the limitations, this review highlighted that trauma-informed practice has potential within criminal justice settings.

Findings

The study characteristics

Of the 17 studies included, 14 were conducted in North America (13 in the USA and 1 in Canada), 2 were conducted in the UK and 1 in Ireland. Included papers were published between 2012 and 2020. They focused on women and young people, together with staff in criminal justice provisions. There were no studies that included adult males.

Five dominant and interrelated themes were identified in this synthesis: trauma exposure; safety; relationships and supports; interventions and services; philosophy and organisational culture. Most studies identified factors across a number of themes.

Trauma exposure

Prevalence of trauma exposure

The prevalence of trauma among justice-involved women and young people was mentioned in all included papers. Seven studies specifically reported this as a key finding. In a secondary analysis of 277 justice-involved women, Messina *et al.*'s (2014) study found that all had diagnoses of co-occurring post-traumatic stress disorder (PTSD) and substance abuse issues, profoundly impacting their emotional wellbeing. Saxena *et al.* (2016) established on average 2.7 trauma events per woman in a secondary analysis of 193 justice-involved females with substance issues. Kennedy and Mennike's (2018) qualitative study of 113 female prisoners found a link between high levels of abuse and offending. Although trauma exposure was not a focus of Matheson *et al.*'s (2015) study of 31 females released from prison with substance abuse issues, participants disclosed extensive trauma histories connected to substance abuse and poor mental health. Fedock *et al.*'s (2019) survey of 26 women serving life sentences found at least one trauma exposure, either in childhood or through intimate partner abuse. Likewise, Dermody *et al.* (2018), in an Irish mixed-methods study, established high levels of childhood adversity and intimate partner abuse for 24 women availing of homeless, probation and/or drug treatment services.

Similarly, Olfason *et al.*'s (2018) survey of 69 young people in custody identified that all had disclosed on average 10–11 traumatic episodes, most commonly an imprisoned family member or community violence. Although girls were underrepresented (n=11), those participating reported higher incidences of sexual abuse.

Recognition of trauma

Several studies highlighted the importance of recognising trauma and its impact for service-users, even where they were not specifically trained in this respect (Matheson *et al.*, 2015; Maschi and Schwalbe, 2012). In a qualitative study of 24 juvenile probation officers, Anderson and Walerych (2019) found that officers were attuned to the trauma experienced by girls on probation, identifying this as an offending pathway and querying the appropriateness of processing traumatised girls within the criminal justice system, instead of using diversionary options. Conversely, Cox's (2018) study of 75 staff in seven residential juvenile facilities found that ignoring young people's trauma facilitated a focus on risk assessment, and staff struggled to view offending within the context of earlier traumatic experiences. Ezell *et al.* (2018) and

Holloway *et al.* (2018) both highlighted that whilst trauma was recognised in probation assessments of young people, this rarely translated into case-planning and service delivery.

Trauma and the criminal justice system

Many women in Kennedy and Mennike's (2018) study felt further victimised by the judicial system, with sentencing epitomising systemic failures in recognising their victimisation and protective needs. Prison reactivated their unresolved trauma and was experienced as traumagenic. In a similar study, Matheson *et al.* (2015) concluded that screening was critical at intake and pre-release to avoid misdiagnosis and inappropriate or failed treatment. Findings differed where staff had engaged in training on trauma-informed practice. In Walden and Allen's (2019) mixed-method study of 40 juvenile correctional officers, staff contextualised young people's behaviour as trauma-impacted or developmental, responding sensitively with emotional regulating techniques to enable young people to learn healthy coping mechanisms.

Hodge and Yoder's (2017) survey of 7,073 pre- and post-adjudicated young people in juvenile facilities found that those with abuse histories experienced harsher staff controls. Findings indicated that staff misinterpreted trauma-triggering behaviours and responded punitively, creating a mutually reinforcing cycle. They surmised controlled suppression of emotions interfered with healing and could have been experienced as retraumatising.

Safety

Themes of safety, both physical and emotional, featured in most studies, and 13 explored this within the context of peer relations, intimate partners and staff experiences in residential settings.

Safety and young people

Comparing perceptions of safety for young people and staff, Elwyn *et al.* (2015) examined the impact of a trauma-informed organisational change model in a secure facility for girls over four years. Findings revealed reduction in physical restraints, isolation strategies and incidents of misconduct. Both girls and staff reported being and feeling safer.

In Cox's (2018) study, boys in facilities undergoing a period of penal reform also felt safer but, interestingly, staff felt less safe. Reported incidents

of violence actually reduced in keeping with the boys' views, but staff perceived violent episodes as going unreported to keep official numbers down. Cox (2018) considered that staff's perceptions were influenced by job insecurity, influx of 'hard to place' young people, cultural resistance to reforms, and adjusting away from bootcamp-type facilities.

In Olfason *et al.*'s (2018) study of young people in six facilities undergoing trauma-focused work, staff were also trained in trauma-informed practice. Young people and staff worked collaboratively to implement de-escalation strategies, with units becoming safer for both. In Walden and Allen's (2019) study in a short-term detention facility for young people, staff efforts to promote emotional safety were observed in their everyday interactions with the young people. Like Olfason *et al.* (2018), staff recognised and validated emotions, remaining firm but engaged, and endeavoured to connect with young people through common interests.

Safety and women

In Messina *et al.*'s (2014) study, women who received trauma-informed and gender-responsive treatment in prison showed significant improvements in trauma symptomology. However, in Matheson *et al.*'s (2015) study, traumatised women struggled to adapt to prison, experiencing shared spaces as unpredictable and unsafe.

In Bailey *et al.*'s (2020) qualitative study, the language of safety was a key component for practitioners supporting women experiencing substance abuse, interpersonal violence and post-traumatic stress disorder in the UK. Practitioners prioritised the establishment of physical safety, then emotional safety. A range of strategies was used with women to help manage emotions, symptoms and cravings. Where women were still dealing with safety concerns, practitioners were clear that it was unsafe to commence trauma-focused work, highlighting the need for an individualised approach. In Dermody *et al.*'s (2018) study, the qualities of a trauma-informed service were critical, with women rating criminal justice staff less favourably than other services.

In the included studies, trauma-informed practice was premised on prioritising safety. Some studies demonstrated that it could be safely implemented with justice-involved individuals; however, staff commitment to the approach was important.

Relationships

The importance of relationships was identified as a theme for women and girls. These were experienced within the context of intimate partnerships, peers and staff relations. How trauma-informed practice relates to these relationships was considered in some studies.

Peer relationships

The evidence suggests that the quality and type of relationships are fundamental to trauma-informed approaches. In Kennedy and Mennike's (2018) study, for women in prison who experienced abuse, prosocial relations that were encouraging and hopeful were necessary learning tools that enabled women to move on from abuse, yet confiding in peers in group settings posed emotional and social risks because trust and confidentiality were difficult to establish. These women experienced that their need to talk was confounded by their fear of talking. Although women in this study felt uneasy processing their experiences with peers within prison, the importance of peer relations emerged in Olfason *et al.*'s (2018) study. In this trauma-informed juvenile justice setting, processing trauma in facilitated groups fostered peer support and group cohesion. The authors concluded that groupwork harnessed peer support for young people to process their experiences. However, girls were significantly unrepresented in this study, and it could not be concluded that processing trauma for girls in group settings was safe or appropriate, given their higher incidences of sexual trauma.

Family relationships

In Ezell *et al.*'s (2018) study, researchers noted a tension in staff's perceptions of their role with young people's family. Some worked with caregivers to educate them about the impact of trauma and its association with offending, observing benefits for the young people when family were on board. Other staff felt a professional discomfort probing into families' lives or making connections to trauma, preferring instead to model good behaviour, and to source mentoring and other prosocial activities for young people. Significantly, all staff, irrespective of their approach, felt ill-equipped to discuss trauma and its impact. Holloway *et al.*'s (2018) survey of 147 juvenile probation officers in the United States, recognised dysfunctional family and peer relations as risk factors for reoffending. Whilst family circumstances

were scored high or medium risk by most probation officers and identified as a target on case plans, trauma was not.

Relationships with staff

Studies reinforce the primacy of staff/service-user relationships for effective trauma-informed practice. In Walden and Allen's (2019) study, staff developed their own style and approaches to their routine tasks that incorporated ways to build rapport with young people. They used opportunities to model behaviour, promote rights-based information, and educate young people about expectations. Rehabilitative approaches developed trusting relationships and meaningful discussions with young people. Likewise, Bailey *et al.* (2020) concluded that offering women choice, flexibility and advocacy were key to building therapeutic alliances and establishing trust. How relationships were experienced was an important component for these justice-involved women and young people. Where trauma-informed practice was implemented, healthy relationships and social networks were important channels to process trauma and develop healthy strategies.

Interventions and service provision

Trauma-focused programmes and gender-responsive services

Four studies examined trauma-informed practice within the context of trauma-focused and gender-responsive groupwork programmes for women. Kubiak *et al.*'s (2016) randomised control trial compared a trauma-informed and gender-responsive violence programme to treatment-as-usual for 35 women serving time for violence. On release, women who completed the trauma-focused programme interfaced significantly less with authorities, with much lower rearrest rates. However, the small sample (n=35) limited the generalisability of this finding. Similarly, Fedock *et al.*'s (2019) survey of life-sentenced women (n=26) who completed the same named programme in Kubiak *et al.*'s (2016) study found significant positive outcomes for all participants on some anger measures. Whilst the sample size precludes generalisation, it offers exploratory insights.

Messina *et al.*'s (2014) secondary analysis of another trauma-informed and gender-responsive programme found that justice-involved women's symptoms of co-occurring PTSD and substance abuse improved, indicating that both conditions could be treated simultaneously. Although high use of

methamphetamine in the sample cannot translate into generalisations for all forms of substance abuse, the researchers concluded that justice-involved women needed services to address their trauma, including trauma education and coping skills. Likewise, Saxena *et al.*'s (2016) secondary analysis of trauma-informed and gender-responsive programmes in a larger sample of women with co-occurring PTSD and substance abuse (n=193) found that those receiving throughcare from prison to community fared better than those who received treatment alone in either environment. The researchers concluded that throughcare moderated the impact of trauma on PTSD and substance abuse, especially for women with severe symptoms. They postulated that appropriate supports could help mediate against relapse and reoffending post-release.

