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Irish Probation Journal

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

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The Probation Service



PBNI
Probation Board
for Northern Ireland

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

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

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IPJ is an annual publication distributed widely to criminal justice bodies, research and academic centres and interested individuals as a forum for knowledge exchange, critical debate and dialogue on criminal justice issues, in particular, community-based sanctions.

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Editorial

Welcome to the eighteenth edition of *Irish Probation Journal (IPJ)*. First published in 2003, the Journal has significantly developed and gone from strength to strength over almost two decades in existence. With a readership that stretches far beyond this island, the journal regularly contains articles from international contributors both in practice and in academia. It is now an important reference point for colleagues within the Confederation of European Probation (CEP) and provides source material and examples of best practice for colleagues in other jurisdictions. Each year, the *IPJ* also contains an article based on the annual Martin Tansey Lecture organised by the Association for Criminal Justice Research and Development (ACJRD), which seeks to promote reform and the development and effective operation of the criminal justice system. We are delighted to be able to support ACJRD in its endeavours through the publication of this article. Importantly, the journal also has a range of articles and practice notes both from practitioners working in services as well as those who are conducting research using data and information from probation.

Some of the themes covered in this year's publication include: mental health, UK sentencing policy, electronic monitoring, the contribution of the community and voluntary sector, trauma-informed practice, substance misuse, the contribution of social enterprise to employability, violent offenders, reintegration, restorative practice, money laundering, prolific offenders, and an international perspective from the Latvian Probation Service. This wide and varied range of articles provides a comprehensive, informative and thought-provoking edition of the 2021 *Irish Probation Journal*.

In January 2021, the editorial committee held a workshop for those interested in writing for the journal. Attended by over 40 practitioners, the event was extremely successful, and a number of those who were in attendance are writing in this publication, whilst others are interested in writing in future editions. The level of enthusiasm and commitment to shared learning, amongst practitioners in both services, is very encouraging.

It is important to acknowledge that throughout this past year we have continued to face both the personal and professional challenges of the COVID-19 pandemic. It is therefore all the more impressive that practitioners, policymakers and academics have made time and prioritised writing for the journal. Indeed, it is difficult to believe that we have all been working against the backdrop of a global pandemic for over 18 months. Those working within criminal justice providing frontline essential public services have had to review, revise and adapt their practice to ensure the continued delivery of these services, whilst at the same time keeping staff, service-users and the wider public safe. The editorial committee of *IPJ* wish to place on record our thanks to all of those who have continued to deliver services and keep our communities safer. We also acknowledge that those who are most marginalised in society have been disproportionately impacted by the pandemic and, of course, those who offend are one such group.

Many of the themes and articles this year, whilst not directly about COVID-19, will resonate with our collective recent experience working through the pandemic. We know, for example, that the mental health repercussions and trauma experienced as a result of COVID will be felt for many years to come. Likewise, employment, substance misuse and reintegration into communities have all been significantly impacted by the pandemic.

The opening article in this year's journal draws from a series of research studies, undertaken in the Irish Probation Service and internationally in relation to the mental health of those subject to probation supervision. It questions whether service-users with mental health problems in probation require 'equivalence', and argues that new thinking is required, which might include the establishment of a sub-group of specialist probation staff specifically trained in mental health.

There are several interesting contributions in relation to rehabilitation policy. An article marking 50 years of NIACRO sets out how this community organisation has adapted to meet the changing political and social landscape in Northern Ireland (NI) and its efforts to influence public policy in NI. A further article by the Director of a UK think-tank considers sentencing policy in the UK and the challenges and opportunities provided by the Police, Crime, Sentencing and Courts Bill. A paper exploring the history and development of Electronic Monitoring (EM) of offenders in Ireland charts policy and legislative developments and considers the potential for, and likelihood of, its future use.

Accessing employment continues to be a challenging issue for those who have offended. Readers can peruse a paper which considers the journey of

the *Working to Change — Social Enterprise and Employment Strategy 2021–2023*. The paper outlines the co-design approach taken, as well as detailing the underpinning principles of the employment-focused strategy for people with criminal convictions.

There are two articles in relation to substance misuse; one is a practitioners' response to an article that appeared in *IPJ 2020* on the Substance Misuse Court piloted in Belfast Magistrates Court. The second is based on the findings of a recent online survey on patterns of drug and alcohol misuse amongst those under the supervision of the Probation Service.

Likewise, there are two papers in relation to trauma — one in relation to trauma-informed practice, which highlights key themes from a systematic narrative review of the international criminal justice research on trauma-informed practice in the criminal justice system; the second considers a cohort of females within PBNi who have offended, and explores the links between adversity, trauma and offending behaviour.

As always, the journal reflects new crime trends, and we have an article this year which looks at the concept of 'money mules' — the author shares the learning journey undertaken in order to gain a better understanding of the nature of this offending, distinct patterns and consequences and implications for Probation practice.

Partnership working is critical across the criminal justice system, as reflected in a number of contributions. One paper considers research carried out by 'Care After Prison' (CAP), which is a criminal justice charity supporting people affected by imprisonment, current and former offenders, and their families. One of the key aims of the research was to identify any gaps in the provision of care from prison through to the community, and to explore how these gaps could be filled, from the perspective of those with lived experience of imprisonment. Another considers the regional application of the 'Joint Agency Response to Crime' (J-ARC), a strategic management initiative working to address prolific offending through collaboration across An Garda Síochána, the Probation Service and the Irish Prison Service. A third article on restorative practice within Northern Ireland considers partnership work with community and voluntary organisations, as well as statutory bodies, in delivering effective restorative interventions.

Once again, the journal is further enriched by a contribution from our colleagues in the Latvian Probation Service. The paper describes the history and evolution of the service, tracking significant developments and challenges. Readers will be interested in learning about their work with

Electronic Monitoring and Restorative Justice, particularly as both are central themes in two other papers in this edition. There is plenty of scope to compare, to contrast and to inform thinking.

As we publish this edition of the *Irish Probation Journal*, we would like to put on record our thanks to all the members of the Editorial Committee for their tireless work and commitment. Thanks to the members of our advisory panel, who provide an important function in reviewing articles and providing guidance and feedback. As always, our appreciation to the Probation Board for Northern Ireland and the Probation Service for the support provided.

To all those who have submitted articles and papers published this year, we are very grateful for your time and efforts. Finally, to our readers, we want to thank you all for your continuing support and for championing the Journal. As always, if anyone wishes to submit an abstract for consideration for next year's *IPJ*, please make contact with any member of the Editorial Committee.

Enjoy this eighteenth edition of the *Irish Probation Journal*.

Ursula Fernée
Probation Service

Gail McGreevy
Probation Board for Northern Ireland

Probation and Mental Health: Do We Really Need Equivalence?*

Charlie Brooker[†]

Summary: A 'Zeitgeist' is defined as 'the defining spirit or mood of a particular period of history as shown by the ideas and beliefs of the time', and I am pleased to say I think this is what is currently happening with probation and mental health. For too long, mental health has been the poor relation in probation practice — a situation that seems to be gradually changing. This paper draws from a series of research studies, undertaken locally, nationally and across Europe, to show that we are beginning to understand more and more about probation and the mental health of its clientèle. There are still serious gaps in our research knowledge, for example, about effective interventions, but the last decade has clarified the direction of travel that is required. The paper questions whether clients with mental health problems in probation require 'equivalence'. That is, the same services that other members of the general population can access, who live in the community. I argue that the complexity of clients' presentations does not equate to what is currently available in the community. Thus, new thinking is required, and much more research is needed to examine, for example, the role of assertive-outreach principles and models of service provision — perhaps alongside a sub-group of specialist Probation Staff specifically trained in mental health. There is a long way to travel before we can say that all probation clients are receiving the mental health services they need.

Keywords: Mental health, probation, prevalence studies, systematic review, personality disorder, suicide, assertive outreach.

Introduction

Many thanks to the Association of Criminal Justice Research and Development for the very kind invitation to give the Martin Tansey lecture. When I look back at the list of former Martin Tanseyites, it is, indeed, an honour to have been now included in this group.

* This paper comprises the text of the 14th Martin Tansey Memorial Lecture, sponsored by the Association for Criminal Justice Research and Development (ACJRD) and delivered via Zoom on 24 May 2021.

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Before I begin to discuss the topic of probation and mental health, I think it might be useful to say something about my background. I trained as a mental health nurse in the 1970s. I then left nursing to obtain a full-time Social Science degree. I returned to London to work in community mental health in Central London, where at that time, we were in the middle of the huge programme to close the large psychiatric hospitals. Many patients were discharged from these large institutions with little more than a rail warrant, and many chose to come to London, as surely 'the streets were paved with gold'? Commentators, especially in the US — and I'm thinking of Fuller-Torrey here — have argued that the hospital-closure programme was a disaster, especially for the Criminal Justice (CJ) system. He surveyed all US states and concluded that there were more people with a mental illness in prisons than in mental health beds.

After being involved with planning the closure of a large North London Hospital, Friern Barnet, I returned to academe to obtain a Master's degree and, with this qualification in my pocket, I progressed to a PhD with backing from the Department of Health. The PhD examined the impact of training Community Psychiatric Nurses (CPNs) to work with the families of those caring for someone with a psychosis living at home.

I went on, after some years and more funded research, to become Professor of Mental Health at both Manchester and Sheffield Universities. Early in the year 2000, I was asked to work with a new directorate at the Department of Health, entitled 'Offender Health'. I took a one-year sabbatical to embed myself in the world of offenders and their health needs. This programme was very much focused on prisons, and it became more and more apparent to me that probation was being overlooked. This was reinforced by the microscopic focus on probation in Lord Bradley's report on the CJ and mental health. In a new Chair at Lincoln University, we conducted one of the most robust studies ever undertaken into the prevalence of mental health disorders in probation, using a stratified random sample. This was in 2012, and since then my major focus has been this area of work. I am going to take you on a whistle-stop tour of some of our research. I say 'our' research because most, if not all, of this work has been conducted with Dr Coral Sirdifield who, at this point, I would like to acknowledge. She and I are currently editing a book on probation and mental health, which hopefully will be published early in 2022.

A 'Zeitgeist' is defined as 'the defining spirit or mood of a particular period of history as shown by the ideas and beliefs of the time', and I am

pleased to say I think this what is currently happening with probation and mental health. We have the Council of Europe conducting a survey within its 47 probation jurisdictions on probation and mental health — this, with a view to producing a White Paper. The Confederation of European Probation (CEP) has an active workstream and buoyant MH group; Ireland has just conducted its own research on this topic, ably led by Dr Christina Powell (a topic I return to); there are too, in England, a number of initiatives, most importantly, a thematic review of mental health across the CJ system, which will be completed in August.

I examined the 13 previous Martin Tansey lectures to look for references to mental health simply by searching for the term 'mental health'. There were 22 references altogether, with 13 references from one speaker, Professor Wexler, who spoke about therapeutic jurisprudence, so maybe this was to be expected. Only Paul Senior mentioned mental health in his paper on 'integrated offender management' (although there were several references to prison mental health). So, the time has come to broadcast far and wide the message about probation and mental health.

Having said this about the mental health content of previous Martin Tansey lectures, I do not mean to cast aspersions on the Association of Criminal Justice Research and Development (ACJRD) or, indeed, any of the previous speakers. I know, for example, that the ACJRD's mental health working group has, over the years, produced important papers on young people and the Criminal Justice system; and the effects of drugs and alcohol on mental health; and various ACJRD seminars have addressed mental health issues too.

The prevalence of mental health problems in probation

It is clear that those serving a probation order are a vulnerable group, and, of course, this reflects itself in health status. Table 1 shows that in a sample of probationers in Derbyshire and Nottinghamshire, both the physical and mental health dimensions of the SF-36 (a global measure of health status) are significantly worse for probationers than for Social Class V of the general population (Brooker *et al.*, 2009).

Table 1: Comparison of physical and mental component summary scores (SF-36) for probation sample and general population social class V

	Nottinghamshire mean (SD)	Derbyshire mean (SD)	Total offender sample mean (SD) (95% CI)	General population social class 'manual' mean (SD)
Physical component summary	47.34 (13.17)	46.52 (12.74)	46.95* (12.94) (45.04– 48.88)	48.93 (10.74)
Mental component summary	46.60 (12.36)	46.93 (12.71)	46.75* (12.49) (44.91– 48.60)	49.93 (10.38)

It is not only that health status is so poor, but death itself is far more likely, especially for those at the point of leaving prison. Bingswanger *et al.* (2007) looked at deaths of those released from the Washington State Department of Corrections, and found that, compared to the general population, death rates were 12.5 times higher in the first two weeks following release. Overdose and suicide figured highly in the cause of death. Similarly, the SPACE project (Aebi *et al.*, 2018) has studied death rates of probationers and prisoners across Europe and found that in nearly every country these rates are higher for probationers (see Figure 1).

Just how vulnerable are those on probation to formal mental health problems? The most rigorous study, using a random sample, that has looked at this question was undertaken across the county of Lincolnshire, and a series of papers has been published from this study, which report: the prevalence of mental health disorders in probation (Brooker *et al.*, 2012); the literature on prevalence of mental health disorders in probation (Sirdifield, 2012); personality disorder in probation (Pluck *et al.*, 2011); suicide and probation (Pluck and Brooker, 2014); and engaging service-users in research (Sirdifield *et al.*, 2016). Overall, the prevalence study showed that 38.7 per cent of the sample had an identifiable mental health disorder (see Table 2). In addition, the research established that: 47 per cent had a likely personality disorder; co-

morbidity with drug/alcohol problems was marked (see Table 3); and there was a strong association with mental health disorders and personality disorder.

Figure 1: Deaths of inmates per 10,000 inmates and deaths of probationers per 10,000 probationers during 2017 (n=27)

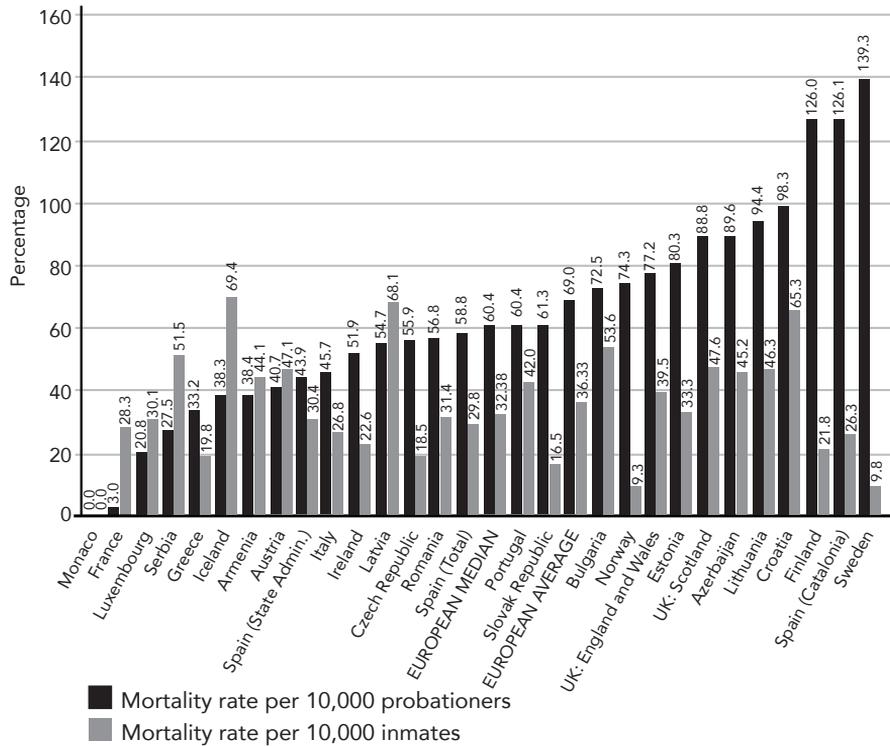


Table 2: Prevalence of mental health disorders in the Lincolnshire probation sample

Disorder	N	%	CI (95%) (%)
Mood disorders			
Major depressive episode	25	14.5	9.2–19.7
Mania (manic episode/hypomanic episode)	4	2.3	0.1–4.6
Any mood disorder	26 (31)	15.0 (17.9)	9.7–20.4 (11.3–27.3)

<i>Disorder</i>	<i>N</i>	<i>%</i>	<i>CI (95%) (%)</i>
<i>Anxiety disorders</i>			
Panic disorder	2	1.2	0.0–2.8
Agoraphobia	17	9.8	5.4–14.3
Social anxiety	11	6.4	2.7–10.0
Generalised anxiety	6	3.5	0.7–6.2
OCD	3	1.7	0.0–3.7
PTSD	8	4.6	1.5–7.8
Any anxiety disorder	37	21.4	15.3–27.5
	(47)	(27.2)	(18.4–38.3)
<i>Psychotic disorders</i>			
With mood disorder	5	2.9	0.4–5.4
Without mood disorder	9	5.2	1.9–8.5
Any psychotic disorder	14	8.1	4.0–12.2
	(19)	(11.0)	(5.8–20.0)
<i>Eating disorders</i>			
Anorexia nervosa (including binge eating/purging type)	0	0.00	N/A
Bulimia nervosa	4	2.3	0.1–4.6
Any eating disorder	4	2.3	0.1–4.6
	(9)	(5.2)	(1.6–15.5)
Any current mental illness	47	27.2	20.5–33.8
	(67)	(38.7)	(27.7–51.1)
Likely personality disorder	82	47.4	40.0–54.8

Note: With the exception of personality disorder, Ns are shown for the 88 participants who completed the full interview. For the major diagnostic categories, weighted prevalence figures are shown in brackets to account for false negatives on PriSnQuest. The prevalence of personality disorder was based on SAPAS scores, which were available for all 173 participants.

Table 3: Prevalence of mental health disorders and co-occurring substance use

Disorder	Alcohol problem (AUDIT score of 8+) (n=96)			Drug problem (DAST score of 11+) (n=21)			Any substance misuse problem (n=104)		
	N	%	CI (95%) (%)	N	%	CI (95%) (%)	N	%	CI (95%) (%)
Any current mood disorder (n=26)	20	76.9	60.7–93.1	5	19.2	4.1–34.4	21	80.8	65.6–95.9
Any current anxiety disorder (n=37)	25	67.6	52.5–82.7	6	16.2	4.3–28.1	26	70.3	55.5–85.0
Any current psychotic disorder (n=14)	9	64.3	39.2–89.4	3	21.4	0.0–42.9	10	71.4	47.8–95.1
Any current eating disorder (n=4)	3	75.0	32.6–100.0	0	0.0	N/A	3	75.0	32.6–100.0
Any current mental illness (n=47)	31	66.0	52.4–79.5	10	21.3	9.6–33.0	34	72.3	59.6–85.1
No current mental illness (n=41)	10	24.4	11.3–37.5	31	75.6	62.5–88.8	7	17.1	5.6–28.6

The study also examined the needs of probationers using the CANFOR-S. The CANFOR was developed by PriSM at the Institute of Psychiatry to assess the needs of individuals with severe mental illness (Phelan *et al.*, 1995). The short version of this tool was included in the study and investigates a range of 25 areas in which people may have difficulties, whether people are receiving help in these areas, and whether they are satisfied with any help that they are receiving or perceive the area to be still a problem for them.

Table 4: Differences in CANFOR-S scores comparing major mental health disorders with no disorder

<i>Disorder</i>	<i>Type of need</i>	<i>Mean CANFOR score</i>	<i>Standard deviation</i>	<i>Inter-Quartile range</i>	<i>Mann-Whitney U Test*</i>
Any current disorder	Met need	2.83	2.37	1.13–3.88	$z = -2.161$ $p = 0.031$
	Unmet need	7.70	6.13	2.45–11.70	$z = -4.155$ $p < 0.001$
	Total need	10.53	6.31	5.50–15.10	$z = -4.517$ $p < 0.001$
No current mental illness	Met need	1.83	1.83	0.50–2.74	N/A
	Unmet need	2.68	3.42	0.39–4.78	N/A
	Total need	4.59	3.72	1.507.38	N/A

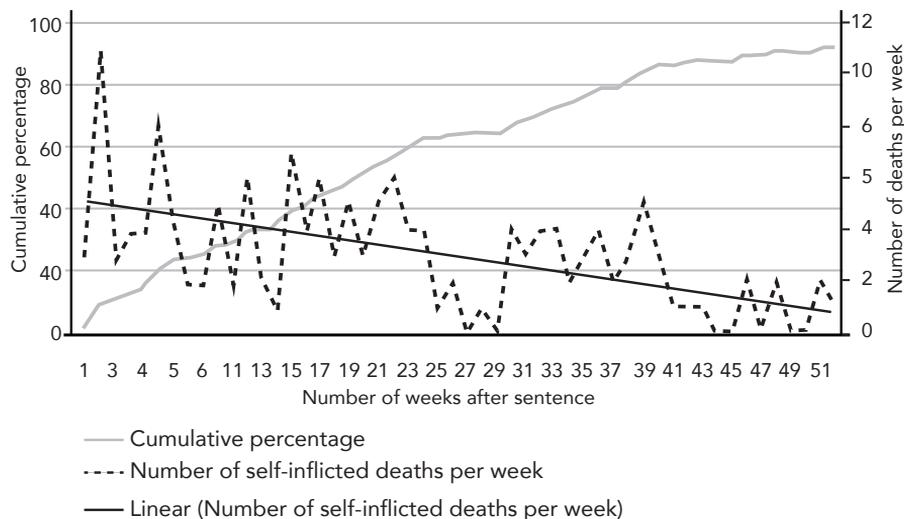
* Table is based on the $n=88$ who were PriSnQuest Positive.

Our study found that ‘unmet’ needs were significantly higher in the group of probationers with a mental health disorder compared to those probationers who were not mentally ill (see Table 4). The needs most often unmet concerned the following areas of life: safety to self; physical health (four times more likely to die from violent deaths and twice as likely to die from natural causes); daytime activities; alcohol and drugs; agreement with prescribed treatment; money and company. A more recent survey has confirmed a similar prevalence for mental illness amongst probationers in Ireland (Power, 2020).

Power found that 40 per cent on a Probation Supervision Order, compared to 18.5 per cent of the general population, present with symptoms indicative of at least one mental health problem. Women present with higher rates of active symptoms and higher rates of contact with services currently and in the past for mental health problems. The study also found that 50 per cent supervised by the Probation Service in the community who present with mental health problems also present with one or more of the following issues as well: alcohol and drug misuse, difficult family relationships, and accommodation instability. Power (2020) argues that there are significant and unmet psychological and psychiatric needs among persons subject to probation supervision, and improved access and engagement routes to mental health services are badly needed.

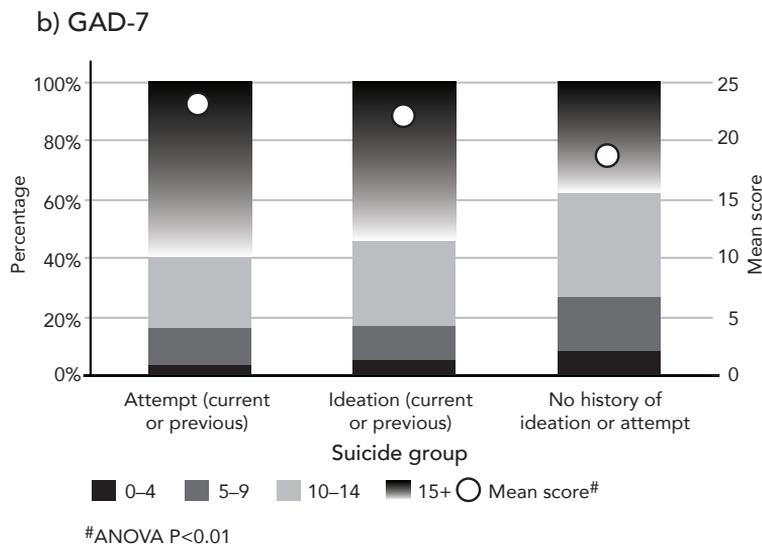
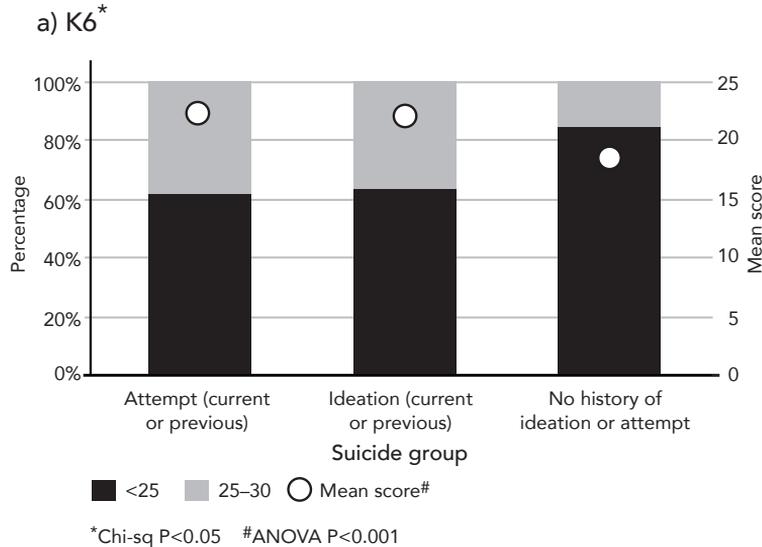
Safety to self is a key issue in probation. The Ministry of Justice in England collates key statistics on suicides, and has done so for a number of years, allowing trends to be established. An important paper by Philips *et al.* (2018) discussed these trends over the period between 2010 and 2017. Philips and colleagues reported that the rate of suicide amongst those under community supervision between 2010/11 and 2015/16 was nearly nine times higher than in the general population, and was also higher than amongst the prison population. This reflects findings from an earlier study, which also suggested that rates of suicide are higher in the probation population than amongst prisoners (Sattar, 2001). The study also provided key information and showed that the risk of suicide is much higher in the first few weeks after release and diminishes as time progresses (see Figure 2).

Figure 2: Number of deaths per week after sentence and cumulative percentage of self-inflicted deaths in England 2015–16

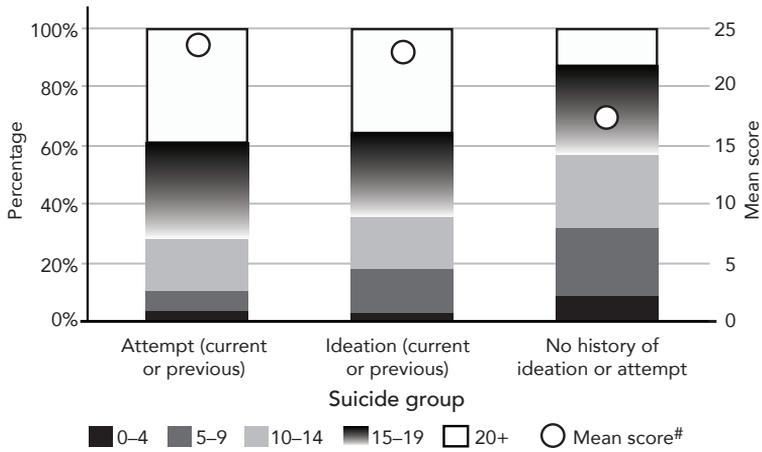


A recent paper (Brooker *et al.*, 2021) has reported data on suicide that has been subject to secondary analysis from an original study by Fowler and his colleagues (Fowler *et al.*, 2020). This paper presented secondary analysis of data previously used to evaluate the outcome of delivering psychological treatment to probationers in London. A sample of probation service-users who screened positive for clinically significant symptoms of distress, and were subsequently assessed and offered treatment ($n=274$) were allocated retrospectively to one of three groups: those with a history of suicidal ideations but no suicide attempts (ideation group), those with a history of a suicidal act (attempt group), or a control group where suicide was not evident (no-history group). Results indicate no significant difference between the ideation and attempt groups, but significant differences between these and the no history group.