Olfason *et al.* (2018) examined a trauma-focused programme in six juvenile justice facilities and observed significant reductions in trauma-related symptoms for young people, together with reduced numbers of adverse incidents, where high rates featured previously. The researchers considered that the length of stay for each young person varied in the facilities and the lack of control group limited the generalisability of the findings.

Service provision

Gaps in services were identified in a number of studies. In Matheson *et al.*'s (2015) study, female prisoners articulated a strong desire for trauma-focused support, yet this was unavailable in prison. Similarly, in Kennedy and Mennike's (2018) study, women consistently asked for relevant and timely services, and these specialist services were either absent or preserved for those with a formal diagnosis. They called for throughcare supports to assist them in transitioning into the community, recognised as beneficial for women with complex needs in Saxena *et al.*'s (2016) study. This study established that most women in the trauma-focused group were not referred to treatment by their parole officers once in the community. They posited that referrals could have enhanced the continuity of care for these women, many of whom independently sought treatment. In Dermody *et al.* (2018), women identified lack of facilities for detoxification and counselling. Some avoided services because they feared they could lose custody of their children, or inadequate childcare prevented their attendance at services.

The need for collaboration across agencies was discussed in several studies. In Dermody *et al.* (2018), women wanted services to work together;

Anderson and Walerych's (2019) research further identified no joined-up response and a lack of adequate services. Ezell *et al.* (2018) concluded that trauma-informed practice needed wider buy-in from across the community and government to endorse a comprehensive trauma-informed system. Participating practitioners described resistance from other stakeholders who rejected trauma-informed approaches as faddish, which created a barrier to collaborative working. This resulted in fragmented provision and a lack of amenable and high-quality services in local communities. The findings in Bailey *et al.* (2020) concurred that poor service integration and referral pathways were problematic, highlighting difficulties with short-term funding projects that resulted in long waitlists and a revolving-door syndrome.

Philosophy and organisational culture

The philosophy and ethos of an organisation were linked to how trauma-informed practice was perceived and implemented in some studies which considered how staff interpreted their roles within the rehabilitation/retribution binary of criminal justice systems.

In Ezell *et al.* (2018), a small minority of staff felt it inappropriate and intrusive to explore trauma, describing it as outside their role. However, most staff demonstrated an ideological affinity for trauma-informed practice, which provided a lens to understand behaviour and prompted therapeutic responses, similar to probation staff in Maschi and Schwalbe's (2012) findings. Ezell *et al.* (2018) observed that a minority of staff experienced a tension in shifting from the punitive orientation of the justice system towards trauma-informed practice. Staff who supported trauma-informed practice hypothesised that time, training and documented evidence of positive outcomes were necessary factors in engendering a philosophical shift.

In Cox's (2018) study, staff protested about penal reforms designed to integrate trauma-informed practice into juvenile facilities. They perceived that safety, structure and discipline were jeopardised as a consequence of these changes. These staff framed young people's behaviour as criminal and negated the impact of trauma on them, and they struggled to manage behaviours without overt control measures, like restraints. Despite this, some staff were observed in daily interactions treating young people in ways that aligned with trauma-informed practice, and were invested in supporting them to improve their life chances, revealing a contradiction between verbalised attitudes and practice.

In Olfason *et al.* (2018), staff described a cultural shift away from punitiveness. This was reflected in the statements by young people and the findings that concluded trauma-informed practice could be implemented into complex juvenile justice settings.

Collectively, these studies offer some insights into the importance of frontline culture on the integration of trauma-informed practice.

Discussion

Few rigorous empirical studies documenting the practicalities of trauma-informed practice within criminal justice settings emerged. None of the studies provided a comprehensive insight into the review focus but, in varying degrees, they added a piece to the puzzle (Killick and Taylor, 2009). Most studies were USA-based, where the penal landscape differs substantially from Northern Ireland. With a rapid carceral expansion, more Americans are imprisoned, and for longer, than anywhere in the western world, described by Phelps (2017) as mass incarceration. As evidence of the extent of justice surveillance and monitoring, in 2018, one in 58 people in the USA was on probation (Office of Justice Programs, 2020), compared to one in 453 people in Northern Ireland (PBNI, 2020; NISRA, 2020), a trend referred to as mass probation (Phelps, 2017). Therefore, caution is required in extrapolating findings from this review, given the cultural, political, demographic and environmental differences between countries.

Four USA studies (Maschi and Schwalbe, 2012; Holloway *et al.*, 2018; Ezell *et al.*, 2018; Anderson and Walerych, 2019) explored community-based criminal justice settings, including juvenile probation, with different findings. Maturity levels and developmental stages of justice-involved young people may limit the relevance of findings to the adult-focused nature of many probation services.

The importance of recognising trauma, seeing and hearing it, rather than avoiding or misinterpreting it, clearly emerged in the studies. The promotion of safety was emphasised as a core element in reducing trauma. This reinforced criminal justice staff as potentially important mediators for recognising and responding to trauma in ways that supported growth. In residential facilities, safe relationships characterised by care and warmth promoted emotional regulation and processed trauma. How much of this could be translated to the hypermasculine environments of male prisons (Vaswani and Paul, 2019), or community-based probation settings, remains to be seen.

All the studies in this review were solely focused on justice-involved women and young people, with no empirical research on men, as the most overrepresented sub-population involved with the criminal justice system. In Northern Ireland, men comprise 95 per cent of the prison population (NIPS, 2019) and 90 per cent of PBNI's caseload (PBNI, 2020). Inasmuch as this review affirmed the importance of gender-responsive and trauma-informed services for women, it is important to recognise that men may have different needs in terms of their experience and manifestation of trauma (Grant, 2019; Levenson and Willis, 2019). It is reasonable to argue that they also require gender-responsive services. Any findings from this review need to be cautiously interpreted for their applicability to justice-involved men.

In this review, an ethos of trauma-informed practice evidences a move away from punitiveness towards rehabilitation. Considering the enduring conflict between probation's care, protection and control functions (Doran and Cooper, 2008), these findings highlighted the challenge of translating trauma-informed concepts into tangible and meaningful practice in complex criminal justice settings. Cox (2018) and Ezell *et al.* (2018) highlighted that where wider political reforms and staff attitudes were incompatible, implementing trauma-informed practice was hampered. As this review highlighted, services must be ready before real change can be effected (Kusmaul *et al.*, 2015), pointing to the significance of organisational culture as a change mechanism. Training for staff did not emerge as a clear theme. Lack of skills to deliver trauma-informed practice was briefly mentioned in one study, and seven studies mentioned in their conclusions that training was important (Messina *et al.*, 2014; Matheson *et al.*, 2015; Hodge and Yoder, 2017; Walden and Allen, 2019; Olfason *et al.*, 2018; Dermody *et al.*, 2018; Bailey *et al.*, 2020).

Only one study briefly mentioned vicarious trauma and the need to support staff engaged in trauma-informed practice (Elwyn *et al.*, 2015). This is despite the literature documenting the emotionally demanding nature of work and the potential impact of compassion fatigue and burnout on practitioners' capacity to sustain practice in a trauma-informed way (Vaswani and Paul, 2019; Grant 2019).

Trauma-informed practice is premised on Harris and Fallot's (2001) concepts of 'safety first' and 'do no harm' but, as this review highlighted, the justice system itself can be experienced as traumagenic, placing individuals at risk of further trauma through harsh practices, as seen in Matheson *et al.* (2015), Hodge and Yoder (2017), and Kennedy and Mennike (2018). Recognising that contact with the justice system itself could be experienced

as retraumatising echoes Durnescu's (2011) thematic analysis of the pains of probation. Some statutory probation functions require a nuanced approach, with trauma-informed practice, such as risk assessment, compulsory attendance, mandated programmes, limits to travel, curfew, enforcement of court orders, recall to custody and public protection priorities. Further research is needed to understand how these functions are compatible with trauma-informed practice.

While some themes emerged in the included studies, there remains a gap in the evidence base about the application of trauma-informed practice and its utility within criminal justice settings. Levenson and Willis (2019, p. 484) write that trauma-informed practice 'does not lend itself to the rigidly prescribed conditions required for research replicability'. Instead, it requires critical thinking that is individualised, and is 'not a product that is packaged, tested, and delivered in a standardised fashion' (ibid., p. 485).

Dowden and Andrews' (2004) meta-analysis highlighted five key skills that were effective for probation officers, namely appropriate use of authority, problem-solving, prosocial modelling, use of community resources and a positive interpersonal relationship. The parallels to trauma-informed practice are evident. Whilst philosophically trauma-informed practice has an appeal to the traditional probation mandate of 'advise, assist and befriend' (McCartan, 2020), this review considered that trauma-informed practice does not necessarily mean that completely new approaches or interventions are needed (Grant, 2019); rather it offers a way of interpreting behaviour through the lens of trauma.

Conclusion

Whilst trauma-informed practice has occupied a central position of discourse for over a decade (Becker-Blease, 2017), the literature focuses on theory and principles rather than tangible practice (Johnson, 2017). This systematic narrative review revealed a limited but exploratory evidence base for trauma-informed practice in the justice system. The prioritisation of safety for service-users and staff was a critical factor in any trauma-informed practice approach. Attuned services and positive relationships were key mechanisms of support. Organisational culture and staff commitment were drivers for trauma-informed practice within criminal justice settings.

Findings from this review were based primarily on research in the USA with justice-involved women and young people. Translating the findings into

work with men requires a careful interpretation. This review found no research on trauma-informed practice with adult men, yet men dominate the justice-involved population. Like many statutory settings engaging with individuals who have experienced polyvictimisation through the lifespan, the challenge for criminal justice organisations appears to be one of definition in terms of what trauma-informed practice means, and operationalisation with regard to how this is implemented in a systematic manner. Ultimately, as Berliner and Kolko (2016) comment, trauma-informed practices must yield positive outcomes for individuals. Future research that is gender-sensitive and specific to the needs of men subject to probation supervision could provide a nuanced understanding of what trauma-informed practice looks like for probation practitioners. If trauma-informed practice is to have longevity, documented evidence of positive outcomes could build upon the evolving evidence base to support its continued implementation in criminal justice settings.

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

Shane McCarthy

Selected by Stephen Hamilton†

For me, Shane McCarthy's article provides an important explanation of restorative justice for practitioners. I remember when I first joined PBNI there were conversations ongoing about adult restorative justice, and it wasn't until I read this article that I really understood what any of it meant. I recall reading it and thinking how well explained the concepts were, and I have revisited it several times since. It clearly sets out the definition of restorative justice but also the benefits and impacts on both the victim and the offender. It is pertinent that the challenges outlined in this article in 2011, including a growing prison population and the need for greater availability of alternative community sanctions, are still relevant today. The article also considers results from a survey about what types of offences could appropriately be dealt with by a restorative justice process – an issue that continues to be debated. The challenge then, which remains today, is the need for a much more extensive implementation of restorative justice, and so this article remains relevant and important in 2024.

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Summary: The understanding of restorative justice (RJ) among legal practitioners in the modern Irish criminal justice system is explored, beginning with a definition of the meaning of RJ, its relevance among current legal practitioners and its prevalence in Ireland. The outcomes from a brief survey on RJ among legal practitioners are reviewed. This paper considers the potential of RJ in the mainstream criminal justice system and concludes by offering suggestions as to how RJ might be incorporated and developed.
Keywords: Restorative justice, Ireland, courts, sentencing, offenders, crime, prison, victims, reparation, victim–offender mediation, Nenagh Reparation Project, RJS Tallaght.

Introduction

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

Partly as a result of this crisis but also as a result of international developments, the concept of restorative justice (RJ) has attracted particular interest. This paper examines the definition of RJ and explores the extent of knowledge and understanding that key legal figures in the District Court have of RJ. Finally, it examines some of the issues and potential barriers in the introduction of a comprehensive RJ programme in Ireland and steps required to ensure the success of such an undertaking.

Firstly, it is necessary to explore briefly what RJ is.

What is restorative justice?

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

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

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

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

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

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

> a victim-sensitive response to criminal offending, which through engagement with those affected by crime, aims to make amends for the harm that has been caused to victims and communities and which facilitates offender rehabilitation into society. (DJELR, 2009a)

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

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

In Dáil Éireann, on 25 November 2010, the Minister announced 'a scheme … to test a range of restorative interventions for adult offenders based on the recommendations contained in the report'. He went on to say: 'The objective

of the scheme is to build the foundation for the implementation of a robust restorative justice model of practice providing an alternative to a prison sentence of less than 12 months' duration'. The Probation Service was given responsibility to monitor, oversee and evaluate the implementation of an RJ scheme and to report on the effectiveness and value for money of the model after a twelve-month operational period (Dáil Éireann, 2010).

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

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

During 2010, I conducted a limited interview-based survey among twelve defence solicitors representing defendants in criminal law proceedings at a District Court in a provincial town. The survey was designed to measure knowledge and understanding of the principles of RJ. In addition, I later interviewed an experienced District Judge using the same survey structure, and a solicitor experienced in RJ practice.

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

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

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

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

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

Victims

Having identified a lack of awareness of RJ among a sizeable majority of the solicitors interviewed, I proceeded to explain RJ as a process in which the offender and the victim can be brought together in a supervised, structured setting. I asked whether or not those practitioners thought benefit could arise from such a meeting. The answers to this question revealed myriad considerations from 'One advantage is that the victim would know the outcome of the process. At the moment the victim can often not know the progress of their case' to the extremely upbeat 'Yes. I have first hand experience and I have seen it work. I found it unbelievably positive.' This positive approach was counterbalanced with the view, 'Victims can be very vulnerable. Their consent would be vital', and also with negative sentiments such as 'I think it would be just a bad idea' and 'It would be lunacy, there would be murder.'

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

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

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

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

Victim participation

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

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

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

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

Offenders

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

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

A radio programme broadcast from Mountjoy Prison a number of years ago (*Liveline*, RTÉ Radio 1) featured six victims of crime and six prisoners brought together to discuss and debate crime. Several of the prisoners admitted that the thought of their victims had never even crossed their minds as they committed their crimes. For them, the show was the first occasion when they had been confronted directly by the people their crimes had hurt, and the first time they had heard about the cruel consequences of their behaviour. Equally,

the victims saw the prisoners as individuals and were able to differentiate between their criminal behaviour and the normal human beings they were. The Governor of Mountjoy Prison said that he found the experience most revealing and that it showed the potential benefits of having direct communication between victims and offenders (Lonergan, 2010, p. 158).

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

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

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

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

Offences suitable for restorative justice

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

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

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

Restorative justice and change in offenders' behaviour

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

One respondent stated that, in his view, a lot of crimes were committed by persons when under the influence of drink or drugs. These people, in his opinion, when they are sober and confronted with the damage they have caused, could be motivated to change. This comment is particularly relevant when one considers that alcohol consumption is a major factor in many cases processed by the Restorative Justice Services reparation panel programme in Tallaght: 85 per cent of offenders there undertook some form of alcohol awareness programme arising from meeting with the reparation panel (DJELR, 2009a, p. 47). International studies have found that offenders who have participated in RJ programmes have a 12 per cent lower recidivism rate

than offenders who did not participate in such programmes (O'Mahony and Doak, 2008).

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

Restorative justice in practice

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

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

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

Use of restorative justice

Overall, a positive approach was shared by most respondents to the prospect of offenders and victims being brought together in a managed RJ setting. The answers varied from the negative view that such meetings would make

no difference to offenders to an expression that such an approach would be worth trying. Other respondents stated that it would be vital for both parties to be willing participants; one stressed that he felt that if the intervention was early enough, it would have a good chance. All of the other respondents, including the three respondents with knowledge of RJ, stated that they felt it would work with certain offenders only and make no difference to others.

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

Restorative justice in Ireland

Nenagh Community Reparation Project

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

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

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

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

figures for participants in these schemes is that many are hand-picked as suitable candidates.

Restorative Justice Services Tallaght

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

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

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

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

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

The introduction of restorative justice: A challenge in practice

The courts system as currently structured places a huge workload on District Court judges. In 2010, District Courts dealt with 498,672 criminal offences and 252,782 offenders, as well as a vast number of civil cases, family law cases and licensing matters, etc. (Courts Service of Ireland, 2010, pp 62–4).

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

There is a considerable potential dividend to the State, as RJ programmes cost less than other sanctions – custody, in particular. Detailed information on how this potential saving could be achieved is given in the report of the National Commission on Restorative Justice (DJELR, 2009a). I will not repeat it here, but the conclusion follows that an RJ process, successfully implemented, can reduce trial costs and lead to a need for fewer expensive prison places. Benefits include not only saving in criminal justice resources needed to arrest, prosecute, defend, convict and imprison or otherwise sanction the offender, but also the absence of injury and harm to victims and the community.

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

Restorative justice is not formally established in court practice in Ireland except in the Nenagh and Tallaght catchment areas. Nevertheless, versions of RJ practice are, informally, a feature of daily life in the Irish courts. For example, in my experience, one of the deciding factors considered by judges in sentencing is whether or not the offender has compensated the victim for any loss suffered. Judges enquire as to whether or not an apology has been offered for the offending behaviour. The timing of the apology can have a significant bearing on sentencing, with close scrutiny given to whether the apology was offered before the issuing of the summons and whether it was done on legal advice to lessen the likelihood of a custodial sentence. Such

ad-hoc and informal 'RJ', in my view, makes the implementation of a transparent and comprehensive RJ system on a nationwide basis more necessary, but also a more complex challenge to implement.

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

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

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

Conclusion

The survey among legal practitioners reveals limitations and gaps in information and understanding of RJ among key personnel. The National Commission on Restorative Justice has made a strong case for the expansion of RJ, but to do so presents a major challenge in terms of making significant change to long-established practice and embedded systems.

If RJ is to be successfully introduced in the Irish criminal justice system, four key actions need to be undertaken.

1. Efforts must be made to raise the profile of RJ among all the key criminal justice stakeholders. An RJ champion is needed to lead this rather than leaving it to 'someone else' and thereby consigning RJ to be another legal museum piece on the margins of the Irish criminal justice system.
2. An RJ education strategy is needed to inform and to ensure that all key stakeholders understand RJ approaches, the benefits to them and

the unique contribution each stakeholder can make in the development of RJ in the criminal justice system.

3. The implementation of the key recommendations of the *National Commission on Restorative Justice Final Report* should be prioritised to expand RJ as part of mainstream practice across the criminal justice system. This should include legislation, if possible.
4. Ongoing evaluation of the efficacy and effectiveness of RJ as an alternative sanction should underpin and monitor its implementation in practice. It is essential that introduction of RJ be evidence-based, measured and evaluated to establish the most appropriate models of RJ in our criminal justice system.

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Book Review*

Probation and Parole in Ireland: Law and Practice†

Vivian Geiran and Shane McCarthy

Reviewed by Tara Kane‡

As a practitioner, I was inspired by this book's rationale to provide a single comprehensive, accessible reference guide – one that clearly details Irish probation and parole systems and includes tables on relevant legislation and case law.

As outlined in the review, this book should be of interest to practitioners working within the fields of probation, parole, legal practice and law enforcement. Where I believe it really comes into its own is as an invaluable resource and reference guide to students of social work, law, psychology and criminology. It should also be useful to practitioners engaged in working in addiction/mental health service delivery, as well as community-based organisations. Personally, I enjoyed the book's accessibility – its use of plain language, and its ability to contextualise broad concepts while seamlessly interweaving professional practice with legal/statutory obligations.