Figure 3: Illustration of the differences in psychometrics and engagement with services between the different suicide groups

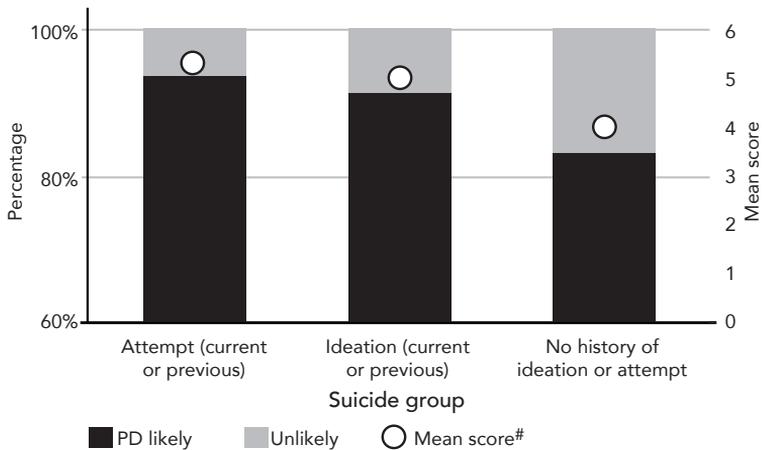


c) PHQ-9*



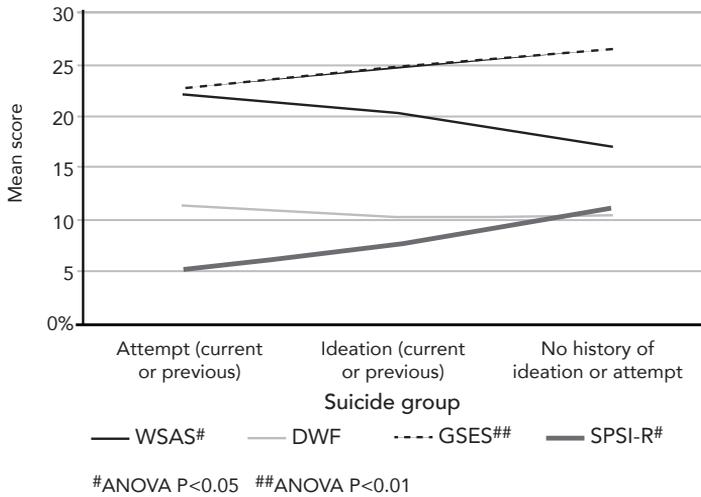
*Chi-sq $P < 0.001$ #ANOVA $P < 0.001$

d) SAPAS

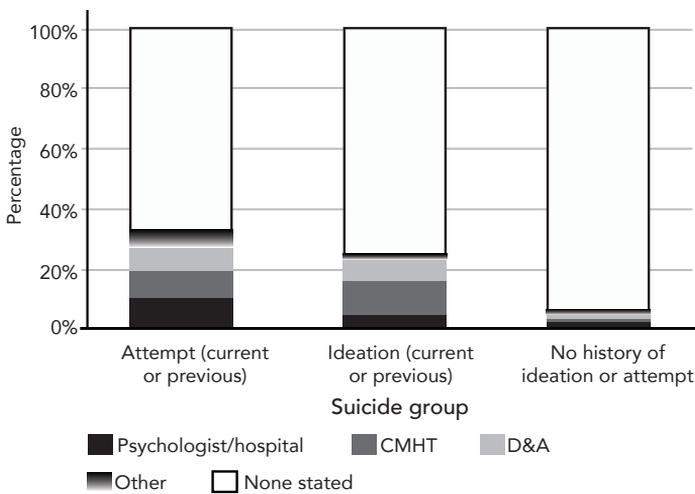


#ANOVA $P < 0.001$

e) Other psychometrics



f) Previous engagement with services*



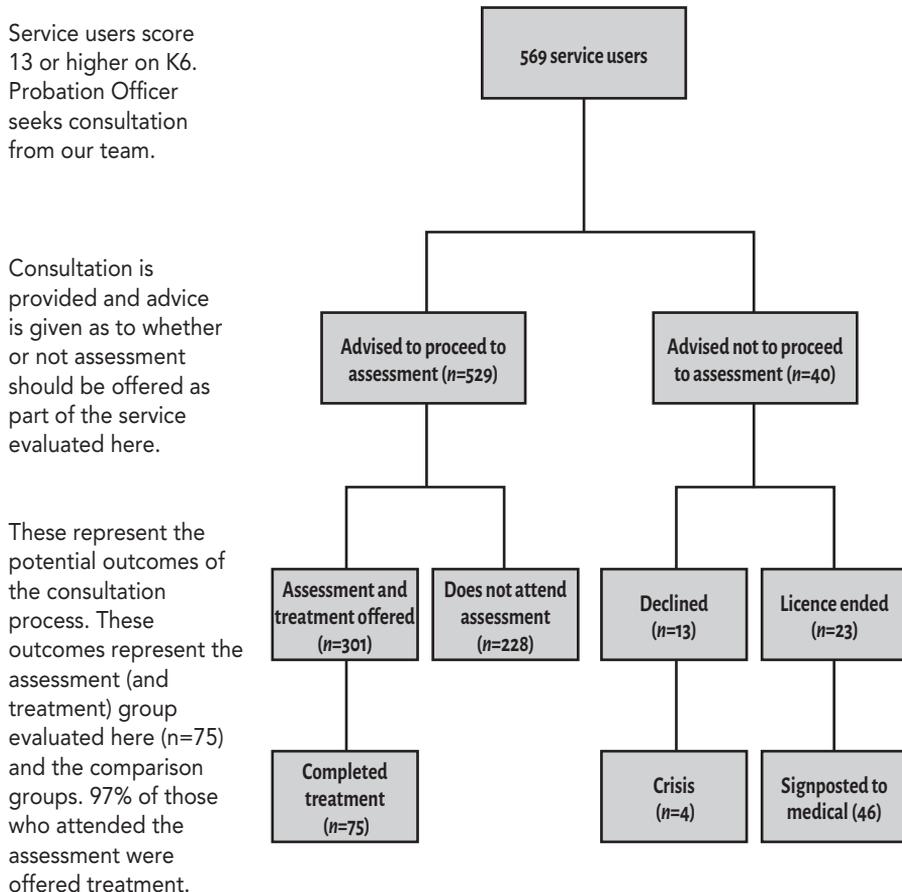
*Chi-sq P<0.01

The findings are discussed within the context of the suicide ideation-to-action models that have been debated in other offender settings. We conclude that a more nuanced understanding of suicidal acts and suicide attempts is required in probation services, including a prospective study that tests the ideation-to-action model.

A recent systematic review of suicide in probation has been undertaken (Sirdifield *et al.*, 2019). In the paper, we provide an up-to-date summary of what is known about suicide and suicidal ideation and probation. This includes estimates of prevalence and possible predictors of suicide and suicidal ideation. A total of 5,125 papers were identified in the initial electronic searches but, after careful double-blind review, only one paper related to this topic met our criteria, although a further 12 background papers were identified, which are reported. We concluded that people on probation were a very high-risk group for completed suicide, and factors associated with this include drug overdose, mental health problems, and poor physical health. There is a clear need for high-quality partnership working between probation and mental health services, and investment in services, to support appropriate responses to suicide risk. Similarly, a systematic review has been undertaken by the same research group on mental health and probation (Brooker *et al.*, 2019). Here, a narrative systematic review was also undertaken of the literature concerning the mental health of people on probation. In this paper, we provide an up-to-date summary of what is known about the most effective ways of providing mental healthcare for people on probation, and what is known about the relationship between different systems and processes of mental healthcare provision, and good mental health outcomes for this population. A total of 5,125 papers were identified in the initial electronic searches but after careful double-blind review only four papers related to mental health that met our criteria, although a further 24 background papers and 13 items of grey literature were identified, which were reported. None of the included studies was a randomised controlled trial although one was quasi-experimental. Two of the other papers described mental health disorders in approved premises, and the other described the impact and learning from an Offender Personality Disorder project. We concluded that the literature is bereft of evidence on how to effectively provide mental healthcare for people on probation. However, since our review was published, a study has been reported on psychological treatment for those screened positive for mental health problems in the London Probation Service (Fowler *et al.*, 2020). Treatment was offered to all those who scored higher than 13 on

the K-6 (Cornelius et al., 2013). As Figure 4 shows, over the course of the study, 569 service-users screened positive for a mental health problem; of these, 301 (63 per cent) were assessed and offered treatment. Overall, 75 people completed treatment, which represents just 13 per cent of all those initially screening positive. The group of treatment-completers achieved significant improvements on symptom severity and duration at follow-up, and were less likely to reoffend. However, even when it is offered on site, it is clear that engaging probationers in psychological treatment poses all sorts of challenges, and sample attrition is likely to be high for a variety of reasons.

Figure 4: Referral throughput figures from the study by Fowler et al. (2020)



The systematic reviews were part of the same National Institute for Health Research (NIHR) funded project which examined the extent to which Clinical Commissioning Groups (CCGs) and Mental Health Trusts (MHTs) provided services to people serving probation orders in England (Sirdifield *et al.*, 2019). As has been shown, despite often having complex health needs, including a higher prevalence of mental health problems, substance misuse problems and physical health problems than the general population, this socially excluded group of people often do not access healthcare until crisis point. This is partly due to service-level barriers such as a lack of appropriate and accessible healthcare provision. A national survey of all CCGs (n=210) and MHTs (n=56) was conducted in England to systematically map healthcare provision for this group. We compared findings with similar surveys conducted in 2013 (Brooker and Ramsbotham, 2014) and 2016 (Brooker *et al.*, 2017). A good response was obtained, and the data analysed represented responses from 75 per cent of CCGs and 52 per cent of MHTs in England. We found that just 4.5 per cent (n=7) of CCG responses described commissioning a service specifically for probation-service clients, and 7.6 per cent (n=12) described probation-specific elements within their mainstream service provision. Responses from 19.7 per cent of CCGs providing data (n=31) incorrectly suggested that NHS England, rather than CCGs, is responsible for commissioning healthcare for probation clients.

Table 5: *Overarching categories of services commissioned by CCGs in 2017 (n=157)*

<i>Type of service</i>	<i>A probation-specific service was commissioned or provided n (%)</i>	<i>Probation-specific elements within a mainstream service n (%)</i>	<i>CCGs that commission this type of service n (%)</i>
Any health service	7 (4.5%)	12 (7.6%)	19 (12.1%)
Any mental health	2 (1.3%) service	14 (8.9%)	16 (10.2%)
Physical health service	2 (1.3%)	1 (0.6%)	3 (1.9%)

Responses from 69 per cent (n=20) of MHTs described providing services specifically for probation service clients, and 17.2 per cent (n=5) described

probation-specific elements within their mainstream service provision. This points to a need for an overarching health and justice strategy that emphasises organisational responsibilities in relation to commissioning healthcare for people in contact with probation services, to ensure that there is appropriate healthcare provision for this group.

Such a strategy arrived in England in 2019 (NPS, 2019) but, sadly, with little reference to NHS commissioning responsibilities. It was written in terms of the following subheadings: mental health and wellbeing; substance misuse; suicide reduction; social care; physical health; learning disabilities; and finally the offender personality disorder pathway. In each of the sections there is a subheading entitled 'What NPS will do' and this example is for suicide prevention:

In the first instance, NPS will achieve the commitment to ensure the safety of all individuals under our supervision as far as reasonably possible by utilising internal and external data to understand the risk profiles of people under our supervision in relation to suicide. Subsequently, NPS will use this data to address identified risks.

NPS is also committed to raising awareness and understanding of suicide prevention as well as of the heightened risk of suicide for individuals under our supervision and will develop the workforce to address these vulnerabilities. For example, NPS has produced the Approved Premises Reducing Self-Inflicted Death Action Plan 2018–2021.

Additionally, NPS will provide comprehensive support and guidance for staff and promote effective monitoring and research to enhance care and welfare of staff and individuals under NPS supervision. Moreover, NPS is committed to working with internal and external stakeholders to achieve our goal to reduce the number of self-inflicted deaths under community supervision. For example, NPS will look to engage more closely with Local Authority Suicide Prevention Action Plans and Adult Safeguarding Boards. (NPS, 2019, p. 15)

However, nothing is stated in the strategy about how such objectives will be monitored/evaluated, and two years later we have little idea about the full impact of the overall plan.

The aforementioned research review leads to a number of conclusions:

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- There is a lack of clarity about the role Probation staff should undertake in relation to the assessment and recognition of mental health disorders and suicidality;
 - There is a lack of dedicated healthcare funding for probationers with complex needs and very few local pathways for probationers in mental health services;
 - There is little rigorous research on effective mental health interventions for probationers;
 - The high levels of suicide in probation settings are a significant, unresolved issue.

So, to come back to the title of the lecture — in the late 1990s, we thought what we needed in England was ‘equivalent’ mental health services for people who are in the criminal justice service. But I think the complexity of needs in probation — mental health problems; substance abuse and personality disorder — really leave open the question, do these equivalent services exist?

The answer to this question is ‘no’ and leads me to a very banal conclusion. It might well be that the most effective mental health service for people on probation is based on the principles of assertive outreach. Those in the target group for Assertive Outreach have been described as follows by the National Forum for Assertive Outreach as:

Specifically, those referred to Assertive Outreach are people with whom mainstream mental health services have found it difficult to engage, and with histories including a severe and enduring mental illness, social chaos, high use of inpatient beds, and with multiple complex needs. To be effective teams must deliver a mix of evidence based psychosocial intervention and intensive practical support from multi-skilled and multi-disciplinary practitioners. The focus of the work must be on engagement and rapport, building up, often over the long-term, strong relationships. Effective teams aim to replicate the findings of numerous international randomised controlled trial studies comparing ACT with standard care.

We have seen how in the Fowler study in London there was remarkable attrition throughout the process: people not turning up for appointments and dropping out for a variety of reasons. We know that people’s lives are not organised. ‘Chaotic’ is the word often used, and with Assertive Outreach you have workers with smaller caseloads who make it their business to know in

detail about the lives of people with whom they are working. For example, where they go, which kind of cafés they frequent, and so on. In Assertive Outreach, there is a broader appreciation of the lives people lead that focuses not just on mental health symptoms but on other crucial needs too, such as housing, education and employment.

Our systematic reviews have shown that there is little evidence for effective interventions in mental health, suicide prevention or substance misuse for probationers. Clearly this group of people often have complex needs and lead disorganised lives as the prevalence studies show. This does not fit with the modern 'two hits and you're out' philosophy of mental health service access. The Assertive Outreach model of service delivery could seem to be an appropriate one, but this is often regarded as outdated and is rarely offered. Equivalence might not be the best way to approach mental health service access for probationers. Especially as most mainstream service personnel often assume that offenders will be 'dangerous'. The role of the Probation Officer with mentally ill people should be clarified urgently. It is clear that the research that exists is but a few faltering steps down a very long road.

References

- Aebi, M. and Tiago, M. (2018), 'The SPACE report', available at Microsoft Word - FinalReportSPACEI2018_190611.docx (unil.ch) (accessed 7 June 2021)
- Bingswanger, I., Blatchford, P., Lindsay, R. and Stern, F. (2007), 'Risk factors for all-cause death, overdose and early deaths after release from Washington State prison', *Drug, Alcohol and Dependence*, vol. 117, pp 1–6
- Brooker, C. and Ramsbotham, D. (2014), 'Probation and mental health: Who cares?' *British Journal of General Practice*, vol. 64, no. 621, pp 170–71
- Brooker, C., Fox, C., Barrett, P. and Syson-Nibbs, L. (2009), 'A health needs assessment of prisoners on probation: Report of a pilot study', *Probation.*, vol. 56, no. 1, pp 45–59
- Brooker, C., Sirdifield, C., Blizard, R., Denney, D. and Pluck, G. (2012), 'Probation and mental illness', *The Journal of Forensic Psychiatry and Psychology*, vol. 23, no. 4, pp. 522–37
- Brooker, C., Sirdifield, C., Denney, D. and Ramsbotham, D. (2015), 'NHS commissioning in probation: On a wing and a prayer', *Journal of Health and Social Care*, 1 October, available at DOI: 10.1111/hsc.12283 (accessed 30 June 2021)

- Brooker, C., Sirdifield, C., Ramsbotham, D. and Denney, D. (2017), 'NHS commissioning in probation in England — On a wing and a prayer', *Health and Social Care in the Community*, vol. 25, no. 1, pp 137–44
- Brooker, C., Sirdifield, C. and Marples, R. (2020), 'Mental health and probation: A systematic review of the literature', *Forensic Science International: Mind and Law*, vol. 1, no. 100003, pp 1–9
- Brooker, C., Tocque, K., West, G., Norman-Taylor, A. and Fowler, J. (2021), 'Suicide in probation: Towards the ideation to action model' (submitted for publication)
- Cornelius, B.L., Groothoff, J.W., van der Klink, J.J. and Brouwer, S. (2013), 'The performance of the K10, K6 and GHQ-12 to screen for present state DSM-IV disorders among disability claimants', *BMC Public Health*, vol. 1313, no. 2, pp 128–43
- Fowler, J.C., Price, R.C., Burger, K., Mattei, A.J., McCarthy, A.M., Lowe, F. and Sathiyaseelan, T. (2020), 'Embedding third sector psychology services within the probation environment: An alternative to MHTRs', *Journal of Criminal Psychology*, vol. 10, no. 1, pp 16–29
- National Probation Service (NPS) (2019), *National Probation Service Health and Social Care Strategy 2019–2022*, London: National Probation Service
- Phelan, M., Slade, M., Thornicroft, G., Dunn, G., Holloway, F., Wykes, T., Strathdee, G., Loftus, L., McCrone, P. and Hayward, P. (1995), 'The Camberwell Assessment of Need: The validity and reliability of an instrument to assess the needs of people with severe mental illness', *British Journal of Psychiatry*, vol. 167, pp 589–95
- Philips, J., Padfield, N., and Gelsthorpe, L. (2018), 'Suicide and community justice', *Health Justice*, vol. 6, no. 14, available at <https://doi.org/10.1186/s40352-018-0072-7> (accessed 30 June 2021)
- Pluck, G. and Brooker, C. (2014), 'Epidemiological survey of suicidal ideation and acts and other deliberate self-harm among offenders in the community under the supervision of Probation in England and Wales', *Criminal Behaviour and Mental Health*, published online in Wiley Online Library (wileyonlinelibrary.com), available at DOI: 10.1002/cbm.1909 (accessed 30 June 2021)
- Pluck, G., Sirdifield, C., Moran, P., Chaffer, A., and Brooker, C. (2011), 'Personality disorder in a probation population: Validation of a brief screening tool', *Personality and Mental Health*, vol. 6, no. 1, pp 61–8
- Pluck, G., Brooker, C., Blizard, R. and Moran, P. (2014), 'Personality disorder in a probation population: Demographic, substance abuse and forensic

-
- characteristics', *Criminal Behaviour and Mental Health*, vol. 25, no. 5, pp 403–15
- Power, C. (2020), 'Engaging with mental health challenges in probation practice', *Irish Probation Journal*, vol. 17, pp 107–27
- Sattar, G. (2001), 'Rates and causes of death among prisoners and offenders under community supervision', in *Home Office Research Study no. 231*, London: Home Office
- Sirdifield, C. (2012), 'The prevalence of mental health disorders amongst offenders on probation: A literature review', *Journal of Mental Health*, vol. 21, no. 5, May, pp 485–98
- Sirdifield C., Owen, S. and Brooker, C. (2016), 'Engaging offenders on probation in health research: Lessons from the field', *Nurse Researcher*, vol. 24, no. 2, pp 18–23, available at DOI: 10.7748/nr.2016.e1448 (accessed 30 June 2021)
- Sirdifield, C., Marples, R., Brooker, C., Denney, D. (2019), 'NHS commissioning in probation in England – Still on a wing and a prayer', *Health and Social Care in the Community*, vol. 27, no. 5, pp 1–8, available at <https://doi.org/10.1111/hsc.12789> (accessed 30 June 2021)
- Sirdifield, C., Brooker, C. and Marples, R. (2020), 'Suicide and probation: A systematic review of the literature', *Forensic Science International: Mind and Law*, vol. 1, available at <https://doi.org/10.1016/j.fsimpl.2020.100012> (accessed 30 June 2021)

Mapping 50 years of NIACRO – Northern Ireland Association for the Care and Resettlement of Offenders

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Summary: The year 2021 marks half a century of NIACRO's work, supporting people involved with criminal justice, and their families, as well as the wider community. Born in the first years of what became a 30-year violent conflict, and operating in the criminal justice voluntary/community sector, NIACRO has survived through 50 turbulent years as one of Northern Ireland's largest crime-reduction and community-building organisations. This paper examines the lessons to be learnt from the longevity of this organisation, illustrating how the four qualities of responsiveness, diversification, surety of mission and partnership working have been central to NIACRO's resilience within an often-treacherous terrain of fluctuating funding. First, NIACRO has perceptively engaged with the complex local and national political landscape, and the ensuing criminal justice and social issues that emerged. Second, through diversification of services in response to changing penal policy, NIACRO has developed its vision and capacity to engage effectively with both statutory criminal justice and the voluntary and community sector. Third, NIACRO had at its foundation a core value of centring the needs of those in contact with criminal justice, and did not drift from this mission. Finally, NIACRO was able to build organisational resilience over the decades through a network of partnerships, co-operation and co-production with community organisations and state agencies.

Key Words: Criminal justice voluntary and community sector (CJVCS), organisational resilience, partnership working.

Introduction

As the non-profit, non-statutory segment of the criminal justice system, the criminal justice voluntary and community sector (CJVCS) forges the bridge between criminal and social justice (Cook, 2006; Tomczak and Buck, 2019).

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The sector encompasses agencies working with victims and with people who have offended and their families, providing services in the community, in prison, and through advocacy programmes (Tomczak, 2017). In Northern Ireland, the Charity Commission for NI records that 245 voluntary and community-sector organisations indicate that they work with those in contact with criminal justice, with up to 1,100 third-sector bodies involved in criminal justice service provision, including conflict, post-conflict and community-safety-related issues (CJINI, 2019).

These organisations are often very small, with fewer than a dozen staff-members, and the 'expected life span' is notoriously short. International research suggests that the vast majority of community-sector organisations will dissolve in less than a few years (Walker and McCarthy, 2010; Helmig *et al.*, 2014). Sometimes, this demise can be a positive thing, suggesting that a mission has been accomplished or that the issue the organisation was designed to address has been largely resolved (Fernandez, 2008). In most cases, short-lived community organisations simply fail to overcome the 'liability of newness' and cannot establish themselves in a field crowded with more established organisations (Hager, Galaskiewicz and Larson, 2004). As such, much can be learned from community-sector organisations that manage to survive and thrive for decades.

Among the longest standing of these organisations on the island of Ireland is NIACRO (originally, the Northern Ireland Association for the Care and Resettlement of Offenders), a leader in the field since its formation in 1971. Established as a membership organisation, with an aim to support resettlement of those exiting prison, it was sponsored by national government, mirroring its sister organisation, NACRO (covering England and Wales), and some 10 years later SACRO (Scotland). Over the decades, the span of the organisation's work has expanded and it now includes early intervention, and support for families of those involved in criminal justice, alongside research-informed advocacy. Throughout the organisation's history, partnership working with both the statutory sector and other CJVCS organisations has been a key aspect of its approach. This paper will examine the longevity of this organisation under the four key themes of responsivity, diversification, surety of purpose, and partnership.

Responsivity to societal change

Beginnings

Northern Ireland, initially established in 1921, is experiencing an anniversary of its own in 2021. In the early decades of its existence, Northern Ireland remained out of step with the more liberal criminal justice reforms being passed at Westminster (Dickson, 2011). However, the 1950 Probation Act (NI) and 1953 Prison Act (NI) brought a growing sense of progress with a new model probation order and fresh responsibilities relating to the aftercare of prisoners (Fulton and Parkhill, 2009). From 1967, the Probation Service was assigned responsibility for the through care of prisoners, manifested firstly through a Prison Welfare Unit at Belfast's Crumlin Road Prison, with services supported by the voluntary sector (Fulton and Parkhill, 2009). In the previous century, these services had been supplied by Discharged Prisoners Aid Societies, one serving the Catholic community and the other the various Protestant denominations (Fulton and Parkhill, 2009).

However, it was recognised that the Probation Service, as a single agency, was not sufficiently resourced to manage these tasks, and it welcomed appropriate support from the community and voluntary sector. It was into this criminal justice space that NIACRO sought to establish itself. The organisation was conceived to 'work for the welfare of the offender' (NIACRO, 2021), offering services and support on a cross-community basis. Supported by elements of business, academia, criminal justice practitioners and faith groups, the organisation opened its offices in 1971, with a three-year government grant (NIACRO, 2021) — a signal of readiness for more pluralism in this society and an openness to new approaches. The focus was on employment and accommodation needs, supporting individuals post custody.

The Probation Board (NI) Order 1982 established the Probation Board for Northern Ireland (PBNI), which had the authority to fund voluntary and community-sector organisations (Fulton and Parkhill, 2009). The PBNI board was resourced with a community development budget, circa 15 per cent of its total, funding partner organisations including NIACRO, Extern, Save the Children Fund, Ulster Quaker Service, Committee NI Victims Support, and Belfast Rape Crisis, while several smaller grants were given to community-based organisations (PBNI, 1987). This focus on supporting community development mirrored the direction taken by other statutory bodies in Northern Ireland, supporting the empowerment and resourcing of communities to develop responses to issues relevant to them.

The Good Friday Agreement

The Good Friday Agreement (1998) brought with it the early release of political prisoners, with ex-prisoners and their families playing a crucial role in peace building (McEvoy, 2001). The consequent reduction in prisoner numbers led to the closure of the Maze Prison/Long Kesh in 2000. During these early years of peace, NIACRO engaged with the Forum for Peace and Reconciliation, established by the Irish Government, in developing cross-border relationships across the island on prisoner transfers, accommodation provision and access to education/employment. In addition, NIACRO built on earlier work to provide mechanisms for the release of prisoners detained at the 'Secretary of State's Pleasure' (SOSPs) — that is, those who were aged 17 or under when they committed an offence that as an adult would have attracted a life sentence (Knight, 1984). During this period, NIACRO obtained independent funding for three research projects: the release and reintegration of politically motivated prisoners (Gormally and McEvoy, 1995); the reintegration needs of politically motivated prisoners (a set of studies with key ex-prisoner groups); and the paramilitary-style beatings and attacks prevalent in the absence of consensual policing. This latter research contributed to the development of the community restorative justice organisations, NI Alternatives¹ and Community Restorative Justice Ireland (CRJI)² that remain active today.