Book reviews in the *Irish Probation Journal* can, I believe, provide encouragement, acting as a catalyst in triggering interest to read the full publication. In this instance, I hope that my commentary on *Probation and Parole in Ireland: Law and Practice* encourages others to read what Professor Shane Kilcommins refers to in his Foreword as 'an excellent contribution to criminal justice knowledge in Ireland'.

* This book review appeared in vol. 19 of the *Irish Probation Journal* (2022).

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The Preface to this recent publication sets the scene by reflecting on the complexities of working within probation and parole. The authors outline how practitioners bring a range of values, knowledge and skills to their work, in an effort to foster public safety and facilitate offender rehabilitation through implementing court orders, while recognising the rights and autonomy of the individual and their inherent potential. Simultaneously, professional practice is underpinned by principles of human rights and the rule of law, and is informed through research findings and practice methods.

The rationale for this text is to provide a single comprehensive, accessible reference guide – one that clearly details Irish probation and parole systems and includes tables on relevant legislation and case law. This book will be of interest to practitioners working within the fields of probation, parole, legal practice and law enforcement. Where it really comes into its own is as an invaluable resource and reference guide to students of social work, law, psychology and criminology. It will also be useful to practitioners engaged with criminal-justice-involved people as part of addiction/mental health service delivery and in community-based organisations.

Probation and Parole in Ireland contextualises the complexities of both probation and parole by utilising clear and accessible language that facilitates the reader's learning. The structure and flow of the text is well thought out, and the sequencing enables the reader to follow the journey of the service-user while also dipping in and out of standalone chapters of interest.

As a practitioner with a working knowledge of the offender's journey and the nuances of current professional practice, this reviewer was particularly drawn to the initial historical overview and the account of the evolution of probation and parole in the modern criminal justice system. The late nineteenth century saw a shift away from harsh deterrence towards offender correction, culminating in a rehabilitative model which proved influential for the twentieth century. Crofton's model of post-release supervision, developed in 1854 and utilised until the late nineteenth century, influenced modern penal policy, and we are indebted to James P. Organ whose work is acknowledged as the forerunner to current supervision practice

Chapter 3 provides a comprehensive overview of offender assessment. Beginning by contextualising offender assessments from a macro-perspective in terms of how they inform sentencing and case-management decisions, it then moves to the micro by reviewing international standards, the definition of risk, and specific risk-assessment instruments used in Ireland. The conclusion highlights the potential pitfalls, the authors stating that 'it is vital

for all key stakeholders to understand not only the role and purpose of these instruments but also their limitations' (p. 79).

This reviewer particularly enjoyed Chapter 4: Probation Work, in which probation is usefully conceptualised in three ways, namely (i) Court-imposed sanction of a probation bond; (ii) Probation practice – what probation officers do; and (iii) the organisational probation system. The authors subsequently discuss probation work from the perspective of these three categories, detailing how social work – values, principles and practice methods – underpins probation work, and the evolution of the Probation Service and probation practice in Ireland. Taking account of the partnership with community-based organisations, this section reviews the breadth of probation practice, including models, principles, statutory measures and approaches such as:

- RNR – Risk, Need and Responsivity model and what works
- Desistance and the good lives model
- Core correctional practices
- International standards
- The law on probation
- Other legislation
- Supervision during deferment of penalty
- Suspended sentences with probation supervision and other measures
- Low-intensity supervision
- Non-mandated supervision

With a focus on community service in Chapter 5, there is reference to Guilfoyle's research which summarised that, at its core, the Community Service Order had three functions: (i) as an alternative to imprisonment; (ii) as punishment; and (iii) reparative. The authors track the impact of 'value for money' and strategic reviews on the expansion of practice and the development of post-release community service (known as 'Community Return') and conclude with discussion on challenges and dilemmas, both nationally and internationally.

Restorative justice and victim engagement as emerging areas of work are the focus of Chapter 6. As with Chapters 3 and 4, the reader is provided with a comprehensive overview of the development of restorative justice and its potential for integration in probation practice. Following a discussion on the key stakeholders and models, the authors place restorative justice within the broader context of international standards and European developments.

What was important for this reviewer were the concluding comments referencing the Council of Europe guidelines on training probation and prison staff, which indicated that 'the core components of specialist training for probation officers should include mediation, restorative justice and work with victims' (p. 190).

Chapter 7 discusses the history of parole in Ireland, with an interesting focus on parole as a component of rehabilitative policy, 'offering prisoners hope as well as an opportunity to change' (p. 193). Given the enactment of the 2019 Parole Act and its commencement on 30 July 2021, significant consideration is given to the principal functions of the Interim Parole Board (advisory), the introduction of the Parole Act placing the Parole Board on a statutory basis, and the related changes in both legislation and practice. The authors review the supervisory role of the Probation Service in relation to parole, as well as the role and purpose of parole conditions in Ireland, before detailing breaches of parole and the recall process.

Chapter 8 commences with an overview of temporary release before moving to focus on court-ordered post-release supervision – where legislation, prison and probation interact. The authors take the opportunity to highlight the challenges for reintegration post release.

The focus of the last three chapters of the book is on specific categories of service-users, the issues, trends and challenges. For those working with children and young people, Chapter 9 is an important resource. Definitions and terminology are initially addressed before the authors review international standards, legislation, current policies and the Probation Service's organisational response to working with this group.

The history and development of Electronic Monitoring (EM) receives considerable attention in Chapter 10. This was quite a demanding chapter to get through, but important in highlighting how technology can enhance and effectively interface with the supervisory relationship.

The final chapter attempts to capture a number of issues that impact on probation and parole, some of which are external to probation, parole and the criminal justice system. This reviewer agrees that the criminal justice system in itself cannot address offending and victimisation and foster social justice without interagency collaboration and engagement with local communities. A number of key areas that require cross-sectoral partnerships are discussed in brief, including substance misuse, homelessness, mental health, diversity, women who offend, and emerging trends such as extremism and cybercrime.

Probation and Parole in Ireland aimed to provide a single, comprehensive, accessible reference guide to the Irish probation and parole systems. It has achieved its objective. A familiar thread throughout this book is its accessibility, its use of plain language and its ability to contextualise broad concepts while seamlessly interweaving professional practice with legal/statutory obligations. Not only is this a well-researched scholarly piece of literature, but the reader also gets a sense of the authors' extensive practice experience and wisdom. Finally, as noted by Professor Shane Kilcommins in his Foreword, the book 'will be an excellent contribution to criminal justice knowledge in Ireland'.

Embedding a Culture of Interdisciplinary Open Research in Criminal Justice: A New Partnership for Ireland

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Summary: This special edition of the *Irish Probation Journal* celebrates its excellent track record of publishing open access criminal justice research and building links among researchers, practitioners and policymakers on the island of Ireland. Both probation services have expressed strong commitments to partnership working and to using research and evidence to inform their practices and decision-making, using the Journal to facilitate these discussions. With this in mind, it is important to consider how we can build on this open, collaborative approach to research, evidence-based policy and practice and publishing into the future.

This article represents the first output from a National Open Research Forum-funded project that aims to embed a culture of interdisciplinary open research in the field of criminal justice. The setting for this project is Ireland. Its authors are among the many research, criminal justice and community-sector professionals who represent their organisations on the new Criminal justice Open Research Dialogue (CORD) Partnership, launched as part of the funded project. The article was developed collaboratively during the CORD Partnership's first event in Maynooth in January 2024, and then subsequently via an open authorship process through which partners could become named authors. It contextualises the establishment

of the CORD Partnership, outlining what we mean by a 'culture of open research' and situating our goals in Ireland's research and criminal justice policy frameworks. The piece then outlines the Partnership's agreed purposes and principles and provides some opening considerations as to the criminal justice sector's open-research needs. It concludes by describing the CORD Partnership's next steps. The views expressed here represent those of the named authors only, not of their organisations, nor of anyone who participates in the CORD Partnership but is not a named author on the article.

This project has received funding from Ireland's National Open Research Forum (NORF) under the 2023 Open Research Fund. NORF is funded by the Higher Education Authority (HEA) on behalf of the Department of Further and Higher Education, Research, Innovation and Science (DFHERIS).

Keywords: Criminology, criminal justice, open research, research partnership, Ireland, interdisciplinary, evidence-based policy, evidence-based practice, culture.

Introduction

There is great potential for interdisciplinary open research to inform criminal justice policy and practice in Ireland, advancing such outcomes as public safety, health, inclusion, equality, trust and confidence in criminal justice, and transparency. At present, however, we have too few opportunities to co-produce research, exchange knowledge and collaborate to apply research findings. By working in partnership, we can explore and determine collectively how we might cultivate and embed an open research culture in criminal justice in Ireland in a locally appropriate way.

This thinking is in keeping with the open, collaborative approach to research–policy–practice engagement that has characterised the *Irish Probation Journal* (IPJ) for the past two decades. As the IPJ celebrates its twenty-first anniversary with this special issue, we are grateful to the editorial committee for including our article in what is otherwise a 'greatest hits' volume. Many of us have written for the IPJ in the recent past; many more of us await its annual publication eagerly, so that we might explore the latest criminological research and professional thinking from across the island. In this context, we are delighted to contribute to and complement this issue, outlining the initial stages from a future-focused project that aims both to transform collaborative criminal justice research in the Republic of Ireland, and to maximise the use of evidence in criminal justice policymaking and practice.

In October 2023, with funding from Ireland's National Open Research Forum (NORF) under its Open Research Call Fund, we began a project to develop and embed a culture of interdisciplinary open research in criminal

justice in Ireland. Over twelve months, the first author received funding to establish a 'researcher-policymaker-practitioner partnership' (R3P), facilitate three workshops for the partners in 2024, and conduct research on partnerships in other countries and disciplines to explore how best to develop open research cultures and partnerships in criminal justice.