An outcome of the Good Friday Agreement (1998) was the decision to conduct the Criminal Justice Review (2000), which was published with recommendations rooted in human rights standards (Dickson, 2011). The Review included recommendations on sentencing, prisons and probation, while calling for 'a comprehensive review of correctional policy' (Criminal Justice Review Group, 2000, p. 281). Although recommending joint prison/ Probation working and new roles and skills to enhance the skills of Prison Officers to work effectively with prisoners, a key conclusion of the Review was that prisons and Probation should remain separate (Criminal Justice Review Group, 2000). This decision was significant in providing for a separate voice to advocate and develop models for community sentencing, as well as sustaining links to a wide range of CJVCS supports, including NIACRO, for people in contact with criminal justice. It also opened up greater access to prisons for the CJVCS.

¹ Northern Ireland Alternatives (NIA) provides communities with access to government-accredited restorative justice processes (<https://alternativesrj.co.uk/>).

² Community Restorative Justice Ireland provides accessible, non-violent responses to conflict through its government-accredited restorative justice programmes (<https://www.crjireland.org>)

While NIACRO welcomed these developments, many elements of prison life remained stuck in a containment model during this period, with a freeze on new Prison Officer recruitment and a lack of investment in a much-needed change process. Evidence of fresh thinking emerged in response to young people around this time, with the establishment of the Youth Justice Agency in April 2003 (DOJNI, 2012), focusing on restorative practice through its Youth Conferencing Service, and opening the new Youth Justice Centre—Woodlands (2007) — a move away from large institutions.

In NIACRO's early days, media focus was predominately on NIACRO's policy standpoints. Following the Good Friday Agreement, the focus moved more to its services and those using them. The Base 2 service, which supports those under threat in the community, was routinely contacted and referenced by the media. The CJINI Inspection (2020, p. 5) confirmed that, 'Base 2 has saved lives and works in our communities to effectively validate threats from paramilitary groups to individuals and families', helping them 'to relocate and resettle'.

The Hillsborough Agreement

The next wave of seismic shifts in criminal justice policy in Northern Ireland was to occur just a few years later. The Hillsborough Agreement (2010) created conditions for the devolution of policing and justice powers from the British Government at Westminster to the Northern Ireland Executive. The Northern Ireland Act (2009) created the legislative framework for the changes, including the establishment of the Department of Justice Northern Ireland (DOJNI) and the appointment of a Minister for Justice (McAlinden and Dwyer, 2015).

Within ten days of establishment of the new DOJNI, the first Justice Minister, David Ford, announced a review of the Northern Ireland Prison Service (NIPS) to take place under the purview of a Prison Review Team (PRT) led by Dame Anne Owers (BBC News, 2010). In its review, the PRT recognised the wealth of community voluntary-sector stakeholders in Northern Ireland and invited their engagement throughout the consultation. NIACRO capitalised on this opportunity to call for an NI-specific version of 'justice reinvestment' (Tucker and Cadora, 2003), entailing:

... a reallocation of existing resources away from what is termed 'front end' criminal justice organisations such as prisons. These freed up resources should be used to fund diversion and resettlement programmes consistently and effectively (NIACRO, 2010a, p. 7).

The Justice Minister described the PRT report (2011) as ‘a watershed for the Northern Ireland Prison Service’ (DOJNI, 2011, p. 5). As the DOJNI implemented change to decrease the number of people sent to prison, the Justice (Northern Ireland) Act (2011) created alternatives to prosecution in the form of penalty notices and conditional cautions, with ongoing work towards a Supervised Activity Order to address the prevalence of those going to prison for fine default (Ford, 2011, p. 4).

NIACRO responded to the PRT report as a ‘critical friend’, concerned by a ‘lack of clarity’ over the responsibility for implementing the recommendations between the Northern Ireland Prison Service (NIPS), Department of Justice (DOJ) and the Department of Health, Social Services and Public Safety (DHSSPS), while also calling for other statutory bodies, including Social Security and Housing, to be engaged in service delivery for those leaving custody (NIACRO, 2012). As the reform programme was rolled out, NIACRO and colleagues — Quaker Service, Women’s Support Network, Prison Fellowship, and Opportunity Youth (now Start 360) — continued to provide civil society oversight, holding change agents to account.

Coping in a challenging environment

Across its 50-year history, the wider socio-political context of Northern Ireland meant that staff and volunteers were often working in difficult and challenging circumstances. Many knew a victim or a family with someone in prison, and NIACRO gave voice to issues of concern — not always well received by those in authority, but necessary in the absence of the many organisations that now provide such checks and balances. The organisation’s flexibility and responsiveness to this ever-changing social landscape is a key aspect of NIACRO’s longevity throughout the conflict and through two decades of peace. Part of this tractability was a result of NIACRO’s grounding in communities; notably, NIACRO was amongst the first to give voice to the concept of justice reinvestment or decentralising justice investments from state institutions to community-building initiatives.

Diversification

Diversification in organisational terms is regarded as a strategy for growth and/or reduction of risk and volatility (Ansoff, 1957). In the case of the CJVCS, diversification is also about responding to unmet need. Beginning with only two staff, NIACRO built a secure foundation from which to deliver early

services, while surveying the system for gaps in provision for which it might be able to respond and to secure funding support.

Before organic growth could take place, it focused on its core business, especially services to discharged prisoners. From the Poor Law of 1838, it was clear that the route back into society from penal institutions in Ireland had many pitfalls. Government was slow to react, and Discharged Prisoners Aid Societies were slow to emerge, despite eligibility to receive funding to support the return of prisoners to family, accommodation, community, and employment. As discussed above, by 1971, the former responsibilities of the Discharged Prisoners Aid Societies had passed to the Probation and After Care Service. Key personnel from the Societies collaborated with others from business, education, service agencies and trade unions to found NIACRO and retain a CJVCS presence on the bridge between prison and community.

In the early 1970s, the needs of the rapidly increasing prison population became a priority. A 'Wives and Families Centre' for relatives visiting Belfast's Crumlin Road Prison was opened by NIACRO in January 1972, while an Ulster Quaker Service group set up a similar centre at the Long Kesh Camp, which had been hastily established for detainees after the introduction of Internment in August 1971. Dostoyevsky commented, 'you can measure the degree of civilisation in any society by entering into its prisons' (Dostoyevsky, 1862). Through these early visitor-centre initiatives, NIACRO, together with other community groups, made a positive contribution by creating a calm, caring, non-judgmental and neutral oasis for families experiencing the process of visiting in a high-security setting.

The Crumlin Road family centre had a precarious existence due to difficulty in finding suitable premises. While experience and feedback from families and visitors at Crumlin Road and Long Kesh (later, Maze Prison)³ continued to show the need and the value of these services, funding was uncertain until 1982, when the jointly run NIACRO and Save the Children Fund 'SCF'⁴ centre opened. It provided a canteen and a play area for children. In this pioneering stage, volunteers played a key role. The Northern Ireland Office (NIO) funnelled funding via NIACRO to SCF to organise a playgroup within the Ulster Quaker Service provision at the Maze. These early partnership projects paved the way for the Probation Board to provide funds

³ HMP Belfast, also known as Crumlin Road Gaol/Prison, was used to house internees and political prisoners during the conflict, alongside HMP Maze, which had opened as 'Long Kesh Detention Centre' for internees in 1971.

⁴ Save the Children is an international charity, focused on supporting children to learn and grow, and addressing the challenges they face (<https://www.savethechildren.org.uk>).

for the joint NIACRO/SCF centre at HMP Belfast when their new financing powers came into effect in 1982.⁵

Further diversifications that followed were guided by positive changes in the wider political culture. First, there was growing recognition that deprivation of an individual's liberty, by the State, had ramifications for the family and dependents, for which the rest of society and the State bore responsibility. Second, the State began to acknowledge that some of these responsibilities could be carried out on behalf of the State by voluntary-sector organisations working within the criminal justice ambit. Third, there was increasing awareness that many of these responsibilities fell outside the jurisdiction of the criminal justice system, raising questions about how other arms of government could be persuaded to engage and respond to these issues. Finally, while these service provisions were hitherto discretionary, the idea of legally mandated provision was gaining traction.

Diversification was also led by service-users and their needs. While NIACRO's prison visitor centres originally provided respite, diligent listening to the concerns of visitors led to innovations to improve the visiting experience, including children's play areas, space for parents to share concerns and seek support, and opportunities for families to participate in sharing their stories, experiences and needs. Every prison eventually had its own centre, and increased focus on family relationships and children's needs brought in organisations such as Barnardo's.⁶

Prison link and family links

In 1987, PBNI partnered with NIACRO to set up Prison Link to help those in prison maintain family relationships (NIACRO, 2006). A small Probation team was established in courts and the community to develop this service and to evaluate its impact on outcomes for families, the person in prison and the community from which they originated. Having raised the profile and significance of family work, PBNI strengthened its partnership with NIACRO in the joint delivery of the initiative and reduced the number of Probation Officers involved.

Twenty years later, the Prison Link name was changed to Family Links, to reflect feedback and progress towards integration with mainstream family

⁵ Sir Harold Black's *Report of the Children and Young Persons Review Group* (1979) had highlighted the need for preventive work with young persons, whilst signalling the necessity for a community-based approach in Northern Ireland — this resulted in funding becoming available for child-centred services.

⁶ Barnardo's is the largest national children's charity in the UK (<https://www.barnardos.org.uk>).

services (NIACRO, 2006). However, despite the necessity for these support services, no statutory body had a duty of provision. This gap led to NIACRO's entry into advocacy for the rights of the children of prisoners. In the decades that followed, NIACRO has engaged with agencies and organisations across NI, the UK and Europe to highlight these needs, support children and exchange best practice. As NIACRO noted:

It's possible to see a clear development in our work with families and their issues over the years... It still springs from a humane desire to ease the pain of having a family member in prison, and it still offers very practical help. But it is more systematic, more likely be a partnership with statutory or other voluntary agencies, and more assertive in lobbying for improvements to services, policy, and legislation. (NIACRO, 2006, p. 2)

The knowledge gained in this area of work encouraged further diversification. It became clear from research that being the child of a parent convicted of an offence increased vulnerability and risk of criminalisation in later life (Farrington, Barnes and Lambert, 1996). This prompted responses to bolster the parent-child relationship and enhance the range of health, educational and community supports available to the family. NIACRO had started off at the tertiary prevention level (Brantingham and Faust, 1976), but engagement with families impacted by the imprisonment led to involvement in secondary-level prevention activity. Throughout these developments, the entry point for service-users and their needs has continued to be through the criminal justice system.

NIACRO in the community

Increasingly, however, the community became another entry point for NIACRO services for vulnerable groups. In its first decade, NIACRO had already become involved with communities who were concerned with anti-social behaviour by young people. A drop-in centre in Armagh, for young people who did not use conventional youth clubs, emerged from a public meeting in 1978. A community project shaped by the Black Report (1979) unfolded in outer West Belfast, evolving into ten after-school projects across NI in areas termed 'hot spots' by Criminal Justice agencies.

When established in 1982, the Probation Board for Northern Ireland (PBNi) was empowered to run or fund crime-prevention schemes, and NIACRO benefited from this engagement in secondary-level prevention. One aspect of

this was engagement with Interact, an interagency initiative intended, among other aims, to address problems of paramilitary threats against young persons and adults. From this, emerged the Base2⁷ service in 1990.

In 1995, NIACRO consolidated its work in communities into a Crime Prevention Unit. More explicit partnerships were formed with local communities across NI, including the 1997 partnership with the Rural Community Network (Williamson Consulting, 2005). The focus in this partnership included not only diversionary activities for young people, but also projects for vulnerable older persons within those communities. In time, the Family Support Hubs model, a health-and-social-care initiative systemically embedded across NI, evolved to provide a better reach and response to NIACRO's service-users.

In building programmes based on the concept of justice reinvestment (Tucker and Cadora, 2003), NIACRO developed 'earlier stage' secondary interventions, mindful of labelling or stigmatising young people at risk of anti-social behaviour. Diversion from criminalisation and respect were embedded as core values. NIACRO's experience in the Southern Health and Social Care Trust region enabled it to access resources for its children and parents programme – Child and Parents Service (CAPS). This was aimed at families whose 8–11-years-olds were 'at risk of offending or anti-social behaviour' (NIACRO 2006, p.5).

NIACRO developed and piloted this model of working, influenced by service-user needs and informed by research that emphasised the importance of diversionary activity, care and positive attention towards the child and family support (Earls and Carlson, 2001; Rutter, 1985). In 2015, NIACRO secured contacts under the Early Intervention Support Service (EISS) which were centred on Family Support Hubs, one of which NIACRO chaired. NIACRO achieved the Investing in Children Membership Award 2018, which recognised imaginative and inclusive practice for its work in this project.

NIACRO and research

NIACRO never lost its focus on employment. Its first piece of significant research found that post-release aftercare services were not accessible for many of the burgeoning prison population re-entering the community (Fairleigh, 1973). The rapid expansion of conflict-related incarceration left Probation under-resourced to meet an emergency of this scale — even with the suspension of the statutory post-release provisions laid out by the Prison

⁷ Base2 provides services for those under threat in the community.

Act (NI) 1953 and Treatment of Offenders (NI) Act 1968. NIACRO's attempts to obtain funding to meet this need were unsuccessful.

Nevertheless, a core dimension of the organisation's role and approach was established. Information and research evidence of issues should be obtained and used to influence policy and funding priorities. This information and knowledge-based approach established NIACRO as a reliable source of evidence, raising awareness of unmet needs through focused research.

Employment

In 1978, the Northern Ireland Office (NIO) recognised the need to mirror English and Welsh legislation regarding criminal-record duration, and introduced the Rehabilitation of Offenders (NI) Order 1978. Local issues limited the range of eligible jobs and the number of beneficiaries of this order.

The NI economy has experienced high levels of unemployment, which has prevented young people from establishing a foothold in the world of work. NIACRO's (1981) research for the Department of Manpower Services reported that only 10 per cent of those who had offended had been in regular employment since leaving school. The Department initiated funding for NIACRO to provide work experience and training places. By 1985, NIACRO had developed 50 placements in a variety of locations — a crucial milestone in its diversification of service delivery. Significantly, a government department other than the NIO (now Department of Justice) had acknowledged the importance of supporting young people at risk, recognising their potential to enrich future workforces and benefit wider society.

NIACRO, PBNI and Extern

A further phase of development began with the partnership forged between NIACRO, PBNI and Extern in the late 1980s. As in the development of Family Links, PBNI established a specialist team with a seconded member of the Department of Employment to work alongside NIACRO and its CJVCS partners. This partnership was enhanced through engagement with the Confederation of British Industry, Business in the Community, trade unions, and the Department of Employment and Further Education colleges.

An external review by Deloitte & Touche (1995) identified a lack of skills and progression among service-users and introduced a focus on increasing the employability of individuals. NIACRO established a 'Coping with Convictions Unit' in 1995 to engage with employers and provide information,

advice and training on employing persons with convictions. It also offered people with criminal records information and advice on how to manage disclosure of convictions. NIACRO and Extern took over this employability service and helped service-users to improve their soft skills. Mainstream education, training, or work placements became the desired outcomes.

In 1998, the Action for Community Employment (ACE) programme closed, and its successor, Labour's New Deal, disrupted the referral pathway between Probation and its CJVCS partners. NIACRO and Extern then availed of EU funding to deliver interventions. In 2001, the EU's Equal Programme funded a new NIACRO employability project, Personal Progression System (PPS), focusing on prisoners' transition from prison, and it also funded the Reach Out initiative. These programmes helped participants to access the labour market, increased links with employers, and encouraged statutory services to mainstream successful practice. PPS was an outstanding example of effective partnership in the Equal Programme, whilst Jobtrack won a National Training Award (2003) for effective training with employers.

In 1994, NIACRO with Extern worked to develop an Educational Trust to help prisoners released under the Good Friday Agreement, who were experiencing difficulties in accessing post-prison education courses. The Trust adopted an all-island remit, with funding from successive European peace programmes and various public bodies. NIACRO engaged funders and former prisoner groups on the Board to support governance arrangements. This initiative built on previous engagement with political prisoner groups, to explore both mechanisms for early release and support for those released as part of the settlement. This ability to build upon past partnerships, to develop co-produced solutions, has been central to NIACRO's resilience.

NIACRO's ability to respond to the changing needs of the community has been central to its longevity. Its approach has never been focused on year-on-year growth. NIACRO has focused on listening to service-users, collecting evidence, and responding to community needs. It has designed interventions that have evolved with the external environment and ensured the development of staff skills and competencies. NIACRO sought to retain strong links and a collaborative approach across the CJVCS sector.

Surety of purpose

NIACRO's longevity could also be attributed in part to its 'surety of purpose' and steadfast focus on its key mission. This resistance to 'mission drift' (Minkoff and Powell, 2006) was supported through the strong bond and

shared purpose throughout the 50 years between the Executive Committee, the management and the staff. Accountability and transparency have ensured good governance. NIACRO's person-centred focus to prevent further offending, harm and victimisation has been central in maintaining its probity and identity in times of turmoil and change.

From its small beginnings, NIACRO has provided an increasing range of services to young persons and families, extending beyond resettlement after prison. It has worked with many different people and been supported by many different funders. By the end of the 1980s, 50 per cent of NIACRO's income came from *outside* the Justice Sector.

In 2012, NIACRO decided on a name change in formal recognition of the many changes through its history. The original name was no longer representative of its diverse range of services. The acronym, NIACRO, which had become part of the Northern Ireland vernacular, was retained, while the original words ('care and resettlement of offenders') were dropped. In this rebranding, the trust and credibility built up over the previous 40 years could be retained, while better reflecting the diverse nature of the organisation.

NIACRO has taken public policy positions on controversial and high-profile issues, ranging from the release and reintegration of politically motivated prisoners to the formation of community restorative justice projects to address issues of punishment beatings. Despite pressure from the media and funders, NIACRO has maintained its clarity of purpose and focus, based on agreed values and principles, and seeking workable solutions respecting all interests.

NIACRO's individual members (circa 200) and cohort of volunteers (circa 250 at its peak) have provided valuable support and tangible social capital at critical points.

Partnership and co-production

Central to NIACRO's value system has been its commitment to remain entwined with other community-sector and statutory organisations in Northern Ireland. This focus on partnership and co-production, with its strong cross-sectoral relationships, is a significant factor in NIACRO's resilience. The conversations with CJVCS organisations on co-production — including 'The Children of Prisoners Group', involving Prison Fellowship, Barnardo's, PBNI and NIACRO, among others — became the foundation of NIACRO's successful Children of Imprisoned Parents (CHIP) programme, which was mainstreamed by the NIPS (see RF Associates, 2019).

Funding services

NIACRO has worked with many diverse funding partners over the decades. With the need to see those in prison as 'citizens first' (Priestley and Vanstone, 2010), funding relationships began to develop with key agencies responsible for resettlement. The Northern Ireland Housing Executive (NIHE), a partner agency in early community safety work, provided funding to Base2. NIACRO secured 'Supporting People' funding for programmes addressing anti-social behaviours threatening tenancies — a significant contribution to the 'Safer Communities' agenda.

NIACRO had applied for and deployed European Social Fund (ESF) resources since 1987 to support youth work in local communities. When the New Deal failed to fund the PBNI/NIACRO delivery model for employability, NIACRO repurposed ESF resources to become Jobtrack, which ran until 2015.

When NIACRO received European funds, it embraced the European connections that flowed from it. In the EU Equal Programmes, NIACRO became involved in transnational learning and research networks, with objectives beyond employability. NIACRO participated in European projects focused on Children of Prisoners and Hate Crime, as well as on the use of criminal records. International connections have broadened perspectives and enhanced local developments.

NIACRO established the Accessing Services for Offenders group, ASFO — an informal gathering of CJVCS organisations working in the justice arena — and still chairs it.

CJVCS partnership work has been an important vehicle for resourcing social cohesion and stability initiatives throughout the conflict and in its immediate aftermath. By the late 1990s, the now Department for Communities (DoC) was assigned responsibility for the voluntary and community sector. Valuable co-produced thinking emerged, addressing the resilience of the sector, including its role in service delivery, the value of its asset base, and the requirement for a contingency reserve (see TFRVCS, 1996; 2004; 2005).

In 2004, NIACRO bought a site in Belfast and established an asset base which, alongside its contingency reserve, enabled it to weather prudently the loss of contracts it experienced in 2015, and which led to considerable reflection and review of its focus and purpose. Following the 2015 funding setback, NIACRO made a bid for and secured the PBNI nine-month contract to establish a programme addressing increasing numbers of recalled licensees

to prison. This programme, 'RESET' (Hamilton, 2016), introduced new, more formal working arrangements between Probation Officers, NIACRO staff, and service-users. The RESET paid mentoring scheme for prisoners leaving custody was introduced by PBNI in March 2015, and delivered by NIACRO.

Following on from this short-term initiative, PBNI partnered with NIACRO and restorative justice colleagues, NI Alternatives and CRJI, to deliver the Aspire project, working with young men at risk of becoming involved in criminality (Grant, 2019).

Now fully aware that funding in the competitive market required dedicated skills, NIACRO looked to augment its business-development expertise. Business development includes quality assurance to ensure delivery of contacts secured, with a tangible focus on retaining valued business. It also supports readiness to meet diverse quality standards required by 'Investors in People', 'Investors in Volunteers' and 'Investors in Children'. These standards enhance NIACRO's ability to meet the external scrutiny of funders. Data capture instruments validated by the DOJNI's (2015) Data Lab results have provided key information in evidencing resilience in NIACRO's Jobtrack employability programme.⁸

Over the years, NIACRO has welcomed and supported secondments from statutory partners PBNI and the Social Security Agency, alongside those to and from NIPS. These experiences have enriched NIACRO, enabling it to understand and engage more effectively with other organisations, and enhancing co-operation. In the mid-1990s, NIACRO embraced the establishment of the Justice and Care Assessment Centre, which offered all staff who have completed a year's service the opportunity to undertake appropriate assessment processes.

Post devolution, NIACRO responded to consultations and gave evidence to committees as it had been invited to do at Westminster previously. In preparation for the devolution of justice, NIACRO reviewed its capacity to make the necessary contributions. At the time, the Northern Ireland Development Programme (NIDP),⁹ a privately funded initiative, was engaging with third-sector leaders in NI. A select group was invited to pitch for funds. NIACRO was awarded funding to support a dedicated public affairs post. The post was supported for four years and, in that time, NIACRO engaged with

⁸ Data Lab compared a cohort of Jobtrack completers (2010–11) with a control group with similarly profiled offences who had not completed a similar programme. The one-year proven reoffending rate for Jobtrack completers was 20%, compared to the control group's 32%. The Data Lab concluded this was a 'statistically significant difference' (<https://www.justice-ni.gov.uk/sites/default/files/publications/doj/northern-ireland-data-lab-bulletin-1-2015.pdf>).

⁹ NIDP was a fund supported by Esmée Fairbairn Foundation and Henry Smith Charity, from 2008.

political parties and party policy advisors, and hosted a series of co-produced seminars at Stormont on a wide range of topics. This engagement raised NIACRO's profile and helped issues of concern to be better understood by decision-makers.

From its origins, NIACRO's drive has been to provide community links supporting de-institutionalisation and reducing reoffending. This has meant working in communities, networking across institutional silos, and attracting support and funding from diverse sources. These strong roots throughout the wider society have proven essential in maintaining the organisation's focus and strength.

Conclusion

The purpose of this paper has been both to tell the story of NIACRO's past and, just as importantly, to track and reflect on important lessons to inform its future. NIACRO's story over the past half-century brings life and nuance to the growing literature on how community voluntary-sector organisations can survive and thrive (Helmig et al., 2014; Tomczak and Buck, 2019).

NIACRO's resilience and longevity have seen it become a key delivery agent in employment progression and criminal records advice, family and prison visitor support, and early intervention and personal development programmes for people in the community on the edges of criminality and those already in the criminal justice system.

Resourcing has never been assured for NIACRO. Survival and development have required vision and planning, a grounding in the community, and an appreciation for research and evidence. NIACRO has linked with other bodies to co-operate and reduce organisational rivalries that give rise to dysfunction. It has sought to provide leadership in policy debates, and has engaged with policymakers and with the wider public. Established in a time of conflict, NIACRO's story is unique in many ways, but it also provides hope and lessons for a sector that is often under-appreciated and under-resourced.

References

- Ansoff, H.I., (1957), 'Strategies for diversification', *Harvard Business Review*, vol. 35, no. 5, pp 113–24
- BBC News (2010), 'Justice minister announces prison review team', available at: <https://www.bbc.co.uk/news/10366910> (accessed 6 June 2021)

-
- Black, R. (1979), *Report of the Children and Young Persons Review*, Belfast: HMSO
- Brantingham, P.J. and Faust, F.J. (1976), 'A conceptual model of crime prevention', *Crime and Delinquency*, vol. 22, no. 3, pp 284–96, available at <https://doi.org/10.1177/001112877602200302> (accessed 6 June 2021)
- Cook, D. (2006), *Criminal and Social Justice*, London: Sage
- Criminal Justice Inspectorate Northern Ireland (CJINI) (2019), *Equal Partners? An Inspection of the Voluntary Community and Social Enterprise Sector's Engagement with the Criminal Justice system in Northern Ireland*, available at <http://www.cjini.org/getattachment/10b06492-2ec0-4566-b608-6adabd822563/report.aspx> (accessed 12 July 2021)
- Criminal Justice Inspection Northern Ireland (CJINI) (2020), *Base 2: Working to Support Individuals under Threat. An Inspection of the Role of Base 2 in Threat Verification*. Belfast: CJINI, available at <http://www.cjini.org/TheInspections/Inspection-Reports/2020/January-March/BASE-2-WORKING-TO-SUPPORT-INDIVIDUALS-UNDER-THREAT> (accessed 12 July 2021)
- Criminal Justice Inspectorate Northern Ireland (CJINI) (2021), *About Us*, available at <http://www.cjini.org/AboutUs/Background-History> (accessed 7 June 2021)
- Criminal Justice Review Group (2000), *Review of the Criminal Justice System in Northern Ireland: The Report of the Criminal Justice Review*, Belfast: HMSO
- Deloitte & Touche (1996), *Review of the Preparation for Work and Job Placement of Ex-Prisoners and Ex-Offenders*, Belfast: Deloitte & Touche
- Department of Justice Northern Ireland (DOJNI) (2011), *SEE Programme Launch — Minister's Speech — 28 June*, Belfast: DOJNI
- Department of Justice Northern Ireland (DOJNI) (2012) *Youth Justice Agency Executive Agency Framework Document*, DOJNI: Belfast, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/yja-framework-doc-dec-2012.pdf> (Accessed 6 June 2021)
- Department of Justice Northern Ireland (DOJNI) (2015), 'Reoffending analysis for a sample of offenders who completed the NIACRO Jobtrack programme during 2010/11', *Northern Ireland Data Lab Bulletin*, May, Department of Justice, available at <https://www.justice-ni.gov.uk/sites/>

-
- default/files/publications/doj/northern-ireland-data-lab-bulletin-1-2015.pdf (accessed 12 July 2021)
- Dickson, B. (2011), *Law in Northern Ireland: An Introduction*, NI: SLS Legal Publications
- Dostoyevsky, F. (1862), *The House of the Dead*, New York: Dell Publishing Company
- Dwyer, C. (2004), 'The complexity of imprisonment: The Northern Ireland experience', *Cambrian Law Review*, no. 97
- Earls, F. and Carlson, M. (2001), 'The social ecology of child health and well-being', *Annual Review of Public Health*, vol. 22, no.1, pp 143–66
- Fairleigh, J. (1973), *An Investigation into the After-Care Facilities Provided, Both by Voluntary and Statutory Agencies in Northern Ireland*, Belfast: NIACRO
- Farrington, D.P., Barnes, G.C. and Lambert, S. (1996), 'The concentration of offending in families', *Legal and Criminological Psychology*, no. 1, pp 47–63
- Fernandez, J.J. (2008), 'Causes of dissolution among Spanish nonprofit associations', *Nonprofit and Voluntary Sector Quarterly*, no. 37, pp 113–37
- Fulton, B. and Parkhill, T. (2009), *Making the Difference: An Oral History of Probation in Northern Ireland at its Centenary and in the 25th Year of the Probation Board for Northern Ireland*, Belfast: PBNI
- Gormally, B., and McEvoy, K. (1995), *Release and Reintegration of Politically Motivated Prisoners in Northern Ireland: A Comparative Study of South Africa, Israel/Palestine, Italy, Spain, The Republic of Ireland and Northern Ireland*, Belfast: NIACRO
- Grant, D. (2019), 'A practitioner's response to "Resilience in the face of trauma: Implications for service delivery"', *Irish Probation Journal*, no. 16, pp 95–106
- Hager, M., Galaskiewicz, J. and Larson, J.A. (2004), 'Structural embeddedness and the liability of newness among nonprofit organizations', *Public Management Review*, no. 6, pp 159–88
- Hamilton, S. (2016), 'Reset: An opportunity to enhance offender resettlement and rehabilitation through mentoring', *Irish Probation Journal*, no. 13, pp 134–42

-
- Helmig, B., Ingerfurth, S. and Pinz, A. (2014), 'Success and failure of nonprofit organizations: Theoretical foundations, empirical evidence, and future research', *Voluntas: International Journal of Voluntary and Nonprofit Organizations*, vol. 25, no. 6, pp 1509–38
- Knight, J. (1984), *Detention at the Secretary of State's Pleasure Under Section 73(1) of the Children and Young Persons (NI) Act 1968*, Belfast: NIACRO
- McAlinden, A.M. and Dwyer, C. (eds) (2015), *Criminal Justice in Transition: The Northern Ireland Context*, Oxford: Hart
- McEvoy, K. (2001), *Paramilitary Imprisonment in Northern Ireland: Resistance, Management, and Release*, Oxford: Oxford University Press
- McEvoy, K. (2008), *Enhancing Employability in Prison and Beyond: A Literature Review*, Belfast: NIACRO, available at https://www.niacro.co.uk/sites/default/files/publications/Enhancing_Employability_Literature_Review.pdf (accessed 7 June 2021)
- Minkoff, D.C. and Powell, W. (2006), 'Nonprofit mission: Constancy, responsiveness, or deflection?' in W. Powell and W. Steinberg (eds), *The Non-Profit Sector: A Research Handbook* (2nd edn) (pp 591–611), New Haven, CT: Yale University Press
- NAPO (1980), Internal Branch Paper, Belfast: NAPO
- NIACRO (1981), *Unemployment and Young Offenders in Northern Ireland*, Belfast: NIACRO
- NIACRO (2006), 'Thirty-five and counting', *NIACRO News*, Belfast: NIACRO, available at https://www.niacro.co.uk/sites/default/files/publications/NIACRO_News_Issue_14.pdf (accessed 7 June 2021)
- NIACRO (2010a), *A Manifesto for Justice*, Belfast: NIACRO
- NIACRO (2010b), *NIACRO News*, Belfast: NIACRO, available at https://www.niacro.co.uk/sites/default/files/publications/NIACRO_News_Issue_26.pdf (accessed 7 June 2021)
- NIACRO (2012), 'Prison Review Update', *NIACRO News*, no. 12, Belfast: NIACRO, available at https://www.niacro.co.uk/sites/default/files/publications/NIACRO_News_Issue_30.pdf (accessed 7 June 2021)
- NIACRO (2021), 'The story of NIACRO 1971–2021', *NIACRO News*, no. 44, Belfast: NIACRO, available at NIACRO News – 50th Anniversary Edition. indd (accessed 27 July 2021)

- Northern Ireland Executive (2016), *Tackling Paramilitarism, Criminality and Organised Crime: Executive Action Plan*, Department of Justice Northern Ireland, available at <https://www.justice-ni.gov.uk/publications/tackling-paramilitary-activity-criminality-and-organised-crime-action-plan> (accessed 12 July 2021)
- Owers, A., Leighton, P., McGrory, C., McNeill, F. and Wheatley, P. (2011), *Review of the Northern Ireland Prison Service*, Belfast: Prison Review Team (PRT)
- Priestley, P.E. and Vanstone, M.E. (2010), *Offenders or Citizens? Readings in Rehabilitation*, UK: Willan Publishing
- Probation Board for Northern Ireland (PBNI) (1987), *Chief Probation Officer's Report 1985–87*, Belfast: PBNI.
- RF Associates (2019), *Evaluation of the Children of Imprisoned Parents (CHIP) Programme*, Belfast: NIACRO
- Rutter, M. (1985), 'Family and school influences on behavioural development', *Journal of Child Psychology and Psychiatry*, vol. 26, no. 3, pp 349–68
- Task Force on Resourcing the Voluntary and Community Sector (TFRVCS) (1996), *Pathways for Change: A Position Paper*, Belfast: Department for Communities (DoC)
- Task Force on Resourcing the Voluntary and Community Sector (TFRVCS) (2004), *Investing Together*, Belfast: Department for Communities (DoC)
- Task Force on Resourcing the Voluntary and Community Sector (TFRVCS) (2005), *Positive Steps: The Government's Response to Investing Together*, Belfast: Department for Communities (DoC)
- Tomczak, P. (2017), *The Penal Voluntary Sector*, London: Routledge
- Tomczak, P. and Buck, G. (2019), 'The penal voluntary sector: A hybrid sociology', *The British Journal of Criminology*, vol. 59, no.4, pp 898–918
- Tucker, S.B. and Cadora, E. (2003), *Justice Reinvestment*, New York: Open Society Institute
- Walker, E.T. and McCarthy, J.D. (2010), 'Legitimacy, strategy, and resources in the survival of community-based organizations', *Social Problems*, vol. 57, no. 3, pp 315–40
- Williamson Consulting (2005), *Rural Community Safety Project*, Belfast: NIACRO and Rural Community Network

Legislative instruments

Agreement at Hillsborough Castle, 5 February 2010 (Hillsborough Agreement)

Belfast Agreement/Good Friday Agreement 1998

Criminal Justice (Northern Ireland) Order 2008

Irish Poor Law Act 1883

Justice (Northern Ireland) Act 2002

Northern Ireland Act (2009)

Prison Act (Northern Ireland) 1953

Probation Act (Northern Ireland) 1950

Probation Board (Northern Ireland) Order 1982

Rehabilitation of Offenders (Northern Ireland) Order 1978

Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979

Treatment of Offenders (NI) Act 1968

Electronic Monitoring in Ireland: Disruptive Innovation, Affordance, or a Technology in Search of a Rationale?

Vivian Geiran*

Summary: This paper explores the history and development of Electronic Monitoring (EM) of offenders in Ireland, from policy and legislation to its slow and limited implementation in practice. It considers the potential for and likelihood of its future use, particularly as a condition of bail and pre-trial, as well as its extended use as a post-release supervision measure, specifically for those convicted for sex offences. The paper will consider why implementation of EM in practice has been so cautious and slow given that it was introduced in legislation over 15 years ago. Implementation in other jurisdictions, as well as different conceptualisations of EM, and other factors, are explored, and conclusions drawn for the future. To understand the trajectory of Irish penal policy, in this case having regard to EM, it is important, as always, to consider gaps between law and policy, on the one hand, and implementation and practice, on the other.

Keywords: Electronic monitoring (EM),¹ technology, tagging, surveillance, community sanctions, supervision, probation, bail, early release, custody.

Introduction

Electronic Monitoring (EM) of offenders in the international context has been well documented (e.g. Hucklesby, Beyens and Boone, 2020; Nellis *et al.*, 2013; Nellis, 2016a; Simon, 2013). The proliferation of EM in Europe in the late twentieth and early twenty-first century was followed by the introduction of Council of Europe (2014) standards on EM, further elaborated on by Nellis

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Declaration of Interest: The author was directly involved in a number of the events and developments described through this article, during his time in the Probation Service, both as Director and in a number of earlier roles.

¹ While 'Electronic Monitoring' (EM) is the generally used 'official' term for what is described here, the measure is also sometimes referred to, in media reports for example, as 'electronic tagging' or simply 'tagging'.

(2015) and others. According to Simon (2013, p. 80), EM is ‘...designed to enforce spatialized exclusion on those deemed low enough risk to be out in public either on a pre-trial release, or as part of a sentence of parole following imprisonment, or on probation as an alternative to imprisonment.’ Nellis (2014, p. 217) has stated that ‘Electronic Monitoring (EM) is the use of remote surveillance technologies to pinpoint the locations and/or movements of offenders and/or defendants’; and that EM ‘...was first used in Europe a quarter of a century ago, and has become an established — although by no means ubiquitous or dominant — feature of the continent’s collective “penal imaginary”.’ According to Hucklesby and Holdsworth (2016, p. 3):

England and Wales was the first European jurisdiction to deploy electronic monitoring (EM) technology in 1989 and its use has since grown both in terms of numbers and modalities. England and Wales remains one of the largest and most enthusiastic users of EM in the world.

EM was subsequently introduced in Scotland in 1998, and in Northern Ireland in 2009 (Best, 2009). Laurie and Maglione (2019) have noted that:

Most of the criminological literature on the electronic monitoring (EM) of offenders centres on its financial and technical implications, its historical roots and its impact on reoffending, as well as on its place within criminal justice systems across the world.

They suggest that:

Overall, EM policy presents itself as an attempt to address two main and interlinked problems: the risk of reoffending (described as inherited from previous governments) and the limited public confidence when offenders are released back into the community (assumed as a crucial issue for community penalties or early release).

Nellis (2016b) analysed the development and future of EM, specifically in Britain, using a number of useful analytical conceptualisations. These included viewing EM as an *affordance*² (Nellis, 2016b; pp 113 and 123), or a *disruptive*

² ‘Affordances’ have been defined as a use or purpose that a thing can have, that people notice as part of the way they see or experience it: In design, perceived affordance is important — that is, our implicit understanding of how to interact with an object (Cambridge Dictionary, online: <https://dictionary.cambridge.org/dictionary/english/affordance> accessed 20 April 2020).

innovation,³ both of which are useful conceptualisations when considering the development and use of EM.

Developments in Ireland

While EM has become an established part of the *collective penal imaginary* (Nellis, 2014, p. 217) in Europe, reflected in its widespread adoption, its practical use in Ireland has been slower and more recent. That is despite the fact that EM has been a recurring feature of Irish political and penal policy debate and media attention. Rogan (2011, pp 177–91) describes the 1990s as ‘the crucial decade’ for Irish penal policy because it was a ‘time of change in Irish prison policy that was matched only by the 1960s’. In June 1996, Irish society was rocked by the killings of investigative journalist Veronica Guerin and Detective Jerry McCabe, in two separate shootings. The widespread outpouring of anger that followed these homicides became a penal policy watershed and ‘gave rise to a massive growth in law and order rhetoric’ (O’Donnell and O’Sullivan, 2001, p. 32), reflecting a ‘textbook case of moral panic’ (Kilcommins *et al.*, 2004, p. 137). ‘Tough on crime’ and ‘zero tolerance’ terminology established itself in the Irish policy and political narrative. These terms became policy mantras, as they had in other jurisdictions around the same time (O’Donnell and O’Sullivan, 2001, pp 35–46; Rogan, 2011, pp 187–98), significantly influencing the relevant policy debate.

Two major criminal justice policy documents published ‘post-1996’ by the Department of Justice (1997) and by the National Crime Forum (1998) did not refer to EM as part of the planned modernisation of the country’s criminal justice system. This may have been due, at least in part, to the then ‘unquestioned public position among the majority of penal policymakers that increased prison spaces offered a solution to the problems of crime and that to resist penal expansion was politically risky’ Rogan (2011, p. 187). The Expert Group on the Probation and Welfare Service (1999),⁴ in its *Final Report* (pp 52–3), *did*, however, consider the possibility of introducing EM, pointing out that EM in Britain was still at a pilot stage of implementation and concluding that:

³ As referenced in Nellis (2016b), ‘disruptive innovation’ has been described in the following terms: ‘Disruption’ describes a process whereby a smaller company with fewer resources is able successfully to challenge established incumbent businesses (see Christensen *et al.*, 2015).

⁴ As the agency was then known, up to a rebranding in mid-2006, since when it has been known officially as the ‘Probation Service’ and relevant staff members came to be known as ‘Probation Officers’, as opposed to their previous designation as ‘Probation and Welfare Officers’.

The Group does not recommend that electronic tagging be introduced at this stage. Given the limitations of the technology ... and the continuing development of more sophisticated mechanisms of monitoring, the Group recommends awaiting the introduction of third generation systems and continued monitoring of the extension of the existing systems in Europe and elsewhere.

A subsequent value-for-money examination of the Probation and Welfare Service, undertaken by the Comptroller and Auditor General (2004), reviewed actions taken on the Expert Group's 1999 recommendations. It found, unsurprisingly, in relation to the Expert Review Group's recommendation regarding EM, that 'no action' was required (p. 60).

In this context, the potential for introducing EM in Ireland was considered — if it were to be used at all — as a possible 'adjunct' to probation supervision. Its 'postponement' by the Expert Group on Probation may have reflected a certain level of general reticence, or caution, regarding EM among those involved in the Group, who included the Principal Probation and Welfare Officer. While the Group framed its position in the context of awaiting a more definitive outcome from the British EM pilots, there may also have been a view, as Nellis (2016a, pp 224–5) described, of a tendency for EM to be seen as a cheap, commercial threat to 'traditional' probation supervision and a 'slippery slope' (p. 225) to devaluing established probation work.⁵ The Expert Group's recommendation may similarly have been indicative of a 'constructive resistance' (Nellis, 2016b), within the Expert Group, to implementing EM. This caution became a recurring feature in the subsequent consideration of EM in Ireland.

By 2004, while EM was already in use in many jurisdictions, Ireland had not yet even signalled⁶ any such planned usage. Then, in May 2004, the then Minister for Justice, Michael McDowell TD, announced, in a speech to the annual conference of the (Irish) Prison Officers Association (POA), that he intended to introduce 'electronic tagging of criminals ... as an alternative to custodial sentences, to free up prison places'. One media report of this speech (Lally, 2004) quoted the Minister stating that electronic tagging in other jurisdictions was so advanced that 'it could now be properly evaluated ... and [that the Minister was] assured of its value' as 'a useful means of having a non-custodial sentence for a first-time offender'. McDowell cited the

⁵ See also Mair and Nellis (2013) for a description of the British experience in this regard.

⁶ For example, in departmental or agency strategic plans, including the 1998 and 2001 departmental strategic plans.

value of EM, that he favoured the greater use of non-custodial measures, including EM, particularly for first-time offenders and relatively minor offending, such as public order offences, as well as its potential, in conjunction with other community sanctions, to 'take pressure off the prison system, which [was] "silting up" with greater numbers of inmates', and concluded that 'tagging systems may be provided here [Ireland] by the private sector... however State agencies, such as the probation services, would respond if criminals broke the conditions of their tagging.'

The day after the Minister's speech, the then Executive Director of the Irish Penal Reform Trust (IPRT) (Lines, 2004), criticised Minister McDowell's EM proposals. Taking issue with the argument, firstly 'that tagging offers an alternative to prison and will therefore reduce prison numbers and prison budgets', and secondly 'that tagging can reduce recidivism', Lines proposed that neither argument stood up to research-based scrutiny, arguing that EM is often applied internationally to low-level and low-risk offenders, that the measure can in fact be relatively expensive, and that it had not been shown, of itself, to have reduced recidivism. Lines concluded that: 'Far from being a solution to our prison problems, electronic tagging is a technology in search of a rationale'. Nevertheless, that 2004 Ministerial commitment to implement EM was given legislative effect through, first, the Criminal Justice Act, 2006, making provision for EM of offenders as part of a supervised community sanction or as a condition of early release from a prison sentence; and second, the Criminal Justice Act, 2007, which provided for EM as a condition of bail. For the purposes of the present paper, EM in Ireland will be discussed in terms of its different uses, rather than following a strictly time-bound chronology of developments.

EM as part of a community sanction and of early release

From time to time, various stakeholders concerned with offender management have sought to influence the trajectory of EM and its use. The Probation Service is one such 'stakeholder'. A founding member of the Confederation of European Probation (CEP), the Probation Service has been represented at most, if not all, of the CEP's biennial EM conferences. The present author, while a member of the senior management team — including in the role of Director — of the Probation Service, participated in a number of these conferences. Following attendance at the 2005 CEP conference, the author⁷

⁷ Then a Regional Manager; later (2006–12) Director of Operations, and (2012–19) Director of the Irish Probation Service.

— in conjunction with two management colleagues — submitted a draft paper⁸ on the possibility and potential for use of EM as part of a community sanction (at court/sentencing stage, or post-release from prison) managed by the Probation Service. That paper explored the positive potential of EM as part of probation supervision and against the backdrop of the Minister's statement of some months previously; it was submitted by the then Principal Probation and Welfare Officer to the Department of Justice. It is unclear what, if any, impact this paper may have had on EM policy formulation.

The Criminal Justice Act, 2006 was a significant addition to statute law and included the first legal provision for electronically monitored restriction on movement orders, envisaging two types of EM:

- (1) as an alternative to imprisonment, and
- (2) as a condition of early release from a custodial sentence.

The Act provides for electronic monitoring of *restriction of movement* orders, as an alternative to imprisonment for specifically scheduled offences, including certain public order,⁹ and relatively minor violent offences,¹⁰ following conviction of a person aged eighteen years or more, with the consent of the offender and of other adult/s living with them, and where the court was considering a custodial sentence of at least three months. Those subject to EM could be required to wear a 'tag' for the duration (up to six months) of the court order, but could not be required to remain in one place (e.g. in a home-detention curfew context) for more than twelve hours in any one day. A sentencing court considering such an order must request a Probation Officer's written report regarding the offender's suitability; and assign an 'authorised person responsible for monitoring the offender's compliance'. An 'authorised person' was defined as someone 'appointed in writing by the Minister, or a person who is one of a class of persons which is prescribed, to be an authorised person'. This would appear to allow for Probation Officers, or such other person or 'class of person', potentially including employees of a commercial enterprise¹¹ or other designated organisation, to supervise restriction on movement orders, or aspects of such orders.

⁸ In the author's personal papers.

⁹ Using threatening, abusive or insulting behaviour in a public place, failure to comply with the directions of a police officer, trespass, affray, and assault or obstruction of a peace officer.

¹⁰ Including assault, assault causing harm, coercion or harassment.

¹¹ So far, commercial companies have only ever been used for provision of EM equipment, fitting devices to supervisees and monitoring the operation of appliances and reporting any breaches to the Irish Prison Service.

The global economic crash and resulting financial crisis, from around 2008 onwards, had a significant influence across all public service provision in Ireland, including the Criminal Justice System, resulting in budgetary cuts and spending reviews. The Programme for National Recovery (Government of Ireland, 2011) contained a commitment 'to review the proposal to build a new prison at Thornton Hall and to consider alternatives, if any, to avoid the costs yet to be incurred¹² by the State in building such a new prison'. What became known as the Thornton Hall Project Review Group was established by Minister for Justice Alan Shatter TD, in April 2011, with the Group's report (Department of Justice and Equality, 2011) completed that July.

The Thornton Hall Review (Department of Justice and Equality, 2011, p. 62) recommended the use of 'alternative forms of detention', including 'home detention' that 'may involve electronic monitoring'. The Review also recommended (pp 62–3 and 71) the introduction of a new scheme of 'Earned Temporary Release' with a requirement to do community service, which 'could also provide for an electronic monitoring requirement'. This new early-release proposal was progressed as a matter of urgency, through an interagency working group, chaired by the Department of Justice and Equality, and including representatives of the Prison and Probation Services.¹³ The resulting Community Return programme (Probation Service/Irish Prison Service, 2014), commenced in October 2011, is still running and has been successful in resettling prisoners, serving between one and eight years' imprisonment, on early release. These prisoners are supervised by the Probation Service in the community and have community-service hours substituted for outstanding prison time, as part of their reintegration programme. The Thornton Hall Review recommendation to consider incorporating an EM component in the Community Return programme was not considered to add significant value to the scheme and was not introduced when the scheme was established.¹⁴

While not necessarily the case in other jurisdictions, it is not unusual in Ireland for (enabling) legislation to be enacted but not commenced in practice for some time. Frequently, implementation of primary legislative provisions can be achieved by the introduction of Ministerial regulation, or Statutory Instrument. Implementation of EM as part of court-ordered

¹² The site for the new prison, at Thornton Hall in North County Dublin, had already been purchased for this Irish Prison Service building project.

¹³ The present author represented the Probation Service on this group.

¹⁴ Although EM was not initially used with prisoners released on Community Return, in the context of the somewhat ad-hoc evolution of its usage, EM was included in later years as a condition of Temporary Release for some participants on this programme (see below).

probation supervision has not, thus far, been so regulated, unlike the provisions of the 2006 Act¹⁵ allowing for the use of electronic monitoring as a condition of early release from a custodial sentence ('Temporary Release', as provided for under the Criminal Justice Act, 1960, as amended), for up to six months after release. These latter provisions, regarding the use of EM as a condition of early release, *have been commenced*.

This initially came about as a short, time-limited pilot, from August to December 2010, initiated at the behest of then Minister for Justice and Law Reform, Dermot Ahern TD.¹⁶ The pilot was overseen by a multi-agency Project Board, chaired by the present author, and included representatives of the Prison Service, Probation Service, An Garda Síochána and the Department of Justice. This pilot had its origins in an earlier multi-agency working group that considered the potential application of EM: at the court/bail stage, for early release from prison and for sex offenders, post-release. That earlier working group had proposed that the first application of EM in Ireland should target early release from prison and that it should be piloted for up to 300 participants. That proposal was scaled back to the much smaller number that took part in the *actual* pilot, on the basis that selecting the higher number, as originally envisaged, might potentially result in the overall risk level of those released being elevated, and not adding value to the supervision of those who might have been given early release anyway.

The short 2010 EM pilot included 31 prisoners, with a maximum of 18 being on early release, with EM,¹⁷ at any one time, primarily subject to home-detention curfews. EM was used as a specific condition of Temporary Release,¹⁸ itself granted under the terms of the Criminal Justice Act, 1960 and the Criminal Justice (Temporary Release of Prisoners) Act, 2003, as amended. The pilot was reviewed by the project oversight group, and deemed a success with reference to all indicators, particularly the management and behaviour of participants and the efficacy of the technology. The pilot evaluation report (Irish Prison Service, 2011) concluded that EM delivered some (albeit small-scale) additional value to the management of offenders, post-release in Ireland, and was useful in such

¹⁵ Sections 108–10.

¹⁶ Minister Ahern had also made the relevant Ministerial Order commencing the relevant (EM) provisions of the 2006 Act, for 'a restriction of movement condition applying to the granting of temporary release' (see the following Minister, Alan Shatter's, contribution to Dáil Éireann Debate vol. 754, no. 3, 70 on 7 February 2011 — accessed 20 February 2020).

¹⁷ The pilot used GPS technology to monitor compliance with (mostly) home-detention curfew, and exclusion-zone compliance (in some cases).

¹⁸ For the general background to the introduction of 'Temporary Release' as a measure, see Rogan (2011, pp 92–4).

cases. It recommended a further, two-year trial of EM, for a limited number of prisoners on Temporary Release, including (as appropriate) those in hospitals or nursing homes,¹⁹ as well as those for whom — on a case-by-case basis — EM might be indicated as offering added value in terms of public protection and/or supporting compliance with Temporary Release. The report also recommended that the number on EM at any one time be ‘capped’ to a daily maximum of 30–40 prisoners. The Minister for Justice and Equality, Alan Shatter TD, in a reply to a Parliamentary Question in February 2012,²⁰ referred to the 2010 pilot programme, stating that the issue of expanding the implementation of EM would be considered by ‘a group to carry out an all-encompassing strategic review of penal policy.... We are not looking at it [EM] in isolation’, and that: ‘The Probation Service engages with a considerable number of prisoners before they are released’, and while EM ‘might have a role in the future ... no final decision has been made as to whether we will proceed further with tagging in 2012 or 2013 or whether priority will be given to other forms of intervention.’

The Irish Prison Service subsequently decided to implement EM on an expanded but still limited basis, issuing an EU request for tenders in early 2014, with the contract for the provision of up to 50 ‘tags’ at any one time awarded in May 2014. This contract incorporated some new features, including the use of GPS, GSM and RF²¹ technology, using one-piece, waterproof units. Monitoring was to be ‘24:7’, with ‘real time’ update reports provided daily, and tags being fitted by the contracted service-provider within 48 hours of request. Up to the end of September 2016, 62 prisoners on Temporary Release had EM as one of their release conditions. Of these, 23 were ‘tagged’ while attending hospital outside prison, 31 had been on home-detention curfew, and eight had been released early on the Community Return or Community Support²² programmes.

A Joint Committee on Justice and Equality review of penal reform and sentencing (2018) undertook wide-ranging discussions and contributions, including from the present author, and reported without referencing EM in

¹⁹ Who might otherwise require expensive, and unnecessary (from a public protection perspective), round-the-clock escorts by Prison Officers.

²⁰ Dáil Éireann Debates, vol. 754, no. 3, p. 70, available at: <https://www.oireachtas.ie/en/debates/debate/dail/2012-02-07/9/> (accessed 24 September 2019).

²¹ Global Positioning System, Global System for Mobile communication, and Radio Frequency technology.

²² Community Support is structured early release for prisoners serving sentences of up to twelve-months. Whereas post-release supervision under the Community Return scheme is provided by the Probation Service, resettlement assistance and mentoring are provided to those on the Community Support programme by community and voluntary-sector organisations funded by the Probation and Prison Services.

either its discussions or recommendations. The following year, it was reported by one media outlet²³ that: 'A tender issued by the Irish Prison Service shows that €680,000' had been 'set aside for the tagging and monitoring of prisoners who are on temporary release', for potentially 'up to 50 prisoners [being] tagged at any one time'. On 29 March 2018,²⁴ the Minister for Justice and Equality, Charlie Flanagan TD, confirmed that the Prison Service's EM contract commenced in 2014, was 'used to monitor prisoners who have been granted Temporary Release' including as part of the Community Return/Community Support scheme, as well as being used 'to monitor some hospital in-patients who have been granted Temporary Release from prison'. The Minister confirmed: 'During 2017, there were 59 prisoners electronically monitored while on Temporary Release', with the total cost in 2017 being €166,117. 'Electronic tagging devices were deployed 4,616 times, involving 59 prisoners at an average cost of €36 per deployment,' according to the Minister.