In January 2024, 60 people gathered in Maynooth to launch the Criminal justice Open Research Dialogue (CORD) Partnership. This R3P includes a project consortium (Maynooth University, Dublin City University, South East Technological University, University of Limerick) and representatives of seven categories of affiliate partner: research organisations, criminal justice policymakers, agencies and oversight bodies, third-sector and independent services, civil society and advocacy groups, and the wider research ecosystem (such as research funders and university research development offices). At the time of writing, 117 persons represent over 50 organisations on the CORD Partnership, although this article represents the views of named authors only (58 persons working in 32 organisations).

The article aims to contextualise the CORD Partnership and define its purposes and principles. It explains what is meant by an 'open research culture' and analyses the Irish policy context in relation to open research and criminal justice research. It considers the Partnership's development, describing how two disciplines – restorative practices and design thinking – will be used to structure partnership working. The authors subsequently outline the agreements that were co-produced through our first event and the open authorship process. This begins with an explanation of how these processes were used to write this article. The following subsections explain why the CORD Partnership needs to exist, our aims and how we intend to achieve these, the challenges we expect, ten principles for the CORD Partnership, and several themes and questions addressing the sector's open-research needs. We finish by outlining CORD's next steps: two further events at which we will learn about research partnerships elsewhere and discuss the priorities and actions that might help sustain the Partnership after its initial funding period ends.

What is an open research culture and partnership?

The idea of open research (or 'open science') represents a call to arms to disrupt longstanding research practices. The term is frequently used in the health, natural and physical sciences to promote the publication of raw datasets for research validation and replication, and further exploration. It

also refers to ensuring free access to research findings without paywalls so that they can be shared and applied for social benefit (Marsden and Morgan-Short, 2023). This is crucial when research is publicly funded and has the potential to improve people's lives (Suber, 2012) – allowing, for example, practitioners to access up-to-date research to inform their practice.

Changing these established, restrictive practices can be of considerable value in criminology and criminal justice (and in social sciences generally) (Buil-Gil *et al.*, 2023; Tennant *et al.*, 2016). However, this represents only a fraction of what open research practices, broadly interpreted, could help the discipline achieve. UNESCO's *Recommendation on Open Science* (2021, p. 7), adopted in Ireland's open research action plan (see DFHERIS, 2022), defines the concept expansively as including all practices that aim

> to make multilingual scientific knowledge openly available, accessible and reusable for everyone, to increase scientific collaborations and sharing of information for the benefits of science and society, and to open the processes of scientific knowledge creation, evaluation and communication to societal actors beyond the traditional scientific community.

By implication, an open research approach is one where researchers collaborate with each other and with others across society to ensure that research processes are more inclusive, and that research data and findings are more discoverable, accessible, reusable and transparent, *and used for the benefit of society* (Hampson *et al.*, 2020). A review of literature on open science (Arza and Fressoli, 2018) points to three categories of benefits: enhanced research efficiency and novelty resulting from the impact of collaboration and resource sharing; the democratisation of research and its outputs through shared access to information and knowledge, with spillover effects for public education and empowerment; and relevance to public needs including through the inclusion of historically marginalised stakeholders and the collective, rather than private, ownership of knowledge assets and goods.

UNESCO's framing is suitable for criminology because many researching in this discipline aim to inform criminal justice policy and practice. In relation to UNESCO's focus on academic collaboration (which is common in criminology, if seldom straightforward or incentivised), criminologists often work across disciplines and borders to understand better how to improve community safety, meet the needs of those affected by crime and justice processes, and improve the working lives of justice professionals. Relatedly,

researchers who wish to use their findings to benefit society often collaborate with some or all of the diverse actors – from policymakers and practitioners in public, private and third-sector services, to oversight agencies and civil society groups – who are in a position to co-produce research and utilise the knowledge derived in their work to help the public. Further, criminologists recognise that persons who interact with criminal justice in some way can make a valuable contribution to research processes – and, according to Diaz-Gil *et al.* (2023), that they have the right to do so if they wish.

UNESCO's definition of open research goes beyond narrower goals of enabling researchers to replicate each other's work and open access publishing, to encompass the cross-sectoral partnership working needed in our field. As Nosek *et al.* (2015, p. 1422) observed, without an 'open research culture' that facilitates, incentivises and rewards the use of open practices throughout the research process, it is easier and more common to agree in principle that open research practices are important, than it is to enact the approach in reality. Certainly, researchers cannot achieve this cultural change alone. As Kowalczyk *et al.* (2022) and Steinhardt *et al.* (2023) argue, the research ecosystem – research funders, professionals and managers – should participate to facilitate a structural shift in research leadership, resourcing and evaluation. Moreover, in applied policy areas there is a need to involve policymakers, practitioners and civil society in networking, research co-production, knowledge translation and other activities that would, in UNESCO's framing, make research processes inclusive and ensure that findings are applied for social benefit. A 'culture of open research' would therefore create a situation whereby the structures which shape the work of researchers, policymakers and practitioners, and the attitudes that underpin and reflect our behaviours and the discretionary choices we make within the structures, systematically encourage, enable and align with open research principles and goals.

One mechanism that might contribute to the necessary cultural change is a thematic research partnership that brings together all the actors working in a given area of research and policy, and that emphasises open research principles and practices. Although few research partnerships in the social sciences and humanities are explicitly open research oriented, we can learn much from the structures, goals and methods of existing R3Ps. With reference to examples in childcare and education, Supplee *et al.* (2023) argue that R3Ps help build relationships that enable the development, interpretation and use of evidence. They cite Farrell *et al.* (2021, p. vi) who, in educational contexts, define an R3P as

> a long-term collaboration aimed at educational improvement or equitable transformation through engagement with research […] intentionally organized to connect diverse forms of expertise and shift power relations in the research endeavor to ensure that all partners have a say in the joint work.

This type of collaboration – bringing together the persons who conduct research with the persons who can apply its findings in their work – can, it is submitted, contribute towards an 'open research culture' in criminal justice. It increases opportunities for researchers, policymakers and practitioners to speak and engage with varied forms of knowledge that can inform their work, on the shared understanding that these collaborations will benefit others in the sector, stakeholders, policymakers and civil society (Bastow *et al.*, 2014). Partnership working makes it more likely that research will be co-produced and have buy-in from stakeholders at the outset. In turn, this should improve access to data for researchers, to research processes and knowledge for those who are historically excluded from these, and to research findings for policymakers, practitioners and civil society, resulting in greater use of research to achieve social justice goals (Bastow *et al.*, 2014; Marsden and Morgan-Short, 2023). Moreover, partnership working is considered an enabler of the effective implementation of change (Fynn *et al.*, 2022).

This does not mean that any form of partnership will necessarily achieve these goals. Research has identified the features of successful partnerships, some of which, such as relationships among the persons involved, are discussed later in the article. Still, in a small jurisdiction with positive pre-existing relationships between many of those working in criminal justice research, policy and practice, there is scope to explore whether a partnership can help us understand what a cultural shift towards an open research approach should look like and identify the steps we can take to move in that direction.

Irish policy context

Recent developments in both research policy and criminal justice policy align closely with the CORD Partnership's plans. The National Open Research Forum (NORF), which provided the funding for this project, is underpinned by the Department of Further and Higher Education, Research, Innovation and Science (DFHERIS) *National Action Plan for Open Research 2022–2030* (DFHERIS, 2022). This followed *Impact 2030*, a national research and

innovation strategy (Government of Ireland, 2022), and preceded the Department of Public Expenditure and Reform's (DPER) second five-year *Open Data Strategy 2023–2027* (DPER, 2023). Each policy document recognises the social value of research and its potential to inform public policy. The *Open Data Strategy* says that providing access to high-quality government data promotes public trust, while *Impact 2030* includes having a positive social impact and improving social wellbeing among the elements of its five strategic pillars. 'Establishing a culture of open research' is a theme in the *National Action Plan for Open Research*, intending to contribute to 'a research system fully aligned with open research principles and practices' (DFHERIS, 2022, p. 6).

The operationalisation of Irish national open data strategies over the past decade is evidenced by the (upwards of) 15,000 datasets that are available on the governmental open-source portal (DPER, 2023). However, Ireland has yet to sign the Open Data Charter (ODC), a joint civil society and government initiative seeking to enhance government data accessibility for evidence-informed policymaking (ODC, 2024). The European Union's most recent Open Data Maturity Assessment ranks Ireland ninth among the EU27, down from first in 2019. In the EU classification, Ireland is categorised as a 'fast-track' nation, but not a 'trend setter'. Ireland has some ground to make up in data provision, in evidencing the impact of open data, and on some measures of data quality (Data Europa EU, 2023).

Other policy developments align with CORD's activities by supporting researcher–policymaker engagement. At the time of writing, for example, we are awaiting the government response to a public consultation meant to contribute towards a 'framework for engagement' which 'focused on enhancing connectivity between government departments and the research system' (DFHERIS, 2023, p. 5). This also cited the *Civil Service Renewal Strategy* (Government of Ireland, 2021, p. 15) which proposed to establish a new Civil Service Research Network and stated an aspiration to

> develop mechanisms in conjunction with higher education institutions and research funders to exchange evidence and research insights between the Civil Service and the research community in relation to policy priorities and major societal challenges.

'Exchange' is the operative word here, reflecting the two-way learning that can take place. These fora should enable both the dissemination and the

application of research findings, and help researchers to understand better the challenges and constraints the public and community sectors face in applying research, informing future knowledge production and dissemination processes (Phillipson *et al*., 2012).

Science Foundation Ireland (SFI) and the Irish Research Council (IRC) have both recognised the urgency of facilitating greater engagement between researchers and policymakers, given the need for the former to contribute to the latter and, as noted, for those involved in both enterprises better to understand each other's knowledge, processes and constraints (Doyle, 2021; Irish Research Council, 2024; Science Foundation Ireland, 2023). Doyle (2021) contends that there should be new architecture to ensure that research findings inform policymaking. She urges civil servants, government and research-performing institutions to 'enhanc[e] the modes of connectivity and dialogue across the research and policy communities' and establish 'strong and profitable research-policy networks' (Doyle, 2021, p. 3). A recent OECD (2023, p. 8) report on strengthening public policy in Ireland likewise proposes that the civil service pay 'stronger attention to data-based reform initiatives' and develop 'data sharing networks through external partnerships'. Increasing contact frequency and relationship quality to place research at the centre of policymaking are recurring themes across these varied sources. Open research is not mentioned in the Research and Innovation Bill, 2024, which will merge the IRC and SFI into one body, Research Ireland. However, the Bill's stated objectives do include to 'strengthen engagement between the research and innovation system' on the one hand, and 'enterprise, government and public bodies, the voluntary sector and society' on the other (DFHERIS, 2024). This indicates that there could be scope to embed open research ideals in the structures and culture of the new agency.