An Irish Prison Service (2017) document sets out the organisational policy on EM, including the aim, purpose and scope of EM, qualifying criteria and implementation procedures, listing eligible prisoner categories, and including a copy of the relevant consent form and a 'user guide.' Eligible prisoners include: hospital in-patients, prolific offenders, prisoners who, due to the nature of their offence and history of offending, may require additional controls to ensure that they obey the conditions of their Temporary Release. Nevertheless, there is no reference to EM in a number of recent and current strategy documents and annual reports published by the Irish Prison and Probation Services, regarding current usage, nor future plans. Furthermore, the interagency action plan for the management of offenders (Department of Justice and Equality, 2019) contains no reference to EM.

EM and bail

Subsequent to the 2006 legislation, Sections 11–13 of the Criminal Justice Act, 2007 amended the Bail Act, 1997,²⁵ to enable a court to include EM as a bail condition, in serious offence cases. In 2007, the then Director of the

²³ McCárthaigh, S. (2019), '€680k to be spent on the electronic tagging of prisoners,' *Irish Examiner*, 22 April, at: <https://www.irishexaminer.com/breakingnews/ireland/680k-to-be-spent-on-the-electronic-tagging-of-prisoners-919178.html> (accessed 18 September 2019).

²⁴ Dáil Éireann Debate, 29 March 2018, Questions 207, 208, 209) at: <https://www.oireachtas.ie/en/debates/question/2018-03-29/208/> (accessed 28 March 2020).

²⁵ The Bail Act, 1997 gave effect to the sixteenth amendment to the Irish Constitution. The legislation provides that a court can refuse bail to a suspect where it fears that they would commit further offence/s while otherwise at liberty.

Probation Service attended the CEP's EM conference and drafted a paper,²⁶ summarising potential implications of the development of EM, including a possible role for probation. It is unclear if or how widely that paper was circulated, beyond the Probation Service. Charity (2010) subsequently raised concerns, suggesting that 'the presumption of innocence has been consistently compromised since the introduction of the Bail Act of 1997', and pointed to issues arising from such use of EM in Britain, concluding that it was 'certainly evident that the legislature has envisaged a move towards electronic monitoring' and (citing Grolimund and Durac, 2009²⁷) that it appeared 'that the increasing concern of the Oireachtas in reforming the bail system 'is crime control and not the preservation of liberty'. Charity speculated: 'It remains to be seen when the legislation dealing with electronic monitoring [in bail cases] will be commenced and how it will be enforced.'

Five years later, that legislation had not been commenced when, on 23 July 2015, the Minister for Justice and Equality, Frances Fitzgerald TD, announced a further Bail Bill, publishing its General Scheme. The new legislation would, according to the accompanying press release,²⁸ update and extend the legislative basis for the electronic monitoring of persons on bail, with An Taoiseach describing the initiative as 'the first comprehensive review of Bail law since 1997', and saying that the Bill 'demonstrates this Government's ongoing commitment to crack down on crime'. The Bail (Amendment) Bill would limit the power of the courts to order EM as a bail condition, to cases where the prosecution requests it. While a relatively welcome proposal, from both a parliamentary and public opinion perspective, an Irish Penal Reform Trust (IPRT, 2015) submission expressed concern regarding specific EM provisions of the Bill, referencing the European Convention on Human Rights, and European Court of Human Rights decisions, as well as the Council of Europe (2014) Recommendation on EM. Citing the latter document as 'the first guidance on this [EM] internationally', the IPRT (2015, p. 8) highlighted a number of specific standards, including the need for judicial decision-making regarding EM, the dangers of 'net-widening',²⁹ proportionality of implementation, potential impact of EM on families and others, the personal circumstances of those subject to EM, potential negative

²⁶ In the author's personal papers.

²⁷ Grolimund, M.T. and Durac, L. (2009), 'Counting the cost: Stiffer Irish bail laws and the sacrificing of the principle of liberty', *Irish Criminal Law Journal*, vol. 19, no. 2, p. 55.

²⁸ See: <http://www.justice.ie/en/JELR/Pages/PR15000430>

²⁹ The IPRT (2015, p. 8) defined *net-widening* as 'the practice by which instead of electronic monitoring being a genuine alternative to pre-trial detention it instead becomes a widely imposed condition of bail'.

impacts, taking time spent on EM into account in subsequent sentencing decisions, and personal and other data issues. The IPRT (2015, p. 8) concluded that: 'none of these safeguarding factors appear to have been considered' and recommended that: 'any proposed scheme for pre-trial electronic tagging be reviewed for compliance with Council of Europe Recommendation CM/Rec (2014) 4'.

The Department of Justice and Equality's subsequent (2016) strategic plan, reflecting a Programme for Government commitment (Government of Ireland, 2016, p. 100–102), undertook (p. 29) to 'introduce electronic tagging for those on bail, where requested by Gardaí, thereby reducing the risk of reoffending [and] ... to fast-track this legislation'. The purpose of the resulting Criminal Justice Act, 2017, according to the Department of Justice and Equality,³⁰ was to strengthen the law on bail, including that a court may take persistent serious offending into account in bail decisions, strengthening police powers, hearing victims' views, giving reasons for bail refusal, and including EM as a possible bail condition. A key element of this legislation was that EM could be included as a bail condition, only on the application of the prosecution.

In December that year, Deputy Jim O'Callaghan TD introduced his — private member's — Bail (Amendment) Bill, 2017, which sought to amend the bail laws to enable a court to refuse bail if it considered it 'necessary to prevent the commission of a serious offence by that person'. Burglary-related offending was specifically targeted in the Bill, which would require a court, in admitting someone to bail in such circumstances (of a prior history of such offending) to have 'an electronic monitoring device attached to his or her person, either continuously or for such periods as may be specified'. The Bill was referred to the Joint Committee on Justice and Equality for scrutiny and was discussed there on 5 December 2018.³¹ Contributing to that discussion, Dr Mary Rogan, Associate Professor in Law at Trinity College Dublin, suggested that: 'The most important question is what will it [electronic monitoring] be for ... which has not been answered in Ireland, is what the purpose of electronic monitoring is. Is it to reduce pre-trial detention rates or is it something else?'

Some months prior to the Oireachtas Committee discussion of the Bail (Amendment) Bill, the Minister for Justice and Equality, Charlie Flanagan TD,

³⁰ Statement on the Department's website, at: http://www.justice.ie/en/JELR/Pages/Criminal_Justice_Act_2017 (accessed 8 May 2020).

³¹ Joint Committee on Justice and Equality debate, Wednesday, 5 December 2018, available at: https://www.oireachtas.ie/en/debates/debate/joint_committee_on_justice_and_equality/2018-12-05/5/ (accessed 22 May 2020).

issued a strongly worded statement³² on it. The Minister, while sharing concerns about serious and repeat offending, including by persons on bail, expressed concerns about the constitutionality of Deputy O’Callaghan’s Bill, its potential contravention of ‘ECHR³³ case law’ and the possible negative impact, given its ‘technical flaws’, that it might have, stating that:

...electronic monitoring has a valuable role to play in monitoring bail conditions but it must be targeted at those cases where it is most likely to be effective. The mandatory use of electronic monitoring, as proposed by Section 3 of this Bill, would reverse the approach taken in the Criminal Justice Act last year. It is also in breach of the Council of Europe Guidelines on the use of electronic monitoring.

One follow-up media comment³⁴ to a parliamentary statement by the Justice Minister in 2018 pointed out that: ‘Laws to allow electronic tagging as a bail condition have yet to be fully implemented. ... [in 2017], it emerged that 13% of all crimes were committed by people who were out on bail.’ This Bail (Amendment) Bill, 2017 lapsed with the dissolution of the Oireachtas in January 2020. The Criminal Justice Act, 2017, providing for EM as a condition of bail, where requested by the prosecution, has not been commenced up to the time of writing. The Justice Minister, in reply to a Dáil Question on 5 March 2019,³⁵ stated that: ‘Extensive preparations are underway to ensure these provisions [for EM of certain persons on bail] can be implemented and more importantly, to ensure they can be effective.’

EM and sex offenders

A Department of Justice and Equality (2009) discussion document on the management of sex offenders identified EM as one management option, recording (pp 34–6) that EM ‘has not yet been implemented in this jurisdiction’ that EM ‘does not provide a supervisory regime as such but provides a tool that may support a particular regime’. The document described different types of EM and highlighted cost, technical and other

³² The Minister’s statement is available at <http://www.justice.ie/en/JELR/Pages/SP18000214> (accessed 9 May 2020).

³³ European Convention on Human Rights.

³⁴ MacNamee, G. (2018), ‘Electronically tagging 59 prisoners last year cost the State €116,000’, *thejournal.ie*, 4 April. Available at <https://www.thejournal.ie/electronic-tags-3938140-Apr2018/> (accessed 28 March 2020).

³⁵ Dáil Question on 5 March, available at <https://www.oireachtas.ie/en/debates/question/2019-03-05/234/> (accessed 14 April 2020).

implementation challenges, as well as concern regarding serious further offending by a number of those on EM in Britain. It referenced the planned introduction of EM in Northern Ireland and identified the potential value of EM (particularly GPS) for otherwise uncooperative sex offenders. The document suggested that EM could already be imposed on a sex offender, under existing legislation: either as part of a Post-Release Supervision Order under the Sex Offenders Act, 2001, or as a condition of a Part-Suspended Sentence Supervision Order under Section 99 of the Criminal Justice Act, 2006. EM has not been used in either of these ways, to date.

The potential use of EM in supervising sex offenders has been debated in the Oireachtas. In a debate on the Criminal Law (Sexual Offences) Bill, 2015, on 3 November 2016,³⁶ David Stanton TD, Minister of State at the Department of Justice and Equality, responding to requests 'to enhance the monitoring of sex offenders following release', said: 'Provisions are to be brought forward in a sex offenders (amendment) Bill which will significantly strengthen such monitoring. These will include electronic monitoring of certain sex offenders on release'. The Department of Justice and Equality (2016) strategic plan (p. 29) had undertaken to:

...further enhance the arrangements in place, providing for post-release supervision and if necessary make further amendments to the existing legislation in the area ... to effectively deal with sexual offences including stronger sanctions aimed at protecting children from sexual exploitation.

According to McGee (2018), a draft of the Sex Offenders (Amendment) Bill, including limited provision for EM of sex offenders 'who are deemed to constitute a high risk of reoffending or revictimising' was agreed by Cabinet and was to be referred to the Oireachtas Committee on Justice and Equality. Responding to a Dáil Question the following week, then Justice Minister Charlie Flanagan TD said that:

Electronic tagging is a complex area and there is a significant body of work being undertaken to evaluate the type of technology and resources required to implement and sustain a viable electronic monitoring system in Ireland.... The General Scheme of the Sex Offenders (Amendment) Bill ... provides for the use of electronic monitoring to ensure that [post-release

³⁶Dáil Éireann Debate, vol. 927, no. 2, available at <http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/takes/dail2016110300023?opendocument&highlight=Sex%20offenders%20%28amendment%29%20bill> (accessed 28 April 2019).

supervision] conditions are not breached ... [and] will now be sent to the OPC³⁷ for drafting and is being referred to the Oireachtas Joint Committee on Justice and Equality for pre-legislative scrutiny.

Carr (2018), commenting on the publication of this legislation, pointed to the 'intuitive attraction in the promise of a technological solution to manage those who are considered to present a risk to the public', while cautioning that 'the evidence base on the effectiveness of electronic monitoring is mixed' and 'should be carefully considered'. Carr concluded that 'the best available evidence suggests that monitoring is more effective when it is carefully targeted and integrated with other forms of support and risk management.'

In November 2018, an Oireachtas Joint Committee held pre-legislative scrutiny hearings with a number of bodies, including the Probation Service, regarding the General Scheme of the Sex Offenders (Amendment) Bill, 2018, which was 'intended to update the Sex Offender Act 2001' (Joint Committee on Justice and Equality 2019, p. 14). The Bill included provision for court-ordered EM of convicted sex offenders, as a condition of post-release supervision orders. The Committee's report found support (p. 47) for the efficacy of EM as part of a comprehensive plan for prisoner resettlement, but cautioned against 'seeing EM as a "silver bullet" for preventing reoffending', concluding (p. 51) that: 'Submissions received ... suggest that evidence as to the effectiveness of electronic monitoring generally is mixed', and recommended that:

- Given the financial investment required, the Department [of Justice and Equality] may wish to assess, in light of international evidence, how successful the proposed measures are likely to be in achieving their policy aim (i.e. reducing reoffending),
- That a provision [requiring the consent of persons habitually resident with an offender] be added to the General Scheme, in light of Council of Europe guidance ... and evidence to the effect that electronic monitoring can have significant effects on the family of a sex offender or on others living in the same property, and that
- Electronic monitoring should also be available for monitoring compliance with conditions imposed for a part-suspended sentence under s.99 of the Criminal Justice Act 2006.³⁸

³⁷ The Office of the Parliamentary Counsel to the Government.

³⁸ As well as part of a Post-Release Supervision Order under the terms of the Sex Offenders Act, 2001.

While this legislation lapsed with the dissolution of the Oireachtas in January 2020, the current Strategy Statement of the Department of Justice (2021, p. 26) includes a goal: 'to ensure that convicted sex offenders are effectively managed and monitored'. Action towards achieving this goal is reflected in the announcement (Gallagher, 2021) in March 2021 by Justice Minister Helen McEntee TD of her intention to publish the Sex Offenders (Amendment) Bill, 'before the end of June [2021]'. The general scheme of this Bill, including provision for the post-release electronic monitoring of sex offenders in specific circumstances, was previously approved by government in 2018 (see above). Up to the end of June 2021, the promised Sex Offenders (Amendment) Bill had not been published, although at the time of writing it was understood³⁹ to be at an advanced stage of drafting.

More recent policy and political consideration of EM in Ireland

Part of the enduring attractiveness of EM, as suggested by Nellis (2016b), may be attributed to its perception as a 'cool brand' (p. 118), 'self-evidently modern' (p. 115) and part of the 'global ubiquity of computer-mediated action-at-a-distance, real-time communication, digital transparency and connectedness', as summarised by Nellis (2016b). Following the Minister's watershed EM commitment in 2004, given effect in the 2006 legislation, EM has remained consistently on the political agenda. Nevertheless, the 2014 comprehensive review of penal policy, accepted by government, considered the issue of EM and noted (Department of Justice and Equality, 2014, pp 50–51) that EM was already being used on a small scale, in the context of early release from prison, and that EM's potential applicability was limited, concluding that it did not propose to 'recommend extending resources relating to electronic monitoring (EM) to non-custodial sanctions beyond that proposed to be introduced in relation to sex offenders'.

There has been relatively little academic analysis or research on EM in Ireland, with no discussion of it, for example, in the *Handbook of Irish Criminology* (Healy *et al.*, 2016). Moss (2018) concluded (p. 131) that in the context of 'the ongoing use but unclear purpose of EM' and 'the exceptionalism of the Irish criminal justice model', both 'EM purpose, performance and probation oversight' have been 'overlooked in research in Ireland'. Seymour (2006) reviewed community sentencing in Ireland, concluding that 'despite being more expensive than other sentencing

³⁹ From contact by the author with the Department of Justice.

alternatives, there is extremely limited data to suggest that punitive measures including electronic monitoring are effective in reducing recidivism....' Seymour also expressed concern at EM's (then) planned introduction, and while acknowledging (p. 26) that it 'is an attractive intervention for government because it is a cheap alternative, relative to the costs of custody and serves to allay concerns about the protection of the public', recommended 'that electronic monitoring is not introduced in Ireland'. More recently, O'Donnell (2020) assessed various approaches to reduce reoffending, concluding that EM had *some promise*, citing (pp 73–4) Hucklesby's (2008, p. 67) conclusion that: 'For at least some offenders, curfew orders have the capacity to facilitate desistance during the time the curfew order is active'. O'Donnell further suggests that EM 'may offer limited benefits to offenders who are inclined towards desistance and need support to break criminal habits'. It is difficult to assess what impact such commentary may have on the relevant political debate and policy decisions.

On 30 September 2016, the Department of Justice and Equality hosted an 'open policy debate' in Dublin, attended by representatives of the Department, the Probation Service, Irish Prison Service and An Garda Síochána, and some external experts and stakeholders. The event's keynote speaker, Professor Mike Nellis,⁴⁰ recommended the establishment of an interagency working group, to work in parallel with the legislative process already underway (particularly in relation to the Bail Bill), to prepare for and plan the effective operational implementation of EM in Ireland. This recommendation was actioned, and was referenced in a number of responses to Dáil Questions, including on 5 March 2019, when Justice Minister Charlie Flanagan TD stated⁴¹ that, in the context of 'extensive preparations' to implement EM, recommendations from a Departmental working group were being progressed. To date, those preparations have not yet resulted in further implementation of EM.

While there appears to be little or no appetite currently to revive the court-ordered community-sanction option incorporating EM, the bail and sex-offender supervision options appear set to remain on the political, media and public agenda for some time and are more likely to be implemented in practice, at some stage. The use of EM as a condition of early release — offering an *affordance* that has been recognised and utilised by the Irish Prison Service in its lead role regarding this measure — has continued in

⁴⁰ Emeritus Professor of Criminal and Community Justice in the Law School, University of Strathclyde, Glasgow, Scotland.

⁴¹ Dáil Éireann Debate, Tuesday 5 March 2019, Question 234, available at: <https://www.oireachtas.ie/en/debates/question/2019-03-05/234/>

practice. Its future may be uncertain, in a context where numbers on EM are low and wider use with other offender groups has not transpired. Ongoing caution, or 'constructive resistance' (Nellis, 2016)), from relevant agencies, including probation, prisons, police and departmental, may continue to inhibit wider implementation. Although the criticism that EM was a 'technology in search of a rationale' was levelled at the initial Ministerial plan for its introduction, EM could not now be so described, given that it *has* been used, albeit selectively and sparingly, as an adjunct to other measures, with clear practice limits and benefits identified.

There is evidence that EM *can* add value to established methods of offender management in certain cases. As Beyens and Roosen (2020) concluded: '... EM is not rehabilitative in itself but is able to facilitate other rehabilitative measures'. Fitzalan Howard (2020, pp 32–4), discussing the lived experience of EM, similarly concludes that 'EM seems to have clear, rehabilitative potential', as well as a 'potential to promote compliance and to contribute to rehabilitation and desistance'. Bowen (2021), citing findings from recent research, including:

A recent meta-analysis ... looking at 17 high quality ... studies ... suggests that electronic location monitoring can be successful in suppressing offending during the period in which individuals are monitored...

while urging (p. 14) 'a more tailored use of electronic monitoring, that is better integrated into probation supervision and support, and which is more flexible to the changing dynamics of those subject to being monitored'. Such an approach would also include (Bowen, 2021, p. 5) a more targeted use of EM with specific categories of offenders,⁴² and in ways that would afford flexibility to probation officers⁴³ regarding how EM might be used more effectively, and in a 'smarter' way, so as to achieve 'the most impact to keep our communities safer'.

There are widely identified risks of net-widening and 'mission creep' when employing EM, as well as challenges in implementation, and concerns regarding commercial procurement and management. Of all the community-based sanctions and measures, EM can raise unrealistic expectations among the media, politicians and wider public. At the same time, as Nellis (2016a, p. 238)

⁴² Including sex offenders, for example.

⁴³ At the point when supervision conditions are being set, as well as during the course of supervision in the community.

has stated: 'the forms of EM, the regimes it can be used to create and the scale of its use are amenable to shaping'. This has already been borne out in the Irish context, as evidenced above. Given the clear political and legislative commitment to expand the use of EM, for bail and certain sex offenders, relevant agencies and other bodies might do well to adopt a position, as described by Nellis (2016b, pp 126–7) that '...EM technologies ... can be appropriated and deployed to better, more creative ends than those who control the dominant narratives about them have thus far been prepared to concede.' In Nellis's (2016b, p. 128) view:

The focus must be on constructively resisting excess [emphasis added] in EM — and using it wisely — rather than a wishful, anachronistic belief that it is still simply a discrete and peripheral intervention, easily derided and readily contained, and without capacity to disrupt existing penal arrangements — especially probation services.

Conclusion

Rogan (2011, pp 214–15) suggested that change in penal policy in Ireland, has traditionally been slow and ad hoc, with 'drifting along' a 'recurrent feature' and change 'being dependent on particularly active or interested ministers or a dyad of minister and civil servant ... where policy is often created by accident rather than by design'. This analysis would seem to capture the evolution of EM. Legislation and policy developments, and wider public debate in relation to EM in Ireland have tended to be stop-start and politicised, impacted by changing cycles of government formation and policy priorities. Both sides of the legislature-executive 'dyad' have demonstrated both innovation/flexibility and caution, in turn, resulting in targeted use of EM at times, as well as slow progress in wider implementation. Various legislative measures have been introduced in Ireland, at different times, to use EM in four different ways. Only the early-release option has been used in practice so far.

As Bowen (2021, p. 5) has stated, 'electronic location monitoring and remote alcohol monitoring are here to stay', a position supported by Nellis (2019) and Hucklesby and Holdsworth (2020), among others. Whatever the future may hold, in relation to the use of EM in Ireland, the cautious manner of its development and limited use to date would seem to point to a technology that has *already* found its rationale, on the basis of adding value to existing sanctions

(such as Temporary Release and post-release supervision of sex offenders). The measure also holds out some possibilities for reducing the once-again rising prison population, through potential reductions in the numbers on remand in custody. Any enduring resistance to its implementation among criminal justice bodies might need to be more constructive and even embracing of the positive affordances of EM, both for strengthened offender supervision and supporting desistance from crime. While EM can hardly be described in the Irish context as a *disruptive innovation*, in the real sense of the term, it does represent, in reality, an *affordance* whose full benefits as an adjunct to more established and 'traditional' forms of offender supervision, have been identified — and even tested in practice — but remain as yet to be fully realised.

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References

- Best, P. (2009), 'Curfew/Electronic Monitoring: The Northern Ireland experience,' *Irish Probation Journal*, vol. 6, Dublin/Belfast: Probation Service/Probation Board for Northern Ireland
- Beyens, K. and Roosen, M. (2020), 'Electronic monitoring and rehabilitation' in P. Ugwuodike, H. Graham, F. McNeill, P. Raynor, F. Taxman and C. Trotter, *The Routledge Companion to Rehabilitative Work in Criminal Justice*, Abingdon, Oxon: Routledge
- Bowen, P. (2021), *Delivering a Smarter Approach: Electronic Monitoring* (Briefing Paper), London: Centre for Justice Innovation, available at <https://justiceinnovation.org/publications/delivering-smarter-approach-electronic-monitoring> (accessed 7 April 2021)
- Carr, N. (2018), 'Pros and cons of electronic tagging of sex offenders', *Irish Times*, 18 June, available at <https://www.irishtimes.com/opinion/pros-and-cons-of-electronic-tagging-of-sex-offenders-1.3532239> (accessed 10 June 2020)
- Charity, J.D. (2010), 'Electronic Tagging of Applicants for Bail', *The Bar Review* (Journal of the Bar of Ireland), vol. 15, no. 5
- Christensen, C.M., Raynor, M. and Macdonald, R. (2015), 'What is Disruptive Innovation?' *Harvard Business Review*, December 2015, pp 44–53

-
- Comptroller and Auditor General (2004), *Report on Value for Money Examination: The Probation and Welfare Service*, Dublin: Government of Ireland
- Council of Europe (2014), *Recommendation CM/Rec (2014)4 of the Committee of Ministers to Member States on Electronic Monitoring*, adopted by the Committee of Ministers on 19 February 2014, Strasbourg: Council of Europe
- Department of Justice (1997), *Tackling Crime: Discussion Paper*, Dublin: Department of Justice
- Department of Justice (2021), *A Safe, Fair and Inclusive Ireland: Statement of Strategy 2021–2023*, Dublin: Department of Justice
- Department of Justice and Equality (2009), *The Management of Sex Offenders: A Discussion Document*, Dublin: Department of Justice and Equality
- Department of Justice and Equality (2011), *Report of the Thornton Hall Project Review Group*, Dublin: Department of Justice and Equality
- Department of Justice and Equality (2014), *Strategic Review of Penal Policy: Final Report*, Dublin: Department of Justice and Equality
- Department of Justice and Equality (2016), *A Safe, Fair and Inclusive Ireland: Strategy Statement 2016–2019*, Dublin: Department of Justice and Equality
- Department of Justice and Equality (2019), *Action Plan for the Joint Management of Offenders, 2019–2021*, Dublin: Department of Justice and Equality
- Expert Group on the Probation and Welfare Service (1999), *Final Report*, Dublin: Stationery Office
- Fitzalan Howard, F. (2020), 'The experience of Electronic Monitoring and the implications for use', *Howard Journal of Crime and Justice*, vol. 59, no. 1, pp 17–43
- Gallagher, C. (2021), 'New law will allow for information to be released on sex offenders', *Irish Times*, 1 March, available at: <https://www.irishtimes.com/news/crime-and-law/new-law-will-allow-for-information-to-be-released-on-sex-offenders-1.4497519> (accessed 30 March 2021)
- Government of Ireland (2011), *The Programme for Government 2011–2016: Government for National Recovery*, Dublin: Government of Ireland
- Government of Ireland (2016), *A Programme for a Partnership Government*, Dublin: Government of Ireland
- Healy, D., Hamilton, C., Daly, Y. and Butler, M. (2016), *The Routledge Handbook of Irish Criminology*, London: Routledge

-
- Hucklesby, A. (2008), 'Vehicles of desistance? The impact of electronically monitored curfew orders', *Criminology and Criminal Justice*, vol. 8, no. 1, pp 51–71
- Hucklesby, A., Beyens, K. and Boone, M. (2020), 'Comparing electronic monitoring regimes: Length, breadth, depth and weight equals tightness', *Punishment & Society*, vol. 23, no. 1, pp 88–106
- Hucklesby, A. and Holdsworth, E. (2016), *Electronic Monitoring in England and Wales* (Report, Centre for Criminal Justice Studies, University of Leeds), Leeds: University of Leeds
- Hucklesby, A. and Holdsworth, E. (2020), *Electronic Monitoring in Probation Practice*, Her Majesty's Inspectorate of Probation (HMIP) Academic Insights 2020/08, Manchester: HMIP
- Irish Penal Reform Trust (2015), *IPRT Preliminary Submission on General Scheme of the Bail Bill August 2015*, Dublin: Irish Penal Reform Trust
- Irish Prison Service (2011), *Electronic Monitoring of Prisoners on Temporary Release – Pilot Project 2010: Evaluation Report* (unpublished), Longford: Irish Prison Service
- Irish Prison Service (2017), *Electronic Monitoring: Policy Document*, Longford: Irish Prison Service, available at: https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Irish-Prison-Service-Electronic-Monitoring-Policy.pdf (accessed 21 June 2021)
- Joint Committee on Justice and Equality (2018), *Report on Penal Reform and Sentencing*, (32/JAE/19), Dublin: Houses of the Oireachtas
- Joint Committee on Justice and Equality (2019), *Report on Pre-Legislative Scrutiny of the General Scheme of the Sex Offender (Amendment) Bill, 2018*, Dublin: Houses of the Oireachtas
- Kilcommins, S., O'Donnell, I., O'Sullivan, E. and Vaughan, B. (2004), *Crime, Punishment and the Search for Order in Ireland*, Dublin: Institute of Public Administration
- Lally, C. (2004), 'Electronic tags on prisoners proposed', *Irish Times*, 7 May, available at: <https://www.irishtimes.com/news/electronic-tags-on-criminals-proposed-1.1139386> (accessed 21 June 2021)
- Laurie, E. and Maglione, G. (2019), 'The Electronic Monitoring of offenders in context: From policy to political logics', *Critical Criminology*, published online, 31 October 2019. available at <https://link.springer.com/article/10.1007/s10612-019-09471-7> (accessed 21 June 2021)
- Lines, R. (2004), 'Electronic tagging would be no penal reform', *Irish Times*, OpEd, 8 May, available at: <https://www.irishtimes.com/opinion/>

- electronic-tagging-would-be-no-penal-reform-1.1139658 (accessed 21 June 2021)
- McGee, H. (2018), 'Government approves electronic tagging for sex offenders', *Irish Times*, 7 June, at: <https://www.irishtimes.com/news/politics/government-approves-electronic-tagging-for-sex-offenders-1.3521648> (accessed 7 June 2020)
- Mair, G. and Nellis, M. (2013), "'Parallel tracks": Probation and electronic monitoring in England, Wales and Scotland', in M. Nellis, K. Beyens and D. Kaminski (eds), *Electronically Monitored Punishment: International and Critical Perspectives*, Abingdon, Oxon: Routledge
- Moss, B. (2018), 'Electronic monitoring and monitoring probation: The case of Ireland', *European Journal of Probation*, vol. 10, no. 2, pp 120–35
- National Crime Forum (1998), *Report*, Dublin: National Crime Forum/Institute of Public Administration
- Nellis, M. (2014), 'The Electronic Monitoring of offenders in the European penal imaginary,' in E. Carroll and K. Warner (eds), *Re-imagining Imprisonment in Europe: Effects, Failures and the Future*, Dublin: The Liffey Press
- Nellis, M. (2015), *Standards and Ethics in Electronic Monitoring: Handbook for Professionals Responsible for the Establishment and the Use of Electronic Monitoring*, Strasbourg: Council of Europe
- Nellis, M. (2016a), 'Electronic monitoring and probation practice', in F. McNeill, I. Durnescu, and R. Butter (eds), *Probation: 12 Essential Questions*, London: Palgrave Macmillan
- Nellis, M. (2016b), 'Electronic monitoring and penal reform: Constructive resistance in the age of "Coercive Connectedness"', *British Journal of Community Justice*, vol. 14, no. 1, pp 113–32
- Nellis, M. (2019), 'Clean and dirty Electronic Monitoring,' *Justice Trends Magazine*, February, available at: <https://justice-trends.press/shaping-lives-the-use-of-electronic-monitoring/> (accessed 29 March 2021)
- Nellis, M., Beyens, K. and Kaminski, D. (eds) (2013), *Electronically Monitored Punishment: International and Critical Perspectives*, Abingdon, Oxon: Routledge
- O'Donnell, I. (2020), *An Evidence Review of Recidivism and Policy Responses*, Dublin: Department of Justice and Equality
- O'Donnell, I. and O'Sullivan, E. (2001), *Crime Control in Ireland: The Politics of Intolerance*, part of Carol Coulter (ed.), Undercurrents series, Cork: Cork University Press

- Probation Service/Irish Prison Service (2014), *Community Return: A Unique Opportunity. A Descriptive Evaluation of the First Twenty-Six Months (2011–2014)*, Dublin: Probation Service/Irish Prison Service
- Rogan, M. (2011), *Prison Policy in Ireland: Politics, Penal Welfarism and Political Imprisonment*, London: Routledge
- Seymour, M. (2006), *Alternatives to Custody*, Report for Business in the Community Ireland (BITC) and the Irish Penal Reform Trust (IPRT), supported by the Cyril Forbes Fund at the Community Foundation for Ireland, Dublin: BITC and IPRT
- Simon, J. (2013), 'Punishment and the political technologies of the body', in J. Simon and R. Sparks (eds), *The Sage Handbook of Punishment and Society*, London: Sage

A Smarter Approach? Sentencing and Politics in England and Wales

Phil Bowen*

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,

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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 10 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 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 presentence 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 lead 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.

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’ (OOCDD), designed to help police forces and others to maximise the opportunities to place vulnerable, complex

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.)

and low-risk offenders into effective, evidence-led out-of-court disposals and diversion schemes. The Government's move to this simplified OOC system stems from the National Police Chiefs Council recommendation to do so in 2016, and 15 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 harmful collateral consequences of the 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.

References

- Beith, Sir Alan (2015), Criminal Justice Alliance Conference, author's own notes
- Black, C. (2020), *Review of Drugs: Executive Summary*, February, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897786/2SummaryPhaseOne+foreword200219.pdf (accessed 28 June 2021)
- Centre for Justice Innovation (2020), 'Delivering a smarter approach: Probation professionalisation', available at <https://justiceinnovation.org/publications/delivering-smarter-approach-probation-professionalisation> (accessed 22 June 2021)
- Centre for Justice Innovation (2021), 'Delivering a smarter approach: Community Sentence Treatment Requirements (CSTRs)', available at: <https://justiceinnovation.org/sites/default/files/media/document/2021/ctr.pdf> (accessed 22 June 2021)
- Dunton, J. (2021), 'HMPPS notches up recruitment record for probation officers' *Civil Service World*, 4 June, available at <https://www.civilserviceworld.com/news/article/hmpps-notches-up-recruitment-record-for-probation-officers> (accessed 22 June 2021)
- Hansard (2021), Pets: Theft, Question for Ministry of Justice, UIN 155490, tabled on 19 February 2021, available at <https://questions-statements.parliament.uk/written-questions/detail/2021-02-19/155490> (accessed 22 June 2021)
- Hansard HC (2021), Policing and Prevention of Violence Against Women, vol. 691, col. 26 (15 March 2021) available at <https://hansard.parliament.uk/Commons/2021-03-15/debates/15A845C7-D1BA-4DE4-BA6A-131AC6062616/PolicingAndPreventionOfViolenceAgainstWomen> (accessed 28 June 2021)
- HMI Probation (2019), 'The Transforming Rehabilitation model for probation service is irredeemably flawed', available at <https://www.justiceinspectorates.gov.uk/hmiprobation/media/press-releases/2019/03/reportofthechiefinspectorofprobation/> (accessed 22 June 2021)

-
- HMI Probation (2021), 'A thematic review of work to prepare for the unification of probation services', inspection report, 14 May, available at: <https://www.justiceinspectrates.gov.uk/hmiprobation/inspections/unification-of-probation-services/> (accessed 22 June 2021)
- Hough, M. and Roberts, J.V. (1999), 'Sentencing trends in Britain: Public knowledge and public opinion, *Punishment & Society*, vol. 1, no. 1, pp 11–26, available at doi:10.1177/14624749922227685
- Hough, M., Roberts, J.V., Jacobson, J., Moon, N. and Steel, N. (2009), *Public Attitudes to the Principles of Sentencing*, Sentencing Advisory Panel Research Report – 6, available at <https://core.ac.uk/download/pdf/124495.pdf> (accessed 28 June 2021)
- Hough, M., Bradford, B., Jacobson, J. and Roberts, J.R. (2013) 'Attitudes to sentencing and trust in justice: Exploring trends from the crime survey for England and Wales', Ministry of Justice analytical series, London, UK: Ministry of Justice, available at http://eprints.lse.ac.uk/50440/1/Jackson_Attributes_sentencing_trust_2013.pdf (accessed 22 June 2021)
- House of Commons (2021), 'Policing and prevention of violence against women', debate in the House of Commons, 15 March, available at <https://www.theyworkforyou.com/debates/?id=2021-03-15b.25.0> (accessed 22 June 2021)
- Howard League for Penal Reform (2015), 'Spending review 2015: Shrinking the justice system would cut crime and save billions', available at <https://howardleague.org/news/spendingreview2015/> (accessed 28 June 2021)
- Howard League for Penal Reform (2016), 'Professionalising the probation service: Why university institutes would transform rehabilitation', available at <https://howardleague.org/wp-content/uploads/2016/04/Professionalising-the-probationservice.pdf> (accessed 28 June 2021)
- O'Hare, G. and Luney, P. (2020), 'Tackling substance misuse from a problem-solving justice approach', *Irish Probation Journal*, vol. 17, October, pp 43–62
- Long, C.G., Dolley, O. and Hollin, C. (2018), 'The use of the mental health treatment requirement (MHTR): Clinical outcomes at one year of a collaboration', *Journal of Criminal Psychology*, vol. 8, no. 3, available at <https://doi.org/10.1108/JCP-01-2018-0003> (accessed 22 June 2021)
- Ministry of Justice (2013), *Story of the Prison Population: 1993–2012: England and Wales*, January, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/218185/story-prison-population.pdf (accessed 22 June 2021)

- Ministry of Justice (2020), *A Smarter Approach to Sentencing*, policy paper, 16 September, available at: <https://www.gov.uk/government/publications/a-smarter-approach-to-sentencing> (accessed 22 June 2021)
- Ministry of Justice (2021a), *Overarching Equality Statement: Sentencing, Release, Probation and Youth Justice Measures*, policy paper, 14 June, available at: <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-overarching-documents/overarching-equality-statement-sentencing-release-probation-and-youth-justice-measures> (accessed 22 June 2021)
- Ministry of Justice (2021b), *Police, Crime, Sentencing and Courts Bill: Sentencing, Release, Probation and Youth Justice Measures: Impact Assessment*. available at: https://publications.parliament.uk/pa/bills/cbill/58-01/0268/MOJ_Sentencing_IA_FINAL_2021.pdf (accessed 22 June 2021)
- Ministry of Justice and Public Health England (2017), 'The impact of community-based drug and alcohol treatment on re-offending', available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674858/PHE-MoJ-experimental-MoJ-publication-version.pdf (accessed 28 June 2021)
- NAPO (2016), 'One probation one profession: Napo's strategy for the new probation environment', member consultation, available at <https://www.napo.org.uk/sites/default/files/One%20Probation%20One%20Professional%20member%20doc%20pdf.pdf>
- National Audit Office (2017), investigation by the Comptroller and Auditor General into changes to Community Rehabilitation Company contracts, December, Session 2017–2019, HC 676
- National Police Chiefs' Council (NPCC) (2017), *Charging and Out of Court Disposals: A National Strategy, 2017–2021* available at <https://www.npcc.police.uk/Publication/Charging%20and%20Out%20of%20Court%20Disposals%20A%20National%20Strategy.pdf> (accessed 28 June 2021)
- Prison Reform Trust. (2020), 'A smarter approach to sentencing: Prison Reform Trust critique', available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Sentencing%20Bill/A%20Smarter%20Approach%20to%20Sentencing%20PRT%20analysis%20FINAL.pdf> (accessed 22 June 2021)
- Siddique, H. (2021), 'Sarah Evarard died from compression of the neck, say police', *Guardian*, 1 June, available at: <https://www.theguardian.com/uk-news/2021/jun/01/sarah-everard-died-from-compression-of-the-neck-say-police> (accessed 22 June 2021)

- Starmer, Sir K. (2021), tweet, available at https://twitter.com/keir_starmer/status/1371547120080195585?lang=en (accessed 22 June 2021)
- Transform Justice (2017), *Reframing Crime and Justice – A Handy Guide*, available at [Reframing-crime-and-Justice-a-handy-guide_Transform-Justice.pdf](https://www.transformjustice.org.uk/Reframing-crime-and-Justice-a-handy-guide_Transform-Justice.pdf) (transformjustice.org.uk) (accessed 22 June 2021)
- Whitehead, S. and Ely, C. (2018), 'Renewing trust: How we can improve the relationship between probation and the courts', Centre for Justice Innovation, available at <https://www.justiceinnovation.org/publications/renewing-trust-how-we-can-improve-relationship-between-probation-and-courts> (accessed 22 June 2021)
- YouGov (2019), YouGov Survey Results, available at https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/v1r2zq0fl2/Internal_CrimeQs_190930_FINAL_w.pdf (accessed 22 June 2021)

‘We Cannot Do This Alone’ – A Co-designed, Multi-departmental Strategy to Increase the Employment Prospects of People with Criminal Records

Siobhán Cafferty*

Summary: The year 2020 is one we will never forget. In a matter of weeks, the world was taken by complete surprise and gripped by the COVID-19 pandemic. The effects of this major health issue are still ongoing and have had knock-on ramifications on other sectors. With the closure of many businesses in an attempt to suppress the virus, the unemployment rates internationally soared, with those most marginalised and previously excluded from the labour market feeling the impact disproportionately. People with convictions, who historically have faced barriers to securing employment due to their criminal record, are just one of these marginalised groups. Now more than ever, an ambitious, coherent and collaborative approach to increasing employment options for people with a criminal past is needed. *Working to Change – Social Enterprise and Employment Strategy 2021–2023* is designed to do just that. This paper begins by setting out the journey to this new strategy. It provides the context and the infrastructure that needed to be in place in order for the Department of Justice to be in a position to launch this ambitious and forward-thinking strategy. The paper outlines the co-design approach taken in its development, as well as detailing the underpinning principles of the employment-focused strategy for people with criminal convictions. It concludes with a snapshot of the most significant actions included in the strategy that will require an interdepartmental approach to implementation.

Keywords: Interdepartmental, social enterprise, offenders, criminal justice, co-design, employment, desistance, recidivism, entrepreneurship, progression, prison, probation.

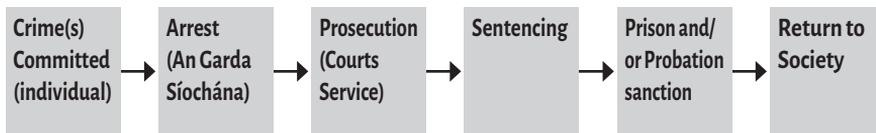
Introduction

The Irish criminal justice system (CJS), like the majority of others across the globe, consists of four key elements: legislation, law enforcement, the judicial

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system and corrections.¹ While interconnected and sharing the same goal of managing offenders, reducing reoffending and creating safer communities, each element or stage has its own clearly defined roles and responsibilities. Depending on the nature and type of offence committed, the CJS, in essence, is linear by design, meaning that the individual is meant to move through one stage to the next before, in most cases, returning to society having completed their court-determined sanction (Patterson, 2018). Figure 1 below outlines the linear process through the Irish criminal justice system.

Figure 1: *Linear model of the Irish criminal justice system*



Along this journey, each stage has a designated agency with a duty of care for each person who has been mandated to them by the courts. For those who receive a custodial sentence, it is the responsibility of the Irish Prison Service to meet their mission of ‘providing safe and secure custody, dignity of care and rehabilitation to prisoners for safer communities’ (Irish Prison Service, 2019). For those who receive either a Part Suspended Sentence Supervision Order (PSSSO)² or a stand-alone community-based sanction as an alternative to custody, the Probation Service works to ‘reduce crime levels through offender rehabilitation, with a view to creating safer communities and fewer victims (Probation Service, 2018).

In reality, we know that the journey through the CJS is far from linear. Recidivism statistics in Ireland tell us that nearly half the people who leave prison will return within a three-year period, making the journey more cyclical in nature. ‘Recidivism is measured by criminal acts that resulted in re-arrest, reconviction or return to prison with or without a new sentence during a three-year period following the prisoner’s release’ (National Institute of Justice, 2020). The latest available prison recidivism rate in Ireland is 55.2 per cent for people released in 2014 and tracked recidivism up to 2016 (CSO, 2019). While this figure is a reduction on previous years, it remains higher than desired when compared to international statistics.

¹ Correction facilities include prisons and Probation services in the community setting.

² A Part Suspended Sentence Supervision Order means that offenders are subject to Probation Service supervision having served a specified period in custody.

It is widely known that the securing of employment plays a significant role in desistance from crime (Farrington *et al.*, 1996; Maruna, 1997; Visher *et al.*, 2005; Social Exclusion Unit, 2002). However, having a criminal record, regardless of the crime and how long ago the conviction(s) may have occurred, presents significant challenges to securing employment. Weaver (2018) states that, 'having a criminal record can have significant effects on employment prospects producing invisible punishment or collateral consequences of contact with the justice system'.

The figures in a recent Central Statistics Office report on offender outcomes highlighted just how low the employment rate of people with a criminal record is in comparison to the general population. *Offenders 2016: Employment, Education and Other Outcomes, 2016–2019* is based on people enumerated in Irish prisons on Census Night 2016 and focuses on economic, educational, housing and other themes' (CSO, 2020). This report found that 'substantial employment only'³ accounted for the last activity of 9.5 per cent of offenders in May 2019. For the same period, the overall unemployment rate for Ireland was 4.4 per cent.⁴

Despite the various criminal justice agencies having clearly defined roles and responsibilities for the management of offenders and offending behaviour, the focus on developing initiatives to support employment beyond these clearly defined roles has been gaining momentum over the past number of years. Securing meaningful work not only has a positive impact on individuals, their families and communities; it also plays a role in counteracting the cyclical journey of the CJS.

Context – A New Way Forward⁵

In recognition of the positive impact securing employment plays in reducing reoffending rates and creating safer communities, an alternative and innovative approach was set out in 2017 when the then Minister for Justice and Equality, Frances Fitzgerald, launched Ireland's first social enterprise strategy, *A New Way Forward — Social Enterprise Strategy 2017–2019* (Department of Justice and Equality, 2017).

³ Substantial employment only is defined as having had at least 12 weeks' insurable work within the previous 12 months and an average weekly income of €100 (CSO, 2020).

⁴ Figures sourced from: <https://www.cso.ie/en/releasesandpublications/er/mue/monthlyunemploymentmay2019/#:~:text=Monthly%20unemployment%20rate%20of%204.4%25%20May%202019andtext=The%20seasonally%20adjusted%20unemployment%20rate,from%205.9%25%20in%20May%202018.>

⁵ *A New Way Forward — Social Enterprise Strategy 2017–2019* can be accessed here: http://www.justice.ie/en/JELR/A_New_Way_Forward_-_Social_Enterprise_Strategy_2017-2019.pdf/Files/A_New_Way_Forward_-_Social_Enterprise_Strategy_2017-2019.pdf

The emergence of social enterprises (SEs) within criminal justice jurisdictions across Europe had increased significantly in prior years; however, it had remained a relatively unknown and therefore underutilised approach here in Ireland (Cafferty *et al.*, 2016). Prison and community-based income-generating enterprises were providing employment for those who found it most difficult to secure jobs as a result of their previous criminal lifestyles. *A New Way Forward* sought to change this by developing a vibrant social enterprise sector, resulting in people with convictions securing sustainable employment. This strategy was co-owned by the Department of Justice and Equality and its executive agencies, the Irish Prison Service and the Probation Service, and as such remained very much situated within the criminal justice sector. It was designed to operate within and support a wider employment-focused approach by both agencies than was currently in existence.

The SE sector has seen significant changes and progress since the launch of *A New Way Forward* in 2017. The Department of Rural and Community Development, which has responsibility for social enterprise, launched the *National Social Enterprise Policy* in 2019 and has been leading on the implementation of its actions ever since. This policy sets out the following definition for SEs:

A social enterprise is an enterprise whose objective is to achieve a social, societal or environmental impact, rather than maximising profit for its owners or shareholders. It pursues its objectives by trading on an ongoing basis through the provision of goods and/or services and by reinvesting surpluses into achieving social objectives. It is governed in a fully accountable and transparent manner. (Department of Rural and Community Development, 2019)

The National SE policy recognised that social enterprise activity takes place along a spectrum with a variety of different SEs tackling a range of social and environmental issues, while providing much-needed goods and services to local communities. The Department of Justice (DoJ) is particularly interested in Work Integration Social Enterprises (WISEs), as they ‘support disadvantaged people to prepare for, and participate in, the labour market’ (Department of Rural and Community Development, 2019). WISEs are enterprises that have been established to provide goods and services to customers but, in doing so, provide employment to those most at risk of being permanently excluded from the labour market and, in turn, assist them

to reintegrate back into society through work and become active citizens again (Nyssens, 2006, cited in Defourny and Nyssens, 2012, p. 76).

Furthermore, SEs can and do operate across most sectors, and therefore provide a wide variety of employment opportunities for former offenders⁶ as well as other marginalised people.⁷ SEs are often the first step on the employment ladder for individuals post-release from prison or when they are on a community-based Probation sanction. They can also be the supportive work environment people with criminal records need to re-enter the labour market despite it being many years since their last conviction or engagement with a criminal justice agency.

SEs provide real work with real pay for people, while also allowing them to prove, to themselves, that they have what it takes to be employed. Most importantly, SEs provide the much-needed employer-to-employer work reference which, when coupled with existing skills, talents and prior experience, opens up the labour market and the potential to secure higher-income positions.

SEs are not the end result though. Through the implementation of *A New Way Forward*, the DoJ, along with the Irish Prison Service and Probation Service, continued to promote employment in SEs as a progression model, a stepping-stone to achieving mainstream employment, often resulting in a greater earning potential and an exit from supplementary social welfare payments. The CSO offender outcomes report (2020) highlighted that of the people tracked for a three-year period between 2016 and 2019, of the 9.5 per cent found to be in substantive employment, 15.5 per cent were receiving some form of social protection payment as a proportion of their income. This progressive model is designed to result in a throughput of individuals rather than creating a bottleneck of limited job opportunities.

***A New Way Forward* — Snapshot of key achievements**

Throughout the three-year term for this strategy, there were a number of key actions that were achieved that helped grow the SE sector as employers for people with criminal convictions. Some of these highlight achievements include:

- Over 54 social enterprises nationwide actively recruiting skilled people with criminal records;

⁶ For a list of SEs currently employing or open to employing people with past convictions, visit <https://www.workingtochange.ie/social-enterprise>

⁷ For a directory of SEs nationwide, visit: <https://www.buysocial.ie/>

- In excess of 100 people with a criminal past employed and/or receiving workplace training in these SEs;⁸
- Probation Service KickStart Fund supporting SEs launched with funding in excess of €1.3m dispersed to the sector to support meaningful employment for this target group;
- New insurance scheme specifically for SEs negotiated and made available nationwide.

(Department of Justice, 2020)

COVID – 19: Unexpected, unplanned and with a disproportionate impact

While steady progress had been made on the progression and outcomes as a result of the *New Way Forward* strategy, all progress came to a grinding halt in March 2020. The sudden and unexpected emergence of the COVID-19 pandemic has had a significant impact on global economies with no sector remaining untouched. While the world got to grips with this unprecedented health issue, whole industries and sectors either temporarily or permanently shut down. The SE sector here in Ireland was no different.

Following the government announcement that, in order to protect our citizens and preserve lives, the entire country was going into a national lockdown, many businesses and SEs had no choice but to close their doors and cease trading. This resulted in immediate job losses and over 500,000 people having to apply for the state-funded Pandemic Unemployment Payment (PUP)⁹ by mid-April 2020 (Parliamentary Budget Office, 2020). Despite initial predictions that this figure would plateau, the ongoing COVID-19 crisis resulted in the figure continuing to grow.

In addition, recent reports show that the impact of the pandemic is felt disproportionately across society. Those who were unemployed, low paid or marginalised prior to the pandemic are feeling its impact the most. The UN High Commissioner for Human Rights, Michelle Bachelet, stated in November 2020 when addressing the disproportionate impact of COVID-19 on minority ethnic communities, that 'It has been shocking to see the disproportionate

⁸ The statistics outlined in this excerpt were accurate prior to the introduction of COVID-19 restrictions – 31 January 2020.

⁹ The Pandemic Unemployment Payment was introduced by the Irish Government in the wake of the first national lockdown. It is available to employees and self-employed people who lost their jobs as a result of the pandemic. As the pandemic is still ongoing, people could still apply for PUP until the end of June; however, those currently on the payment would see this period extended. Further details available here: <https://www.gov.ie/en/service/be74d3-covid-19-pandemic-unemployment-payment/>

toll of COVID-19 on individuals and groups who are marginalized and suffer discrimination based on descent. They are placed at a structural disadvantage when it comes to any threat' (Bachelet, 2020).

In addition, Social Justice Ireland states that, 'when recovery comes, it is likely that many low-income workers, and employees with precarious employment conditions, will be the last to experience it' (Social Justice Ireland, 2020).

On a positive note, while some SEs unfortunately have remained shut to this day with a loss of services and jobs, others adapted their business models in order to meet the changing needs and demands as a result of the pandemic, turning a challenge into opportunities.

New strategy, new approach, one clear message: We cannot do this alone

Building on the lessons learned and successes of *A New Way Forward*, the DoJ and its executive agencies sought to find more ways to increase the employment opportunities available to people with criminal convictions, by setting out their direction in a follow-up and expanded strategy to *A New Way Forward*.

Coming at a time when the world had been gripped by the pandemic for six months, Minister for Justice Helen McEntee launched *Working to Change — Social Enterprise and Employment Strategy 2021–2023*¹⁰ on 20 November 2020. The very nature of this launch event, hosted online and attended by over 200 people from a number of different countries,¹¹ reflected the many ways within which our way of being and operating had changed. On this occasion, the working-from-home mandate meant that more people could virtually attend, which, in turn, increased the range and number of people hearing the underlying message.

The *Working to Change* launch was a display of unity across the Irish Criminal Justice Sector (CJS), with the Heads of Services¹² within the Department, the Probation Service and Irish Prison Service all clearly stating their commitment to support its implementation. With the collective acknowledgement that the recidivism statistics need to be better, *Working to*

¹⁰ *Working to Change — Social Enterprise and Employment Strategy 2021–2023* can be accessed at www.workingtochange.ie

¹¹ To view the recording of this launch event, visit <https://www.youtube.com/watch?v=QOoqxaqGBc0>

¹² Minister for Justice Helen McEntee, Ben Ryan, Head of Policy for Criminal Justice (DoJ), Mark Wilson, Director of the Probation Service, and Caron McCaffrey, Director General of the Irish Prison Service, all contributed to the launch event.

Change has one clear underpinning message, 'We cannot do this alone'. As this paper has stated earlier, while the criminal justice agencies have clearly defined roles and responsibilities in the management of offenders, crime and criminality require a whole-of-society approach if they are to be addressed effectively and the desired outcomes are to be achieved.

Working to Change is a DoJ strategy that is driven by the Probation Service and the Irish Prison Service; however, it goes far beyond the boundaries of the CJS as many of the systemic barriers to progression cannot be resolved in isolation. It will be only through effective collaboration with other government departments and public bodies that real progress will be made. *Working to Change*, therefore, will be delivered in collaboration with a number of other government departments, public bodies, criminal justice agencies and essential frontline workers. If employment is the desired outcome, positive engagement from employers and entrepreneurs alike will also be required.