In Irish criminal justice, Hamilton (2023) observes a recent growth in research-active scholars, improvements in the quality of criminal justice data, and increased opportunities for state funding for research. Still, significant gaps in justice data availability remain, while Ireland has much work to do to catch up with the stronger traditions of collaboration between higher education and state institutions elsewhere in Europe (see also Healy *et al*., 2016; Lynch *et al*., 2020; Marder and Hamilton, 2023).

Recent developments in these areas, Hamilton (2023) continues, include funding calls from the Department of Justice, Sentencing Guidelines and Information Committee, and the Policing Authority (including co-operation with the IRC and, most recently, An Garda Síochána), as well as investments

in data collection infrastructure and analytics in the Department of Justice and criminal justice agencies. In the justice sector, a *Data and Research Strategy* (Department of Justice and Equality, 2018, p. 7) stated the desire to see 'strong research partnerships developed with the external research and evaluation community'. In 2022, the review of penal policy (Department of Justice, 2022) included several actions that either involved commissioning research, or that were assigned to the Department's Research and Data Analytics team. In Autumn 2023, the Department of Justice collaborated with the Courts Service and Probation Service to organise a one-day event on evidence-informed policy. Moreover, the Association for Criminal Justice Research and Development has long provided a forum for research-policy-practice engagement through its annual conferences and other activities. Overall, there is a clear trend towards greater engagement between policymakers and researchers in this field.

At the same time, studies involving access to justice institutions' data, professionals or people who have interacted with criminal justice are being published with increasing frequency (e.g. Daly *et al.*, 2022; Doyle *et al.*, 2022; Gagliardi and Rice, 2023; Gagliardi *et al.*, 2023; Garrihy *et al.*, 2023; Gulati *et al.*, 2021, 2022; Haynes *et al.*, 2023; Haynes and Schweppe, 2017, 2019; Joyce *et al.*, 2022; Marder, 2022; Marder and Kurz, 2023; O'Connell, 2016; Skinns, 2019). Still, the challenges that other countries have overcome – including, but not limited to, data protection – are often understood to be barriers to independent research and the collection and publication of new datasets.

Ireland has a clear policy direction towards open research and the greater use of research and evidence in policymaking. It is unlikely, however, that this is achievable without bottom-up initiatives that enable researchers, policymakers and practitioners to consider the exact steps by which a culture of open research can be embedded in each discipline and policy area in practice. Given the volume of criminal justice reforms currently under consideration, the time is now for Ireland's research, criminal justice and community sectors to think strategically and collectively about which priorities they might share and how and on what they might collaborate in the coming years.

Building an open research partnership for criminal justice in Ireland

Inspirations from UK policing research

The genesis of the CORD Partnership was inspired by two policing research partnerships from the UK. In recent years, Ireland has hosted the Scottish

Institute for Policing Research's (SIPR) Director at the North–South Criminology Conference in 2023 and the (then) Director of the N8 Policing Research Partnership (N8PRP) at an online event organised by the Policing Authority in 2021.

These partnerships both focus on policing research, with partners drawn mostly from police organisations and universities in Scotland and Northern England, respectively. Although the CORD Partnership relates to the criminal justice sector as a whole, SIPR and the N8PRP provide useful models of sustainable and action-oriented partnership working. For example, they include researchers from many disciplines and criminal justice organisations in research co-production. They have existed for many years after their initial funding cycles came to an end. They also extend far beyond a single research project, instead encompassing a geographical area, broad theme and period of time.

Finally, they both operate small grant schemes to which partners can apply to co-produce, conduct, publish and apply original research (Crawford, 2020; SIPR, 2024). Their approaches tally with findings from the nascent literature exploring the dynamics that make research partnerships effective. For example, they have dedicated infrastructure to support administration and governance, while their durability enables trust and understanding to be built over time and means that partners can decide together how to respond to changing circumstances (Pesta *et al.*, 2019; Supplee *et al.*, 2023).

Working structures: Restorative practices and design thinking

Given that CORD's initial funding neither extends past 2024 nor covers new empirical research projects, our goal in 2024 is to explore whether partners can align around an exciting direction and to agree how best to sustain our collaboration in the future. The grant provides funding for three events, which will be structured using restorative practices and design thinking. Using these methods will help us to build relationships, participate equally in dialogue and think creatively. We can build consensus on certain issues, while retaining a distance and remaining 'critical friends'. This approach is underpinned by research evidence indicating the constituent features of successful research partnerships – positive relationships and shared aims and goals – and makes our work unique internationally.

The literature on research partnerships implies that relationships are an essential component of success. Williamson *et al.* (2019) interviewed researchers and policymakers working in partnership. They found that 'the most frequently mentioned facilitators of co-production were things that

allowed long-term relationships and trust to develop' between the groups (Williamson *et al.*, 2019, p. 7). In Voller *et al.* (2022, p. 530), after reviewing guidance on research partnerships, the authors concluded that long-term commitments need the 'time to establish and build meaningful relationships at an individual and institutional level'. Newman *et al.* (2019, p. 35) similarly list 'invest[ing] in the relationship' as one of their eight principles for fair, equitable research partnerships. Reed (2018), an authority in research impact, contends that researchers should prioritise relational approaches. Finally, in criminal justice, Rudes *et al.* (2014) designate establishing and maintaining relationships as two factors determining the success or failure of R3Ps. As Turin *et al.* (2022, p. 7) reflect, however, research partnerships seldom consciously prioritise activities that foster 'mutual connection, understanding and engagement'.

Restorative practices are a set of values and skills that help build relationships through group dialogue. They are the first author's main research area, and a concept in which several CORD partners have experience and training. Our events use a restorative process known as a circle process, in which groups sit in circles, a facilitator asks a question, and the right to respond (or to pass) revolves around participants sequentially. This is structured using a talking piece, physically handed between persons to signify whose turn it is to speak without interruption. The aim is to give each participant an equal opportunity to contribute, and to reduce (but not remove altogether) the domination that could result from power imbalances and personality traits in unstructured groupwork (e.g. Pointer *et al.*, 2020). Pertinently, circle processes always begin with relational questions, inviting participants to share their feelings, stories and information about themselves as people. This seeks to build trust and help people get to know each other, creating a positive social climate that encourages openness and participation.

Design thinking is another concept which, like restorative practices, provides both a principled and practical framework for structuring collaborative working. By way of its principles, design thinking assumes that outcomes improve when decision-makers empathise and engage in dialogue with those who are affected by their decisions (Government of Ireland, 2022b; Vaugh *et al.*, 2022). This relates to CORD because, as noted, embedding a culture of open research will require changes and actions from across the research, justice and community sectors. A wide array of persons from these cohorts should therefore be involved to maximise buy-in and realism in planning. Practically, design includes exercises that promote creative thinking, iteration and consensus building in groupwork (Devitt *et al.*, 2021).

In our context, design thinking is suitable for several reasons. Firstly, government policy is that the Irish public sector should use design principles to support collaborations, following the publication of the *Design Principles for Government* (Government of Ireland, 2022b). This policy notes the overlap between design processes and innovation, which is significant because the justice sector is the first to write and publish an innovation strategy, incorporating relevant commitments to engage stakeholders and share knowledge in pursuit of service improvement (Department of Justice, 2023). Secondly, more substantively, design thinking provides the tools to enable a group to consider shared goals. Reflecting on a social welfare research partnership in a 'collaborative centre' in Tilburg University, Numans *et al.* (2019, p. 1) suggest that this succeeded because they enabled 'the participation of multiple stakeholders and a shared responsibility and control over ideas, processes, and outcomes'. Similarly, Williamson *et al.* (2019, p. 7) say that

> shared aims and goals were seen as the fundamental building block of successful partnerships, and something that motivated persons to withstand the difficulties and challenges that can emerge over the course of partnerships.

The implication is that for the CORD Partnership to stand the best chance of sustainability, we should make use of the first year to enable partners to participate meaningfully in a process by which shared aims and plans are identified. Finally, research has implied that restorative practices and design thinking are complementary: the former facilitates participation from persons who might otherwise remain quiet; the latter can help turn large volumes of information into a consensus on specific, context-responsive and achievable actions (Marder *et al.*, 2022).

As all those who have organised or attended a workshop know, it can be challenging to deliver events that make the most of any time spent together in person by facilitating people to have the right conversations. Combining restorative and design approaches will give us a good chance of delivering events that enable meaningful participation in decision-making and foster both dialogue and action. CORD has funding for three workshops in 2024. At the first (in January 2024), restorative and design approaches were used to enable partners to contribute to the development of the CORD Partnership's purposes and principles and consider the criminal justice sector's open-research needs.

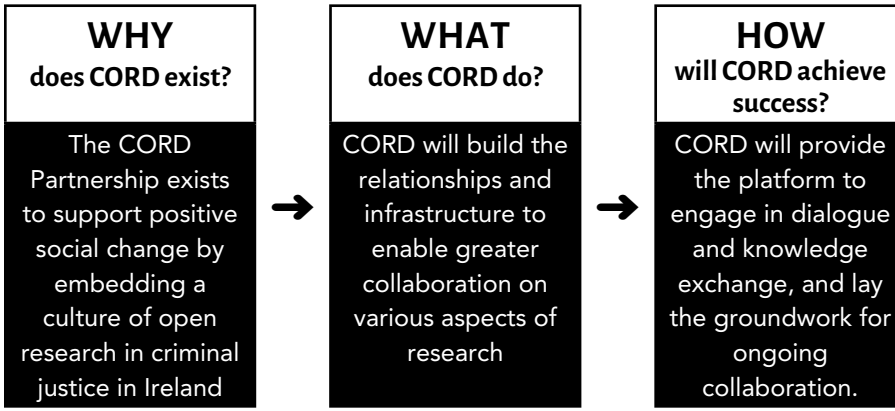
Agreeing the purposes and principles of the CORD Partnership

Pre-survey, workshop and open authorship processes

Our first event took place in January 2024. It aimed to build relationships and understanding, discuss and agree upon a set of principles for the Partnership, consider its aims and explore the sector's open-research needs. It was an opportunity to discuss our aspirations – or, as Martin (2014) says, to develop and agree on a statement of strategy which, for all its likely imperfections and imprecision, makes the logic of our work explicit. The event was facilitated using restorative circle processes: eight trained partners facilitated groups of six to eight persons. These discussions did not focus on actions, which will be discussed at the Partnership's third workshop in summer 2024 and published separately in a project report.

Before the event, we circulated a survey so that partners could contribute their views regarding the Partnership's 'why', 'what' and 'how' (see Figure 1), and the challenges it is likely to face. This reflects the design process, in that we collected participants' views before coming together for a collaborative workshop (Vaugh *et al.*, 2022). Generating and exploring ideas are time-intensive activities. Collecting and analysing these beforehand means that participants have more time, with less pressure on their mental space and energy, when physically present (Schelle *et al.*, 2015). This streamlined co-creation during our event by allowing us to discuss ideas that participants had already produced.

Figure 1: *The 'why', 'what' and 'how' of the CORD Partnership*



Supported by the third author, the first and second authors synthesised the 70 responses into a narrative form. This was presented at the event. A further draft of these sections, incorporating feedback collected at the event, was circulated in an editable shared document afterwards. Feedback that was incorporated included the need to explain further the desired impact on society, and provide more information on the ways in which we will work together and the value that partnership working will add, and how we will understand and recognise each other's constraints in our efforts to promote engagement. Three drafts of this article were then circulated as a shared document. This open authorship process invited all partners to propose additions and other edits to the article and to join as authors, before the third version went only to the named authors for any final observations prior to submission. What follows is the text – our aims, principles and open-research needs – on which the named authors of this article have agreed through this collaborative process.

Why does the CORD Partnership exist?

The CORD Partnership exists to support positive social change by embedding a culture of interdisciplinary open research in criminal justice in Ireland. This will contribute towards an Ireland in which everyone is safer from harm and can access inclusive justice services which meet their needs. The Partnership is needed to facilitate opportunities for stakeholders to discuss how they can best collaborate to design, conduct and make use of research, and learn from each other's experiences and knowledge.

We believe that the co-production of new research and datasets and the wider communication of research findings can combine to provide the evidence base needed for future criminal justice policy and practice. This will help us to challenge and transform aspects of academic culture that are frequently individualistic and limit the knowledge produced by research to academic audiences, so that academic researchers work more collaboratively across institutions and disciplines, and with persons who might apply research findings. This will also underpin more transparent, inclusive approaches to developing evidence-based policies and practices by making data and research more accessible, and enabling the incorporation of evidence and diverse sources of knowledge into policy formulation, implementation and evaluation processes.

In short, the more we collaborate, the stronger we will be in our efforts to meet the needs of the increasingly global community in which we live, and of

any individuals for whose welfare we bear specific responsibility in the context of our professional roles. Adopting an open research mindset will help us to co-operate and problem-solve the many issues to which research and evidence can contribute.

What will the CORD Partnership do?

The Partnership will build the relationships and structures to enable greater collaboration on various aspects of research – conducting new primary, empirical research, improving access to existing data (such as existing administrative datasets), collecting new datasets and developing data collection structures, and providing policymakers and practitioners with better access to researchers and to research findings. This will create a culture of open research that increases the volume, quality and application of research and research opportunities. This will also increase both the research capacity and literacy of the state and community sectors, and researchers' understandings of policymaking processes and different forms of practice. Ireland may be at a relatively early stage in forming an open approach to criminal justice research, but the conditions are present or developing that will help us to become global leaders. We will openly share knowledge and the lessons we learn to avoid duplication and maximise collaboration, support young and emerging professionals, and inform colleagues' work in other fields, policy areas and countries. We will also seek to ensure that research both includes and recognises the importance of lived experience in knowledge creation and co-production.

How might we collaborate to achieve this?

The CORD Partnership will help us to realise these goals by fostering dialogue and knowledge exchange, and by laying the groundwork for ongoing research collaborations. In relation to the former, the Partnership will create space for open dialogue. This is not about lectures or other monologues, but about people from different disciplines and diverse professional backgrounds listening to each other on an equal, human level. This will build trust and relationships so that partners feel able to be open and honest, are willing to listen deeply, and can learn from and better understand each other. Relationships are a central part of the groundwork the Partnership aims to lay, its events being a space for connection that enables bilateral or multilateral co-operation, either independently of or

connected to the Partnership. The Partnership will be a pool of resources and knowledge into which all partners can tap, and a forum that creates the opportunities to do so.

Our 'knowledge exchange' cannot be only (as the term is often conceived) two-way exchanges between academics and 'non-academics', linked to a single research project. Rather, it must be multi-directional, in recognition of the diversity of knowledge and interests in both the research and criminal justice sectors. The research sector includes academics from diverse institution types and disciplines, as well as independent researchers who often undertake strategic and evaluation research with the criminal justice and community sectors. In addition, the criminal justice sector includes policymakers, state agencies and their oversight bodies; community-sector services of different kinds and civil society and advocacy groups may consider themselves to be part of, or as having a broader or different remit than, the criminal justice sector. Knowledge can be exchanged in many directions – including between those in different roles and disciplines, and with varying priorities and experiences, *within* the criminal justice and higher education sectors – and in an ongoing way. This approach is part of the groundwork needed for the Partnership, as the quality of the agreements we reach, and the extent to which these are likely to meet the needs of society and our sectors, is contingent on the range of thought present in their development. That is, the more people who are involved, the more representative, legitimate and applicable our agreements (on open research priorities and actions, for example) will be.

Some of us have some very specific ideas of what empirical research is needed and what types of infrastructure would help us to 'open up' existing research knowledge. Others amongst us have little experience of research and research partnerships and are unsure as to what contribution we will be able to make, given our specific positions in criminal justice. The Partnership will provide access to the opportunities, people and information to help each of us consider and share our views, irrespective of our starting point.

What challenges will we face?

Partnership working of any kind can present many challenges (for one example of these and how they were overcome in the drug policy context in Ireland, see Comiskey, 2020). Even research partnerships with limited activities and timeframes between small numbers of people and organisations are difficult to sustain. The CORD Partnership involves dozens of organisations of different types across the entire jurisdiction and aims to continue after the

initial funding period. The sheer number of partners and the likely diversity of our organisational cultures and priorities will make reaching agreement difficult. In addition, power and resource imbalances exist among partners. For example, although researchers do not constitute the majority of persons involved in the Partnership (50 out of 117), they are still the best represented of the seven partner categories and have a significant portion of their professional life dedicated to the task of research, which the vast majority of those who work in policy and practice do not. Moreover, some partners have more or less power because of their size, authority or financial position (or position as a source or recipient of funding). Building consensus in such a context requires working structures that reduce the effects of power imbalances and build trust and relationships that make us more comfortable being open during discussions. It was also posited at the first CORD event that, although a broad range of professionals and academic disciplines were involved, the Partnership needs to consider its ethnic diversity and discuss how to include persons who are overrepresented in, or have lived experience of, criminal justice in its work.

Sustaining engagement is another challenge. Even in the first instance, dedicating time to the topic of research is difficult for partners for whom this is not part of their day-to-day roles. The reality is that the present levels of enthusiasm may wane over time given competing priorities for us and our organisations and depending on the time commitment required to travel to and attend events and to contribute to the Partnership in other ways. If the Partnership loses momentum, and if people change roles and those replacing them do not buy in as quickly, it will likely be difficult to sustain the level and breadth of engagement achieved at the outset. Related to this is the challenge of ensuring an inclusive approach with representation across social groups and among those with lived experience. Moreover, we vary in our level of freedom to engage in different ways. For some partners, for example, there are no barriers to speaking with legislators and the media. Others cannot do this, nor be seen to support others in doing this, because of the specific roles they occupy in the legal system. For academics, there may be institutional pressure to spend time on certain project types or publish in international outlets that do not necessarily align with open research ideals. Balancing collaboration while respecting each other's constraints and pressures is a key challenge in sustaining engagement.

Finally, for many of us, our enthusiasm to engage in open research draws on our professional or personal commitments to social change. Dialogue is

important, but the Partnership must find a way to ensure that this leads to action and makes change happen. This is vastly challenging given that many of the factors that inhibit a culture of open research – including access to data – are beyond the control of any of us. Managing our expectations, celebrating small wins, and recognising the long-term nature of this endeavour will be crucial to create and sustain momentum.

Principles of the CORD Partnership

Another task undertaken at the first event was to develop a set of principles to which we can commit as we interact and collaborate in research contexts in the future. Both restorative practices and design thinking involve beginning with principle development. Restorative practitioners (e.g. Hopkins, 2015; Pointer, 2019) believe that when a new community forms, agreeing a set of principles can clarify members' expectations of each other and represent something to consult when making decisions in the future. Similarly, in design-thinking processes, a set of working principles can both represent the group's ambitions at a given time and inform members' mindsets as they work together (Government of Ireland, 2022b). The Government of Ireland (2022c) has also published a set of values and principles that aim to guide its collaboration with the community and voluntary sector. In our workshop, participants were shown the Government of Ireland (2022b) *Design Principles for Government* for inspiration – not least, because of their brevity.