This collaborative approach is very much in keeping with the Department's recently launched *Statement of Strategy for 2021–2023*: 'The Department will work collaboratively on the development and implementation of cross departmental and public service initiatives which engage with and benefit the public we serve' (Department of Justice, 2021).

Working to Change – Social Enterprise and Employment Strategy: An overview

In essence, this strategy sets out ambitious targets to increase the employment options for people who have criminal records, and builds on a strong foundation of supports already in place. 'We know that people with education and training, who are in work, are less likely to offend and are more likely to make good citizens' (Department of Justice, 2020). While this seems like an obvious statement and an easy achievement, for people with past criminal records, gaining access to the right education and training at the right time and subsequently securing meaningful employment is far from straightforward. Having a criminal record, regardless of timespan since the last offence, poses many challenges for the individual and not just in securing employment. Research shows that the real or perceived stigma attached to having a criminal record, combined with facing multiple barriers to employment, can increase the likelihood of reoffending (Weaver, 2018; Farrall, 2002; LeBel, 2012; Winnick and Bodkin, 2008).

As the label of 'offender' or 'ex-offender' is one that stays with a person long after they have repaid their court-mandated debt to society (Hadjimatheou, 2016; Weaver, 2018), *Working to Change* has recognised this challenge and responded by expanding the cohort of individuals on whom the strategy will have an impact, to include the following:

1. Those currently in prison
2. Those on a Probation sanction in the community
3. Those with historical criminal convictions who are no longer engaged with any criminal justice service.

As those in the third cohort outlined above are people who are no longer involved in any criminal justice agency, they traditionally fall outside of criminal justice policies and strategies; however, they continue to be counted as part of recidivism statistics. As they are no longer mandated to engage in the CJS, specialist employment supports are no longer available to them, which leaves them a particularly vulnerable group for reoffending as they still face all the same barriers to progression due to their criminal record.

Working to Change aims to create a flexible, responsive system that prepares people with criminal records more appropriately for the working environment, to have the skills and talents required for identified labour shortages now and into the future, and not just at entry-level positions. Uniquely, a number of actions in the strategy are designed to establish our starting point by gathering data from all key stakeholder groups, cross-referencing the outcomes and then re-establishing our plan of action based on these results. Information will be gathered from people with lived experience, employment support services, employers from various sectors and entrepreneurs, in order for the DoJ to ensure that the emerging actions are targeted at the right people, in the right areas and at the right time. *Working to Change*, once fully implemented, is about improving employment options now, but more importantly future proofing options for years to come.

Vision

A whole-systems approach to increasing employment options for people with past convictions that recognises their skills and capabilities, leading to active citizenship, safer communities, fewer victims and supporting desistance.

Strategic mission

Working to Change will increase access to, and therefore maximise employment options for, people with criminal convictions here in Ireland, by meaningfully engaging multiple stakeholders across a range of sectors including social enterprises. Building on the foundations created by the implementation of the *New Way Forward* strategy, the DoJ and its executive agencies are committed to trialling new ways of working, changing our systems to work in line with good practice and encouraging entrepreneurship and innovation. Furthermore, the DoJ will share the lessons learned and experience throughout the process.

Key assumptions underpinning the strategy

Table 1 below details the knowledge and key assumptions that underpin the strategy.

Table 1: *Key assumptions underpinning Working to Change*

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- This is inherently a Human Rights informed strategy promoting equality of opportunity by recognising the individual and collective social and economic benefits of a fully engaged and appreciated society
 - Not all offenders are the same. A one size fits all approach will have limited results
 - Employment is not the end result for everyone – people can choose a different progression path
 - Not everyone in the criminal justice system is employment-ready on leaving. Everyone’s starting point is different
 - People with convictions often experience multiple psycho-social issues – additional ongoing and professional supports are likely to be required
 - All actions take place along a continuum: a whole system/end-to-end approach is required
 - The provision of high-quality education, industry-standard upskilling and soft skills supports is vital to the outcomes of this strategy but more importantly to individuals’ progression
 - Increased employment leads to reduced reoffending, fewer victims and safer communities
 - We cannot do this alone – we need to actively engage multiple stakeholders at multiple points.

(Excerpt from *Working to Change*, Department of Justice, 2020)

Structures supporting the strategy

As stated previously in this paper, *Working to Change* reaches far beyond the boundaries of the CJS and requires an interagency approach. To reflect this, the steering committee originally established to oversee the implementation of the earlier strategy, *A New Way Forward*, has been expanded to include relevant government departments. Membership of this committee now includes:

- The Department of Justice
- The Probation Service — holds the role of Chair
- Irish Prison Service
- Department of Rural and Community Development
- Department of Social Protection
- Department of Enterprise, Trade and Employment
- IASIO¹³
- IBEC¹⁴
- Social enterprise sector representatives
- Entrepreneurs.

Active collaboration — adopting a co-design approach to strategy development

In developing this employment-focused strategy, the DoJ adopted a relatively underutilised approach here in Ireland by undertaking a co-design methodology. 'Co-design is a specific instance of co-creation practice that allows users to become part of the design team as 'experts of their experience' (Sanders and Stappers, 2008; Trischler *et al.*, 2017). It goes beyond a user-centred approach, which is more commonly used in the CJS, as it actively engages the end-user in the design process, right from the beginning and throughout the implementation stages. In this case, the end-users are people with criminal convictions. Also referred to as participatory design, co-design involves a process that engages the end-user and other relevant stakeholders in the design process, to ensure that the outcome meets their needs.

De Leon *et al.* (2018) highlight how a co-design process was used to establish the InHouse Record¹⁵ label social enterprise with prisoners in HMP Elmley in the UK. Engaging prisoners as experts of their own experience right from the very start of this design process was a huge success and has been

¹³ Irish Association for Social Inclusion Opportunities: www.iasio.ie

¹⁴ Irish Business and Employers Confederation: www.ibec.ie

¹⁵ For further information on InHouse Records, visit: <https://www.inhouserecords.org/about>

expanded to another prison, HMP Rochester. The outcomes of this process far exceeded original expectations, as it also transformed 'the behaviour of high-risk prisoners, developing their skills and self-esteem, and creating job opportunities for them on release' (De Leon et al., 2018)

Prior to the initial COVID-19 lockdown in March 2020, one-to-one informal consultations were held with a number of people currently in prison, on probation in the community, and those with historical criminal records, in order to gain an understanding of what they felt could and/or does work in terms of securing employment for themselves. A wide range of ideas, suggestions and recommendations were put forward by these individuals, ranging from small-scale systemic interventions to large-scale innovative sector-wide developments. All the ideas put forward helped to shape the 46 actions and/or sub-actions that have been named in the final *Working to Change* strategy.

Co-design is so much more than one-off interactions and discussions with the end-users, however. It requires ongoing engagement, transparency of progress, testing new approaches and evaluating them with those on whom the policy or strategy is going to impact most. As COVID-19 took hold throughout 2020, it became apparent that the restrictions put in place were going to be more long-term than a quick solution. Non-essential visits to prisons, access to Probationers in community settings, as well as face-to-face meetings with people no longer engaged in the CJS were now off the cards. To overcome these restrictions and to ensure that the DoJ could maintain even the basic elements of the co-design process, it was decided that a dedicated website to support the implementation of the *Working to Change*¹⁶ strategy would be launched at the same time. This provides a one-stop shop for information on the strategy, and provides a platform to be transparent by showing progress as well as possible delays; but more importantly, it also allows people to share their successes of having come through the CJS.

In addition to the website, the launch of the *Working to Change* strategy was also recorded and, for the first time in DoJ history, the recording was played on the prison TV channel in prisoners' cells, so that they could see and hear the planned efforts being made across multiple departments and agencies, in order to increase their future employment prospects. It was also sent to all Probation-funded projects operating in the community so that it could be shared with their probation clients.

¹⁶ www.workingtochange.ie

Strategic areas

While the overarching theme of *Working to Change* is increasing employment options to people with criminal convictions, it sets out 46 interconnected actions under three strategic areas:

1. Employment in a social enterprise
2. Mainstream employment
3. Entrepreneurship.

Actions to support employment in social enterprises — highlights

There are a total of 15 actions all supporting the development of social enterprises as an initial employment option for talented people with criminal convictions. These actions go far beyond solely providing financial incentives to encourage the recruitment of people with convictions. They are designed to support the overall sustainability of the social enterprises, increasing their traded income in order that they can grow their operations and subsequently the number of staff they require to meet demand.

- The Probation Service KickStart Fund, financed through the Dormant Accounts Fund,¹⁷ and administered in partnership with Pobal,¹⁸ will be continued. This fund is designed to support SEs to create meaningful jobs for people with convictions as a stepping-stone to mainstream employment;
- The DoJ will open up its supply chains to SEs, and pledges that 10 per cent of all CJS procurement contracts for the provision of goods and services will include social considerations¹⁹ by the end of this strategy;
- An annual Needs Analysis of SEs who currently employ people with criminal convictions will be conducted, in order to identify the nature and type of supports they require and feed this information into the National Social Enterprise structures.

¹⁷ The Dormant Accounts Fund enables unclaimed funds from accounts in credit institutions in Ireland to be used to support the development of persons who are economically or educationally disadvantaged, or those affected by a disability, within the meaning of the Equal Status Act. Taken from: <https://www.gov.ie/en/policy-information/c376c9-dormant-accounts-fund/>

¹⁸ Pobal works on behalf of government to support communities and local agencies toward achieving social inclusion and development. Pobal's role is to provide management and support services to circa 28 programmes in the areas of Social Inclusion and Equality, Inclusive Employment and Enterprise, and Early Years and Young People. Taken from: www.pobal.ie

¹⁹ Examples of social considerations that can be factored into procurement processes include: employment and training opportunities for disadvantaged groups, disability access, promoting social inclusion or the protection of the environment and combating climate change. Taken from Office of Government Procurement: <https://ogp.gov.ie/information-notes/>

Actions to support mainstream employment — highlights

There are 19 actions under the mainstream employment strategic area that range from addressing small but critical systemic barriers to more ambitious progressive approaches. The actions highlights include:

- Conducting an Attitudes, Behaviours and Perceived Barriers survey, concerning taking up employment amongst various cohorts of the target group;
- Conducting a sector-wide Attitudes and Behaviours survey of employers to ascertain their recruitment practices for hiring people with past convictions;
- Establishing a DoJ-led Employers' Forum to assist with the reduction in systemic barriers and to ensure training and upskilling measures offered throughout the CJS journey are up-to-date and responsive;
- Exploring how the civil and public service can provide meaningful employment opportunities for suitably qualified people with convictions.

Actions to support entrepreneurship as an employment option — highlights

For the purposes of the *Working to Change* strategy, entrepreneurship is defined as: 'any attempt at new business or new venture creation, such as self-employment, a new business organisation or the expansion of an existing business by an individual, a team of individuals or an established business' (Global Entrepreneurship Monitor, 2018). There are 12 actions supporting entrepreneurship as an employment option for people with convictions. The highlights include:

- Establishing a dedicated Entrepreneurship Network consisting of all stakeholder groups that will work in collaboration to drive forward entrepreneurship options;
- Exploring the introduction of an insurance underwriting scheme to remove barriers to securing public liability insurance for people with criminal records who are setting up their own business;
- Expanding the KickStart Fund to include specific financial supports for entrepreneurial activity and to facilitate access to existing mainstream financial schemes.

Conclusion

Working to Change — Social Enterprise and Employment Strategy is ambitious; however, the time has come to face head-on the systemic barriers to securing employment for people who have criminal records. The DoJ wants to be ambitious. We need to push beyond our comfort zone and ask for assistance from other government departments, agencies and key stakeholders, as creating safer communities goes far beyond the responsibility of just the CJS; we need to recognise that supports and policies for enterprise development and employment creation are primarily the responsibilities of departments and agencies outside the CJS.

The underpinning principle of *Working to Change* is that we cannot do this alone and nor should we. We need a whole-of-society and a whole-of-government approach if we are to make sustainable change. We need to work in collaboration, systematically monitor progress, and not be afraid to highlight ongoing difficulties, as a lack of progress does not mean we are not trying. It means that we need to come at things from a different angle. We need to continue with the co-design approach adopted for the development of this strategy. Finally, and most importantly, we should not lose sight of the fact that *Working to Change*, while being a DoJ strategy, ultimately is about individuals. It is about recognising the circumstances that led to crime in the first instance, providing opportunities for people to leave that life behind, to reintegrate in society in a meaningful way, and providing hope for a better future. While securing employment cannot undo the harm caused by crime in the first place, it can reduce the likelihood of future harm. We all have a role to play in this.

References

- Bachelet, M. (2020), 'Addressing the disproportionate impact of COVID-19 on minority ethnic communities', statement by the United Nations High Commissioner for Human Rights, November, Geneva: Office of the High Commissioner, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26541&LangID=E> (accessed 25 June 2021)
- Cafferty, S., McCarthy, O. and Power, C. (2016), 'Risk and reward: The development of social enterprise within the criminal justice sector in Ireland – Some policy implications', *Irish Probation Journal*, vol. 13, pp 22–39, available at <http://www.pprobation.ie/EN/PB/0/>

- E5A1E4037C3DDF598025805E002BF67F/\$File/SiobhanCafferty_etal_IPJ.pdf (accessed 25 June 2021)
- Central Statistics Office (CSO) (2019), *Prison Re-offending Statistics 2011–2017*, Ireland: CSO, available at <https://www.cso.ie/en/releasesandpublications/ep/p-pros/prisonre-offendingstatistics2011-2017/introduction/> (accessed 25 June 2021)
- Central Statistics Office (CSO) (2020), *Offenders 2016 — Employment, Education and Other Outcomes, 2016–2019*, Ireland: CSO, available at <https://www.cso.ie/en/releasesandpublications/fp/p-offo/offenders2016employmenteducationandotheroutcomes2016-2019/> (accessed 25 June 2021)
- Defourny, J. and Nyssens, M. (2012), *The EMES Approach to Social Enterprise in a Comparative Perspective*, EMES Working Paper Series no. 12/03, Liège: EMES
- De Leon, N., Mager, B. and Armani, J. (2018), 'Service design in criminal justice: A co-production to reduce reoffending', *Irish Probation Journal*, vol. 15, pp 137–47, available at [http://www.probation.ie/EN/PB/0/4FBDE56EEAEC60688025834E004C4056/\\$File/De_Leon_Nicholas_et_al_IPJ.pdf](http://www.probation.ie/EN/PB/0/4FBDE56EEAEC60688025834E004C4056/$File/De_Leon_Nicholas_et_al_IPJ.pdf) (accessed 25 June 2021)
- Department of Justice (2020), *Working to Change — Social Enterprise and Employment Strategy 2021–2023*, Dublin: Government of Ireland, available at www.workingtochange.ie (accessed 25 June 2021)
- Department of Justice (2021), *A Safe, Fair and Inclusive Ireland — Statement of Strategy 2021–2023*, Dublin: Government of Ireland, available at http://www.justice.ie/en/JELR/Pages/DOJ_Strategy_Statement_2021_-_2023 (accessed 25 June 2021)
- Department of Justice and Equality (2017), *A New Way Forward — Social Enterprise Strategy 2017–2019*, Department of Justice and Equality, Dublin: Government of Ireland, available at http://www.justice.ie/en/JELR/A_New_Way_Forward_-_Social_Enterprise_Strategy_2017-2019.pdf/Files/A_New_Way_Forward_-_Social_Enterprise_Strategy_2017-2019.pdf (accessed 25 June 2021)
- Department of Justice and Equality (2018), *A New Way Forward — Social Enterprise Strategy 2017–2019: Midterm Review*, available at: http://www.justice.ie/en/JELR/Mid-Term_Review_-_A_New_Way_Forward_-_Social_Enterprise_Strategy_2017-2019.pdf/Files/Mid-Term_Review_-_A_New_Way_Forward_-_Social_Enterprise_Strategy_2017-2019.pdf (accessed 25 June 2021)

- Department of Rural and Community Development (2019), *National Social Enterprise Policy for Ireland 2019–2022*, Dublin: Government of Ireland, available at <https://www.gov.ie/en/campaigns/e779c3-social-enterprise-policy/> (accessed 25 June 2021)
- Farrall, S. (2002), *Rethinking What Works with Offenders: Probation, Social Context and Desistance from Crime*, Cullompton, Devon: Willan Publishing
- Farrington, D.P., Barnes, G. and Lambert, S. (1996), 'The concentration of offending in families', *Legal and Criminological Psychology*, vol. 1, pp 47–63
- Global Entrepreneurship Monitor (2018), available at <https://gemconsortium.org/wiki/1149> (accessed 25 June 2021)
- Hadjimatheou, K. (2016), 'Criminal labelling, publicity and punishment', *Law and Philosophy*, vol. 35, pp 567–93
- Irish Prison Service (2019), *Irish Prison Service Strategic Plan 2019–2022*, Longford: Irish Prison Service, available at https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Irish-Prison-Services-Strategy-2019-2022.pdf (accessed 25 June 2021)
- LeBel, T.P. (2012), 'Invisible stripes? Formerly incarcerated persons' perceptions of stigma', *Deviant Behavior*, vol. 33, no. 2, pp 89–107
- Maruna, S. (1997), 'Desistance and development: The psychosocial process of "going straight"' in M. Brogde (ed.), *The British Criminology Conferences: Selected Proceedings*, vol. 2: Papers from the British Criminology Conference, Queen's University, Belfast, 15–19 July 1997, This volume published March 1999, London: British Society of Criminology
- National Institute of Justice (2020), available at <https://nij.ojp.gov/topics/corrections/recidivism> (accessed 23 June 2021)
- Nyssens, M. (ed.) (2006), *Social Enterprise: At the Crossroads of Market, Public Policies and Civil Society*, London: Routledge
- Parliamentary Budget Office (PBO) (2020), *The COVID-19 Pandemic: Employment and Unemployment Supports*, PBO Publication 21 of 2020, April, Dublin: PBO, available at https://data.oireachtas.ie/ie/oireachtas/parliamentaryBudgetOffice/2020/2020-04-26_the-covid-19-pandemic-employment-and-unemployment-supports_en.pdf (accessed 25 June 2021)
- Patterson, G.T. (2018), 'Introduction to evidence-based practices and principles in the criminal justice system', in G.T. Patterson and

-
- W.K. Graham, *Clinical Interventions in Criminal Justice Settings – Evidence-Based Practice*, Cambridge, MA, Academic Press
- Probation Service, The (2018), *Strategic Plan 2018–2020. One Vision, One Team, One Standard*, Dublin: The Probation Service, available at [http://www.probation.ie/EN/PB/0/826F04C24F3C2868802582B7003C7AC8/\\$File/Strategic%20Plan%202018%20%E2%80%93%202020.pdf](http://www.probation.ie/EN/PB/0/826F04C24F3C2868802582B7003C7AC8/$File/Strategic%20Plan%202018%20%E2%80%93%202020.pdf) (accessed 25 June 2021)
- Sanders, E.B.-N. and Stappers, P.J. (2008), 'Co-creation and the new landscapes of design', *CoDesign, International Journal of CoCreation in Design and the Arts*, vol. 4, no. 1, pp 5–18, available at: <https://www.tandfonline.com/doi/full/10.1080/15710880701875068?src=recsys> (accessed 25 June 2021)
- Social Exclusion Unit (2002), *Reducing Reoffending by Ex-prisoners*, report by the Social Exclusion Unit, London: Office of the Deputy Prime Minister
- Social Justice Ireland (2020), *Poverty Focus 2020*, Dublin: Social Justice Ireland, available at: <https://www.socialjustice.ie/sites/default/files/attach/publication/6310/2020-05-18-sjipovertyfocusmay2020final.pdf?cs=true> (accessed 25 June 2021)
- Trischler, J., Pervan, J., Kelly, S. and Scott, D.R. (2017), 'The value of codesign: The effect of customer involvement in service design teams', *Journal of Service Research*, vol. 21, no. 1, pp 75–100, available at <https://journals.sagepub.com/doi/full/10.1177/1094670517714060> (accessed 25 June 2021)
- Visher, C.A., Winterfield, L. and Coggeshall, M.B. (2005), 'Ex-offender employment programs and recidivism: A meta-analysis', *Journal of Experimental Criminology*, vol. 1, pp 295–315
- Weaver, E. (2018), *Time for Policy Redemption: A Review of the Evidence on the Disclosure of Criminal Records*, University of Strathclyde, Scotland: Strathprints, available at <https://strathprints.strath.ac.uk/64981/> (accessed 25 June 2021)
- Winnick T.A., and Bodkin, M. (2008), 'Anticipated stigma and stigma management among those to be labeled "Ex-con"', *Deviant Behavior*, vol. 29, pp 295–33

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

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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 Falot (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

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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 pro-social 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, pro-social 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 pro-social 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 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 Falloot'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, pro-social 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.

References

- Anderson, V.R. and Walerych, B.M. (2019,) 'Contextualizing the nature of trauma in the juvenile justice trajectories of girls', *Journal of Prevention and Intervention in the Community*, vol. 47, no. 2, pp 138–53
- Bailey, K., Trevillion, K. and Gilchrist, G. (2020), "'We have to put the fire out first before we start rebuilding the house": Practitioners' experiences of supporting women with histories of substance use, interpersonal abuse and symptoms of post-traumatic stress disorder', *Addiction Research and Theory*, vol. 28, no. 4, pp 289–97

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- Becker-Blease, K.A. (2017), 'As the world becomes trauma-informed, work to do', *Journal of Trauma and Dissociation*, vol. 18, no. 2, pp 131–8
- Bellis, M.A., Lowey, H., Leckenby, N., Hughes, K. and Harrison, D. (2014), 'Adverse childhood experiences: Retrospective study to determine their impact on adult health behaviours and health outcomes in a UK population', *Journal of Public Health*, vol. 36, no. 1, pp 81–91
- Bellis, M.A, Hughes, K. Ford, K., Ramos Rodriguez, G., Sethi, D. and Passmore, J. (2019), 'Life course health consequences and associated annual costs of adverse childhood experiences across Europe and North America: A systematic review and meta-analysis', *The Lancet Public Health*, vol. 4, no. 10, pp e517–e528
- Berliner, L., and Kolko, D.J. (2016), 'Trauma informed care: A commentary and critique', *Child Maltreatment*, vol. 21, no. 2, pp 168–72
- Branson, C., Baetz, C., Horwitz, S., and Hoagwood, K. (2017), 'Trauma informed juvenile justice systems: A systematic review of definitions and core components', *Psychological Trauma: Theory, Research, Practice, and Policy*, vol. 9, no. 6, pp 635–46
- Braun, V. and Clarke, V. (2006), 'Using thematic analysis in psychology', *Qualitative Research in Psychology*, vol. 3, no. 2, pp 77–101
- Bunting, L., Montgomery, L., Mooney, S., MacDonald, M., Coulter, S., Hayes, D. and Forbes, T. (2018), *Developing Trauma Informed Practice in Northern Ireland: The Justice System*, Belfast: Safeguarding Board Northern Ireland
- Champine, R.B., Lang, J.M., Nelson, A.M., Hanson, R.F. and Tebes, J.K. (2019), 'Systems measures of a trauma-informed approach: A systematic review', *American Journal of Community Psychology*, vol. 64, pp 418–37
- Cox, A. (2018), 'Juvenile facility staff contestations of change', *Youth Justice*, vol. 18, no. 3, pp 248–64
- Dalsklev, M., Cunningham, T., Travers, A., McDonagh, T., Shannon, C., Downes, C. and Hanna, D. (2019), 'Childhood trauma as a predictor of reoffending in a Northern Irish probation sample', *Child Abuse and Neglect*, vol. 97, no. 104168
- Dermody, A., Gardner, C., Davis, S., Lambert, S., Dermody J. and Fein, M. (2018), 'Resilience in the face of trauma: Implications for service delivery', *Irish Probation Journal*, vol. 15, pp 161–78.
- Doran, P. and Cooper, L. (2008), 'Social work: The core qualification of probation officers in Northern Ireland', *Irish Probation Journal*, vol. 5, pp 23–5

- Dowden, C. and Andrews, D. (2004), 'The importance of staff practice in delivering effective correctional treatment: A meta-analysis', *International Journal of Offender Therapy and Comparative Criminology*, vol. 48, no. 2, pp 203–14
- Durnescu, I. (2011), 'Pains of probation: Effective practice and human rights', *International Journal of Offender Therapy and Comparative Criminology*, vol. 55, no. 4, pp 530–45
- Elwyn, L.J., Esaki, N. and Smith, C.A. (2015), 'Safety at a girls' secure juvenile justice facility', *Therapeutic Communities: The International Journal of Therapeutic Communities*, vol. 36, no. 4, pp 209–18
- Ezell, J.M., Richardson, M., Salari, S. and Henry, J.A. (2018), 'Implementing trauma-informed practice in juvenile justice systems: What can courts learn from child welfare interventions?' *Journal of Child and Adolescent Trauma*, vol. 11, pp 507–19
- Fedock, G., Kubiak, S., and Bybee, D. (2019), 'Testing a new intervention with incarcerated women serving life sentences', *Research on Social Work Practice*, vol. 29, no. 3, pp 256–67
- Felitti, V., Anda, R., Nordenberg, D., Williamson, D., Spitz, A., Edwards, V. and Koss, M. (1998), 'The relationship of adult health status to childhood abuse and household dysfunction', *American Journal of Preventive Medicine*, vol. 14, pp 245–58
- Ferry, F., Bunting, B., Murphy, S., O'Neill, S., Stein, D. and Koenen, K. (2014), 'Traumatic events and their relative PTSD burden in Northern Ireland: A consideration of the impact of the "Troubles"', *Social Psychiatry and Psychiatric Epidemiology*, vol. 49, pp 435–46
- Ford, K., Barton, E., Newbury, A., Hughes, K., Bezeczyk, Z., Roderick, J. and Bellis, M. (2019), *Understanding the Prevalence of Adverse Childhood Experiences (ACEs) in a Male Offender Population in Wales: The Prisoner ACE Survey*, Bangor: Public Health Wales
- Grant, D. (2019), 'A practitioner's response to "Resilience in the face of trauma: Implications for service delivery"', *Irish Probation Journal*, vol. 16, pp 95–106
- Hanson, R.F. and Lang, J. (2016), 'A critical look at trauma-informed care among agencies and systems serving maltreated youth and their families', *Child Maltreatment*, vol. 21, no. 2, pp 95–100
- Harris, M. and Fallot, R. (2001), *Using Trauma Theory to Design Service Systems*, San Francisco: Jossey-Bass