The process used Padlet, an education technology service, to enable participants at the event to complete the sentence 'The CORD Partnership will…' using their mobile devices. Contributions were anonymous and could be seen live by all participants as they were being submitted. Next, participants were asked to review all submissions and vote for up to three. The first and second authors then spent fifteen minutes counting votes, synthesising popular and recurring themes and, ultimately, drafting six principles. These were presented back to the full group, who were then asked, in circles, if they felt that anything was missing, if there were any changes they wanted to be made, and if there was dissent or consensus on the draft principles. Circle facilitators collected and presented this feedback, with the group determining that a consensus had yet to be reached and additions and changes were necessary. The feedback noted that the draft principles omitted a sense of what the Partnership aimed to achieve and was collaborating towards, and that it should include the need for research processes to be ethical in their engagement with people beyond the Partnership, as well as the need for shared action.

Following this process, when working together to embed a culture of open research in criminal justice in Ireland, we have agreed to:

1. Connect and discuss criminal justice on an equal footing
2. Respect each other's skills and knowledge
3. Build a culture of trust and openness
4. Create a safe, inclusive space to share and learn
5. Understand each other's capacities and constraints
6. Maintain the highest ethical research standards
7. Create opportunities to share knowledge
8. Take actions that affect people's lives positively
9. Collaborate on shared activities
10. Contribute to evidence-based policy and practice.

These are principles, loosely defined: they represent 'general norms that leave considerable room for judgment in many cases' (Beauchamp and Childress, 2001, p. 13), but they are not necessarily all norms of the same 'type', as defined by the ethics literature. For example, some, such as 'respect each other's skills and knowledge' refer to how we should treat each other within the partnership. Others are more outward-looking, relating to how we should treat others in research settings, not least as we 'maintain the highest ethical research standards' when collecting and using data. Some represent our aims (e.g. 'take actions that affect people's lives positively'), or relate to the processes by which we will achieve those aims (e.g. 'create opportunities to share knowledge'). Arguably, what is most interesting about these principles is that they closely reflect open research, focusing on creating space for engagement and participation through mutual commitment to the responsible sharing of resources. Certainly, they will be of value in informing future work to consider shared actions, while representing (as restorative and design literatures suggests) statements that reflect where we are now, and that we can reference later as we work together – bilaterally or multilaterally – to achieve the aims outlined earlier.

Exploring the sector's open-research needs

In the final session at the event, participants began to explore the open-research needs of the criminal justice sector. They initially wrote and, in circles, shared the research needs that related to their own day-to-day work, before a second round of circles aimed to help participants think beyond

their own roles and agree three open-research questions or needs relating to the biggest issues in Irish criminal justice at that time. Facilitators recorded the issues, questions and needs on which the groups agreed, and presented these back to the full group. At that stage, the group agreed that these notes would be collated and that this paper would include a short analysis of the themes and questions that emerged on the day, cutting across criminal justice. This analysis was conducted by the first and fourth authors, and circulated within a draft article. The analysis produced seven themes that partners expressed an interest in considering, discussing and exploring. Alphabetically, these are:

1. **Collecting and using data**: What data do criminal justice institutions and victim services collect about crime, sentences and the services provided? What datasets are missing, and how might we collect them and make them available for research? How can we ensure that these data – including qualitative data on lived experiences – and research evidence from other countries inform policies and practices?
2. **Prejudice and social division**: What were the causes and consequences of recent riots? What are the implications for public order and protest policing and human rights? Could restorative justice help to repair the harm done? What are the levels, causes and consequences of prejudice in Ireland? What communication methods and strategies will help us to reduce social division?
3. **Privacy in criminal justice**: How can we ensure that privacy rights are respected in the context of proposals to use new technologies, such as artificial intelligence and facial recognition?
4. **Public attitudes, policymaking and criminal justice**: What are Irish public attitudes to criminal justice? To what extent do these inform political decision-making? What methods or strategies will help us to use evidence to inform public knowledge about crime, victimisation and justice?
5. **The future of Irish criminal justice**: In which justice interventions and community and social services should we invest to have the greatest positive impact on society and crime? What is the role of (mental) health and education services in preventing and reducing the impact of crime, or helping people who interact with criminal justice? How can justice/non-justice agencies align to prevent and respond to gender-based violence? How can we reduce the prison population? What

resources are needed to 'future proof' our justice system, and to ensure consistency and availability of services around the country? How should drugs be regulated in Ireland?

6. **Understanding criminal justice practices**: What does the day-to-day work of the practitioners working across the criminal justice process look like? How can we analyse the reoffending rates of different interventions, such as diversion, probation supervision and imprisonment?
7. **Young people**: How can we support young people to avoid and desist from crime and problem drug use? What should be the role of schools, (mental) health services and other community services and civic organisations in this context?

These themes demonstrate a strong, shared commitment to harnessing data and research findings to understand better and inform criminal justice processes and practices for the benefit of society. They reflect the inherently applied nature of the work we aim to do together, and the shared goal of positive social change, as outlined earlier. The types of work required to answer these questions will vary. Some are questions on which there is already substantial international research, which, drawing on concepts of translational criminology (e.g. Pesta *et al.*, 2019), we can synthesise for application to our context. Answering others will require new empirical research projects to understand human and institutional behaviour, and action research and evaluations that take place alongside developments in policy and practice. At the same time, we can collaborate to maximise the potential use of existing administrative data and develop new data-collection infrastructure. We will not answer every question and complete every task, but this represents a strong basis from which we can decide what to prioritise.

Next steps

In an article in which the authors analyse their experiences of an R3P involving their university and a legislative committee on criminal justice, Brancale *et al.* (2021, p. 812) conclude:

> criminology is now on a forward trajectory in its ultimate realization of increased policy relevance. A prominent vehicle for this forward trajectory [is] partnerships between criminal justice researchers and policymakers

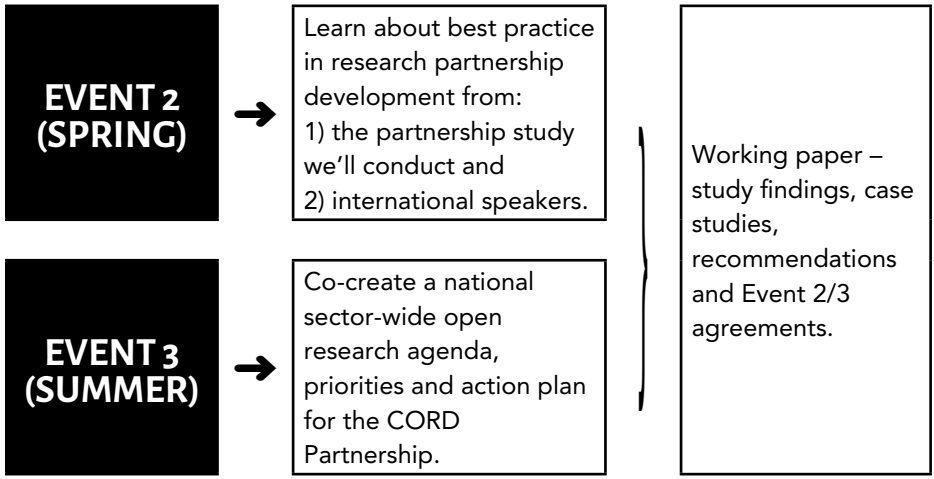
> and practitioners. RPPs have been identified as a best practice for translating research into criminal justice practice and they can also be used as a mechanism for providing evidence to policymakers.

At the same time, their analysis demonstrates the many challenges involved in the establishment of a partnership that leads to evidence-informed criminal justice policy. They note that their goal to reduce ethnic disparities in criminal justice outcomes was not realised because the time available to research and submit evidence (for researchers) and review evidence (for policymakers) was not conducive to the integration of evidence into policy formulation. Moreover, the (party) politicisation of lawmaking in America, where this R3P operated, meant that many legislators had decided what to support before considering evidence.

Although justice policymaking has been less (if not un-) politicised in Ireland as compared with other countries (Hamilton, 2019), the gap between evidence and policy here is not a product of insufficient evidence production, accessibility and translation alone. The IPJ, in which we are writing, has long played a crucial role in making the most up-to-date research findings from across the island publicly accessible. In so doing, the Journal has also brought together many different voices. The last volume alone features multiple authors with lived experience of criminal justice, as well as members of the academic, probation, judicial and community justice professions. We pay tribute to the IPJ's editorial committee and to the probation services in both jurisdictions on the island for producing and sustaining such an important publication in Irish criminology. Still, if the partnership is to achieve the lofty goals outlined in this article, we must learn from similar entities internationally and develop a contextually appropriate approach that includes, but is not limited to, publishing, and is underpinned by a clear rationale for the purposes of our work and the principles of how we will work together.

The next steps for the CORD Partnership involve two bodies of work (see Figure 2). First, we will learn from partnerships in other countries and disciplines. This will involve a workshop in May 2024 at which speakers from other research partnerships will outline their administrative, governance and funding arrangements and the actions that enable their success. This learning process will also involve a review of international literature on research partnerships, which will be published by the end of 2024 in an open-access working paper, alongside the information gathered at the May workshop.

Figure 2: *Next steps for the CORD Partnership in 2024*



Second, we will seek to agree on a set of open-research priorities and specific actions on which, if possible, we will collaborate following the end of the first year of funding. This will involve a second in-person workshop in summer 2024, using design techniques to collect ideas from partners and using restorative practices to structure dialogue to maximise what we can achieve in the short time together and build consensus. Any actions agreed will be voluntary, and could be independent of, or connected to, the Partnership. Actions might involve study visits, seminars, primary and secondary research, and collaborations to tease out the policy and practice implications for Ireland of existing knowledge and international research. If successful, this could help those involved in other areas of social policy, or in the development of Research Ireland, to see how an open research culture can be embedded through partnership working.

Partnership working is something that we know could aid our work, but that we cannot always find the time to do in a systematic and evidence-based way. The CORD Partnership is an invitation to invest a relatively small amount of time, with the potential to reap a high level of social reward. While the challenges have been acknowledged above, there is an early energy and enthusiasm that we hope provides the necessary foundations on which a strong, collaborative, open future can be built.

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