-
- Hodge, A.I. and Yoder, J.R. (2017), 'The relationship between abusive experiences and staff controls in juvenile correctional facilities', *Criminal Justice and Behaviour*, vol. 44, no. 10, pp 1281–99
- Holloway, E.D., Cruise, K.R., Morin, S.L., Kaufman, H. and Steele, R.D. (2018), 'Juvenile probation officers' evaluation of traumatic event exposures and traumatic stress symptoms as responsivity factors in risk assessment and case planning', *Law Human Behavior*, vol. 42, no. 4, pp 369–84
- Johnson, D. (2017) 'Tangible trauma informed care', *Scottish Journal of Residential Child Care*, vol. 16, no. 1, pp 1–21
- Kennedy, S.C. and Mennicke, A.M. (2018), 'Behind every woman in prison is a man: Incarcerated women's perceptions of how we can better help them in the context of interpersonal victimization', *Journal of Progressive Human Services*, vol. 29, no. 3, pp 206–29
- Killick, C. and Taylor, B.J. (2009), 'Professional decision making on elder abuse: Systematic narrative review', *Journal of Elder Abuse and Neglect*, vol. 21, no. 3, pp 211–38
- Kubiak, S., Fedock, G., Kim, W.J. and Bybee, D. (2016), 'Long-term outcomes of a RCT intervention study for women with violent crimes', *Journal of the Society for Social Work and Research*, vol. 7, no. 4, pp 661–79
- Kusmaul, N., Wilson, B. and Nochajski, T. (2015), 'The infusion of trauma-informed care in organizations: Experience of agency staff, human service organizations', *Management, Leadership and Governance*, vol. 39, no. 1, pp 25–37
- Levenson, J. and Willis, G.M. (2019), 'Implementing trauma-informed care in correctional treatment and supervision', *Journal of Aggression, Maltreatment and Trauma*, vol. 28, no. 4, pp 481–501
- McCartan, K.F. (2020), *Trauma-Informed Practice: Academic Insights*, Manchester: HM Inspectorate of Probation, available at: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2020/07/Academic-Insights-McCartan.pdf> (Accessed 16 August 2020)
- Maschi, T. and Schwalbe, C. (2012), 'Unravelling probation officers' practices with youths with histories of trauma and stressful life events', *Social Work Research*, vol. 36, no. 1, pp 21–30
- Matheson, F.I., Brazil, A., Doherty, S. and Forrester, P. (2015), 'A call for help: Women offenders' reflections on trauma care', *Women and Criminal Justice*, vol. 25, no. 4, pp 241–55

- Messina, N., Calhoun, S. and Braithwaite, J. (2014), 'Trauma-informed treatment decreases posttraumatic stress disorder among women offenders', *Journal of Trauma and Dissociation*, vol. 15, no. 1, pp 6–23
- Miller, N.A and Najavits L.M. (2012), 'Creating trauma-informed correctional care: A balance of goals and environment', *European Journal of Psychotraumatology*, vol. 3, pp 1–8
- Northern Ireland Prison Service (NIPS) (2018), *Analysis of NIPS Prison Population from 01/10/2018 to 31/12/2019*, Department of Justice: Belfast, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/060%20Population%20Snapshot%202020-01-01-05-00-13.pdf> (accessed 11 August 2020)
- Northern Ireland Statistics and Research Agency (NISRA) (2020), *2018 Mid-Year Population Estimates Northern Ireland*, Belfast: NISRA, available at <https://www.nisra.gov.uk/publications/2018-mid-year-population-estimates-northern-ireland-statistical-bulletin-charts-tables> (accessed 28 August 2020)
- Office of Justice Programs (2020), *Bureau of Justice Statistics*, available at <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6986> (accessed 29 August 2020)
- Olfason, E., Boat, B.W., Putnam, K.T., Thieken, L., Marrow, M.T. and Putnam, F.W. (2018), 'Implementing trauma and grief component therapy for adolescents and think trauma for traumatized youth in secure juvenile justice settings', *Journal of Interpersonal Violence*, vol. 33, no. 16, pp 2537–57
- O'Neill, S., Armour, C., Bolton, D., Bunting, B., Corry, C., Devine, B., Ennis, E., Ferry, F., McKenna, A., McLafferty, M. and Murphy, S. (2015), *Towards a Better Future: The Trans-generational Impact of the Troubles on Mental Health*, Belfast: Commission for Victims and Survivors
- Pate, K. and Geekie, J. (2021), *The Trauma Project: Developing, Implementing and Evaluating Trauma Informed Services in Criminal Justice Social Work*, Edinburgh: CJSW services and NHS Lothian, available at: <http://www.cycj.org.uk/wp-content/uploads/2021/03/Trauma-Project-Evaluation-Report.pdf> (accessed 1 June 2021).
- Petrillo, M. (2021), 'We've all got a big story: Experiences of a trauma-informed intervention in prison', *Howard Journal of Crime and Justice*, vol. 60, no. 2, pp 232–50, available at DOI: 10.1111/hojo.12408 (accessed 28 June 2021)

-
- Phelps, M.S. (2017), 'Mass probation: Toward a more robust theory of state variation in punishment', *Punishment and Society*, vol. 19, no. 1, pp 53–73
- Popay, J., Roberts, H., Sowden, A., Petticrew, M., Arai, L., Rodgers, M., Britten, N., Roen, K., and Duffy, S. (2006), *Guidance on the Conduct of Narrative Synthesis in Systematic Reviews: A Product of the ESRC Methods Programme*. London: Economic and Research Council
- Probation Board for Northern Ireland (PBNI) (2020), *Caseload Statistics Report Financial Year 2019/20*, Belfast: Probation Board for Northern Ireland, available at <https://www.pbni.org.uk/wp-content/uploads/2020/05/PBNI-Caseload-Statistics-Report-FY-2019.20.pdf> (accessed 11 August 2020)
- Saxena P., Grella, C.E. and Messina, N.P. (2016), 'Continuing care and trauma in women offenders' substance use, psychiatric status, and self-efficacy outcomes', *Women Criminal Justice*, vol. 26, no. 2, pp 99–121
- Substance Abuse and Mental Health Services Administration (SAMHSA) (2014), *SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach*, Maryland: SAMSHA, available at <https://store.samhsa.gov/sites/default/files/d7/priv/sma14-4884.pdf> (accessed 17 July 2020)
- Sweeney, A., Filson, B., Kennedy, A., Collinson, L. and Gillard, S. (2018), 'A paradigm shift: Relationships in trauma-informed mental health services', *British Journal of Psychiatric Advances*, vol. 24, no. 5, pp 319–33
- Taylor, B.J., Killick, C. and McGlade, A. (2015), *Understanding and Using Research in Social Work*, London: Learning Matters
- Vaswani, N. and Paul, S. (2019), "'It's knowing the right things to say and do": Challenges and opportunities for trauma-informed practice in the prison context', *The Howard Journal of Crime and Justice*, vol. 58, pp 513–34
- Walden, A.L. and Allen, N.E. (2019), 'Examining correctional staff members' engagement in rehabilitation as part of their everyday practices in short-term juvenile detention', *American Journal of Community Psychology*, vol. 64, pp 310–20

A Practitioner's Response to 'Tackling Substance Misuse from a Problem-Solving Justice Approach'

Claire McNamara*

Summary: 'Tackling substance misuse from a problem-solving justice approach' by Dr Geraldine O'Hare and Peter Luney was published in *Irish Probation Journal*, October 2020. This intriguing article considers an evaluation of the Substance Misuse Court pilot that was established at Belfast Magistrates Court in April 2018, a partnership between the Northern Ireland Courts and Tribunal Service (NICTS), the Probation Board for Northern Ireland (PBNI) and Addiction Northern Ireland (ADNI). It documents the positive outcomes, the lessons learnt and the challenges for the sustainability of the Court beyond the initial pilot. This practitioner response to that article will undertake a brief comparison between this new initiative and the 'Drug Treatment Courts' in Dublin and Louth,¹ consider some constants and variables and identify possible learning and opportunities for future developments across both jurisdictions. Reflections throughout the paper reflect the author's perspective based on her experience of working with individuals who have addiction difficulties.

Keywords: Drug Treatment Court, Substance Misuse Court, problem-solving justice, Probation Service, Probation Board for Northern Ireland (PBNI), substance misuse, addiction.

Introduction

Problem-solving justice originated in 1989 with the establishment of the first Drug Treatment Court (DTC) in Florida, USA. It has since expanded internationally and into other fields. The underpinning theory is therapeutic jurisprudence, which appraises the law as a social force that can positively influence emotional and psychological wellbeing (McNamara, 2013, p. 18).

Dublin's DTC has been in existence since 2001. It remained the only problem-solving court in Ireland until the establishment of the Louth DTC and

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¹ In 2017, a judge who had previously been part of the Drug Treatment Court in Dublin initiated the introduction of the model for clients in Louth, a small county (77,684) in the northeast with proximity to Northern Ireland.

the Belfast Substance Misuse Court (SMC), both in 2018. O'Hare and Luney's article presents the findings of an evaluation undertaken of the Belfast SMC pilot (O'Hare and Luney, 2020). It is essentially optimistic about the impact of the Court, based on the achievements of the first phase of implementation. The article outlines key benefits of the Court, such as positive client engagement, an improved wraparound service with speedier access to treatment, and an increase in client self-efficacy. Challenges faced by the operational team were also identified, in particular the issue of dual diagnosis, as a significant number of referrals had underlying mental-health difficulties compounded by drug misuse. The identification of those challenges informed recommendations for the Court's second phase.

As a Probation Officer, I work with individuals whose offending behaviour correlates highly to their addiction difficulties. Having also previously undertaken research in the area of DTCs as part of a Master's programme in social work, I found it particularly interesting to undertake a brief comparison between the three Irish problem-solving courts, to consider the differences and similarities across approaches, and to identify possible learning which could inform their future practice.

Substance Misuse Court Team

All three courts work from a multidisciplinary and multi-agency approach. Within their article, O'Hare and Luney outline that the Belfast SMC is delivered in partnership with the Northern Ireland Courts and Tribunal Service (NICTS), the Probation Board for Northern Ireland (PBNI), and Addiction Northern Ireland (2020, p. 43). Notably, the PBNI offers a psychological service to participants, in addition to support from a Probation Officer. The Dublin and Louth DTC teams provide a similar complement of staff, with the exception of a psychological input.

From my experience of working in this area in both a community and custodial context, I have found that many individuals misusing substances do so as a maladaptive coping mechanism following trauma. Whilst substance misuse is being addressed, many suppressed emotions come to the fore, and psychological support during this time can, therefore, be beneficial. O'Hare and Luney highlighted that within the Belfast SMC evaluation, that support was valued by participants (2020, p. 49). As our understanding of the importance and benefits of trauma-informed approaches has developed since the establishment of the Dublin DTC in 2001, access to psychological services for the participants of the Dublin and Louth DTCs should be considered.

All participants of the Dublin DTC receive education/training support from the education and training authorities (McNamara, 2013, p. 30). This is not part of the dedicated suite of services within the other two courts where Probation Officers provide a conduit to education and training opportunities for participants. Unproductive use of time is an identified risk factor relating to recidivism (Bonta and Wormith, 2013, p. 87). Thus, there is a clear rationale for the inclusion of formal training/employment supports as part of the SMC and DTC programmes. Desistance literature, with its focus on the creation of opportunities that allow individuals to demonstrate their intrinsic self-worth, recognises the impact of significant life events like employment in the rehabilitation journey. It recognises the role of these meaningful activities, the rituals that bring people together, supporting personal agency and a changing narrative that supports the reshaping of identity and reintegration.

An interesting observation made by O'Hare and Luney, was the desire for a co-located team by some of the Belfast SMC staff (2020, p. 53). This was based on the view that it would improve team-building and shared learning and assist with efficient case management. The benefits for staff working on a full-time basis with the SMC are clear. Notably, a staff member from the voluntary service expressed reservations regarding the establishment of a co-located team, voicing concern that it might impact on the impartiality of decision-making. It might also raise a question about the dangers of 'mission creep', where original objectives become broadened and initial goals are altered or forgotten. Co-location also raises the question as to which service would bear the financial costs and resource burden of establishing and maintaining such a team. Nevertheless, it raises a thought-provoking idea, one which, to my knowledge, has not been considered by the Dublin DTC team to date. It may be less pertinent for the Louth DTC, which operates on a smaller scale, with one sitting on a monthly basis.

Operations of the Substance Misuse Court

According to O'Hare and Luney (2020, p. 44), the Belfast SMC engages with referrals once guilt is established. Potential participants have either pleaded guilty to the index offence or have been found guilty, and they are diverted to the SMC prior to sentencing. The Dublin and Louth DTCs operate on a similar basis. Subject to the participant successfully completing the Belfast SMC programme, sanction may be addressed by 'conditional discharge' with liberty to re-enter by the relevant parties. This decision can be reviewed/rescinded if

a further offence is committed. Notably, the judges presiding over the Dublin and Louth DTCs have the option of not proceeding to conviction, which leaves the participant free of any criminal record in relation to this matter. However, should the participant's placement be terminated for any reason, the case is returned to the original sentencing court for further adjudication.

Whilst there are evident similarities between the admission criteria for all three courts — such as no history of serious violent offending — there are some notable differences. The Belfast SMC accepts participants who have an addiction to alcohol only (O'Hare and Luney, 2020, p. 46). It is the only one of the three courts to do so. Whilst the Dublin DTC will address poly-substance misuse, it focuses primarily on those with an addiction to heroin. This decision was made following a review of the needs of those engaged with health services in the late 1990s (Department of Tourism, Sport and Recreation, 2001, p. 20). The Louth DTC works with individuals who are engaged in abuse of one or more illicit substances. It is interesting that, in light of the widely acknowledged complex relationship with alcohol in Ireland, alcohol misuse was not considered at either the planning or review stages of the Dublin or Louth DTCs, or at least was not documented. This may be considered further by the DTC teams drawing from current trends and research² on the nature and patterns of substance misuse amongst those in contact with the criminal justice system.

Within O'Hare and Luney's article and the *Evaluation of the Substance Misuse Court* pilot report (NICTS and NISRA, 2020), there is little reference to the programme content itself. Therefore, one would assume that the programme is individualised, much like the Louth DTC. The Dublin DTC has three phases, each with its own requirements and goals to achieve, in order to progress onto the next phase, prior to graduation. O'Hare and Luney explain that staff of the Belfast SMC identified some limitations with the current structure of the Court and believe that a comprehensive treatment plan from the outset may be of assistance. Aspects of the Dublin DTC may assist them, particularly in the area of goal-setting at different stages of the programme.

Personal circumstances, such as unstable accommodation and anti-social peer group, may mean that community-based addiction programmes can present significant challenges for some probation clients. Some participants of the Dublin and Louth DTCs have sought residential treatment to assist them in addressing their addiction difficulties, although regrettably, there are

² The findings from a research study, conducted by the Probation Service and the Central Statistics Office, on all cases subject to probation supervision at a point in time will be published in 2021.

no formal links established between the courts and treatment centres, to enable fast-tracking of placement. Similarly, there do not appear to be such relations between the Belfast SMC and their counterparts. I believe that a formal arrangement to avail of timely residential treatment that would complement a participant's progress through the 'stages of change'³ would be a beneficial addition, when community-based interventions are less appropriate and may simply serve to reinforce feelings of failure and powerlessness.

Evaluation of the Substance Misuse Court

The *Evaluation of the Belfast Substance Misuse Court* yielded overall positive results, including a reduction in substance misuse or abstinence, and relatively short programme completion (NICTS and NISRA, 2020 p. 45). It is difficult to make direct comparisons between the three courts because of different stages of development, aforementioned variables and the absence of a published formal evaluation in respect of the Louth DTC. Nevertheless, I believe that there is learning to be gained from the evaluation process itself.

O'Hare and Luney note that various research methods were utilised to collect data for the evaluation, including data collected by key stakeholders, substance misuse testing, client questionnaires, applications of structured risk-assessment tools, and focus groups with operational staff. This wide scope of data collection ensured that all stakeholders in the process had the opportunity to share their views, and that the evaluation was not focused solely on numbers. As a result, several additional benefits were recognised, including the development of meaningful relationships, which could not have been captured by figures alone but have significance to the programme (2020, p. 58). It is further explained within the article that 'in recognition of the importance of credible feedback', a service-users' group which is to be facilitated by an external agency will be developed within phase 2 (2020, p. 50).

Since the initial pilot of the Dublin DTC in 2001, three evaluations have been completed, the most recent of which was in 2010 (Department of Justice, Equality and Law Reform, 2010). This evaluation utilised quantitative research alongside consultations with management of the relevant agencies. Several recommendations were made, including a review within twelve to eighteen months that included a focus on data collation (2010, p. 30). By 2017, a review had not been undertaken. In 2017, a new national strategy,

³ A 5-stage model identified by Prochaska and DiClemente (1983) that offers an integrative framework for understanding the process of behaviour change.

Reducing Harm, Supporting Recovery: A Health-Led Response to Drug and Alcohol Use in Ireland, 2017–2025 was published (Department of Health, 2017). Despite recommendations dating back to 2009, this was the first time that alcohol was integrated with drugs as part of the national strategy, and was included in the definition of substance misuse. The related action plan for 2017–2020 identified the mapping of the future direction and objectives of the Drug Treatment Court as a strategic action with a commitment to an independent evaluation of the Court (Department of Health, 2017, p. 91). I understand that this review has commenced; and whilst awaiting publication of the results, continual promotion of the DTC is being undertaken as recommended in the plan.

Whilst the Dublin DTC and the Belfast SMC were policy driven, the Louth DTC was initiated by a District Court judge who had previously presided over the Dublin DTC (Geiran, 2021, p. 41). He had witnessed at first hand the merits of the approach, and upon his transfer to Co. Louth, pursued the introduction of a DTC. A review was undertaken approximately eighteen months following programme commencement; however, this has not been formally published.

It is my belief that participant and operational team feedback should be sought as they are active participants in the process. It would be worthwhile for the Dublin and Louth DTCs to look to our Northern Ireland counterparts and assess the value of obtaining such feedback. Their method of data collection may also offer useful suggestions.

Conclusion

O'Hare and Luney (2020) offer a comprehensive overview of the Belfast SMC in their paper which reflects on the recent evaluation of the Court. They highlight clear strengths of the Court, from which valuable lessons can be learned. These include the inclusion of psychology on their multidisciplinary team, alcohol misuse alone as an entry criterion and a more holistic method of evaluation. They also discuss the challenges faced by the operational team, such as the structure of the programme. The Dublin DTC programme may be able to offer possible solutions in this regard based on the use of a staged approach over a number of years. The development of a co-located SMC team was identified as a recommendation from this evaluation. The structure, function and added value of this approach are worth considering, with the opportunity for engagement across the jurisdictions on how if at all this might be taken forward. Given the experience in both jurisdictions, it would seem

appropriate to agree a more structured approach to shared learning, possibly through an annual workshop/webinar involving the key agencies, with inputs from service-users.

It is my firm belief that the absence of a formal relationship between the courts and residential treatment centres that facilitates fast-track placements is a missed opportunity. As a practitioner working with individuals with addiction difficulties, I believe that this can only complement the programmes offered and should be considered by the courts.

The Louth DTC was the first Irish example of a formal problem-solving court that grew organically, as the other two were policy driven. There are merits in a review of this Court to evaluate its development and inform future practice should other regions wish to introduce a DTC in a similar manner. It also raises an idea recently proposed by Phil Bowen of the Centre for Justice Innovation, of the possibility of incorporating DTC principles and practices within district or magistrate courts, without the introduction of a formal structure of a dedicated court.

This paper argues that whilst there are some variables between operations and stages of development, there is a really important opportunity now for the three courts to share learning, to increase understanding of the model across the criminal justice system and beyond, and to support the ongoing delivery of high-quality services to participants who in the main have long histories of marginalisation and disadvantage. This collaboration is timely given the strategic actions identified in the current National Drug and Alcohol Strategy. In conclusion, I suggest that the Public Protection Advisory Group (PPAG), with representation from both Probation Services and other criminal justice agencies, is well placed to establish a mechanism that can facilitate cross-jurisdictional sharing of policies, procedures and practice that supports and enhances the current commitment to the ongoing delivery of high-quality effective practice across these courts.

References

- Bonta, J. and Wormith, J.S. (2013), 'Applying the risk-need-responsivity principles to offender assessment' in L.A. Craig, L. Dixon and T.A. Gannon (eds), *What Works in Offender Rehabilitation: An Evidence Based Approach to Assessment and Treatment*, Chichester, England: John Wiley & Sons (pp 72–93)

-
- Department of Health (2017), *Reducing Harm, Supporting Recovery*, Dublin: Department of Health, available at http://www.drugs.ie/downloadDocs/2017/ReducingHarmSupportingRecovery2017_2025.pdf (accessed 20 July 2021)
- Department of Justice, Equality and Law Reform (2010), *Review of the Drug Treatment Court*. Dublin: The Stationery Office
- Department of Tourism, Sport and Recreation (2001), *Building on Experience — National Drugs Strategy 2001–2008*, Dublin: The Stationery Office
- Geiran, V. (2021), *Drogheda: Creating a Bridge to a Better Future — Community Safety and Wellbeing: Report of a Scoping Review for the Department of Justice*, Dublin: The Stationery Office
- McNamara, C. (2013), 'Sentenced to treatment: An exploration of Drug Treatment Court theory, practice and the role of social work', M.Soc.Sc. (social work) thesis, University College Dublin
- Northern Ireland Courts & Tribunal Service (NICTS) and Northern Ireland Statistics & Research Agency (NISRA) (2020), *Evaluation of the Substance Misuse Court Pilot*, Belfast: Department of Justice, Belfast: NICTS and NISRA
- O'Hare, G. and Luney, P. (2020), 'Tackling substance misuse from a problem-solving justice approach', *Irish Probation Journal*, vol. 17, pp 43–62
- Prochaska, J.O. and DiClemente, C.C. (1983), 'Stages and processes of self-change of smoking: Toward an integrative model of change', *Journal of Consulting and Clinical Psychology*, vol. 51 no. 3, pp 390–95

Substance Misuse and Supervision: An Examination of Drug and Alcohol Misuse Among Probation Service Clients*

Louise Rooney†

Summary: There is a well-documented relationship between substance misuse and offending behaviour. A history of substance misuse has been identified as a strong predictor for reoffending, highlighting it as one of the foremost risk factors for criminal recidivism. Engagement with the Probation Service is a critical juncture at which assessment, intervention and appropriate referral for substance misuse issues can take place. This study aimed to identify the prevalence of substance misuse, including alcohol, among persons on probation supervision, examine the relationship between substance misuse behaviour and offending, and assess service-user engagement amongst clients on referral to the Probation Service. To achieve these aims, a cross-sectional quantitative design incorporating online survey measures was carried out with a representative sample of Probation Officers supervising people in the community. Key findings are discussed in the context of the existing research, and recommendations for Probation policy and practice are offered.

Keywords: Drug misuse, alcohol misuse, prevalence, supervision, Probation Service, courts, prisons.

Introduction

Drug misuse amongst the general adult population (15–64 years) has become more common (EMCDDA, 2019). This is evidenced by research that shows an increase in illicit drug misuse from almost 2 in 10 adults in 2003, to almost 3 in 10 in 2015, with the highest prevalence rates reported for young adult males (aged 15–34) (EMCDDA, 2019). Similarly, statistics released by the World Health Organization (WHO) reveal elevated levels of alcohol misuse worldwide, with consumption levels in Ireland being remarkably higher than in most other countries (WHO, 2018).

* This paper comprises a summary of findings from the report, *Informing and Supporting Change: Drug and Alcohol Misuse Among People on Probation Supervision in Ireland* (Probation Service, 2021).

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There is a well-documented relationship between substance misuse¹ and criminal behaviour (Fridell *et al.*; 2008; Wallace *et al.*, 1998). Whilst research indicates that some substance misusers commit crime to finance their misuse, it also reveals a strong association with acts of criminal and sexual violence (Steadman *et al.*, 1998; Stewart *et al.*, 2000). The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA, 2007) provides a concise four-category model for deciphering different types of drug-related offending: *Psychopharmacological Crimes* are committed under the influence of a psychoactive substance, as a result of its acute or chronic use; *Economic-Compulsive Crimes* are committed in order to obtain money (or drugs) to support drug use; *Systemic Crimes* are committed as part of the business of drug supply, distribution and use; and *Drug Law Offences* are crimes committed in violation of drug legislation. It is also important to note that a history of substance misuse is repeatedly identified as a strong predictor for reoffending, highlighting it as one of the foremost risk factors for criminal recidivism (Baillargeon *et al.*, 2009; Larney and Martire, 2010; Walter *et al.*, 2011).

Substance misuse and offending: The Irish context

The Irish Prison Service estimates that approximately 70% of people come into prison with an addiction or substance-abuse problem (Health Research Board, 2021). Domestic research identifies elevated rates of drug and alcohol misuse amongst male and female prisoners (aged 18+ years) when compared to the general population. For instance, a study conducted by the National Advisory Committee on Drugs and Alcohol (Drummond *et al.*, 2015) found that almost the entire sample (96%) of prisoners drank alcohol at some point in their lives, 70% of whom reported drinking an average of 12 alcoholic beverages 2–3 times a week. Nine out of ten prisoners reported usually drinking alcohol in a typical week, with men more likely to do so than women. Prisoners also reported elevated lifetime prevalence across several major drug categories (cannabis 87%; cocaine 74%; benzodiazepines 68%; heroin 43%; methadone 33%; crack cocaine 36%), with women significantly more likely than men to report heroin, methadone and crack cocaine misuse (*ibid.*) Similarly, research published by the Probation Service relating to adults' subject to supervision, detailed that the majority of persons on probation (89%) were identified as having some form of substance misuse issue either 'currently' or 'in the past' (Probation Service, 2012). A sizable

¹ Substance misuse = drug and/or alcohol misuse

42% of the sample reported misusing both drugs and alcohol, while 27% reported misusing just drugs and 20% reported misusing just alcohol. A considerable level of polydrug misuse was also identified, with a fifth of misusers reportedly misusing two or more substances (ibid.)

Over the course of 2019, the Probation Service assessed and supervised 16,607 people in the community (Probation Service, 2019). That number of annual referrals with reported high levels of substance misuse demonstrates that Probation Service involvement represents a critical juncture at which assessment, intervention and appropriate referral can be progressed. All those referred to the Probation Service must undergo an initial assessment, which assists in informing a pre-sanction report for court. It is at this stage that the relationship between substance misuse and offending behaviour is first explored by Probation Officers and important next steps are planned. That exploration will be further progressed when case management plans are developed.

Indeed, given the significance of substance misuse as a criminogenic risk factor, a key focus of Probation interventions is to address the association between patterns of misuse offending behaviour and resulting harm. Structured interventions that draw from cognitive behavioural therapy and motivational interviewing frameworks are delivered in conjunction with activities that support referral and engagement with appropriate treatment services.

Article objective

In conjunction with the Central Statistics Office (CSO), the Probation Service conducted a Drug and Alcohol Misuse Survey of all offender cases on supervision in the community in January 2019. The study aimed to identify important information on substance misuse issues and patterns among persons on supervision, to support development of better service delivery and to inform the use of resources in the management of Probation Service priorities. Drawing on data from this nationwide study, this article provides key insights into the nature and frequency of substance misuse, drug-and-alcohol-related offending, and Service clients' level of engagement with drug-and-alcohol-misuse services on referral to the Probation Service. This collection of findings provides an evidence-based profile of substance misuse behaviour amongst people on probation supervision, calls attention to potentially 'at risk' groups within this cohort, and highlights key areas for future developments within criminal justice policy and practice.

Methodology

This study adopted a cross-sectional quantitative design, incorporating online survey measures. Probation Officers on community-based supervision teams (n=218) were invited to participate in the study. A representative sample was established, with a response rate of 81%.

An invitation to participate in the Drug and Alcohol Misuse Survey was sent to Probation Officers via email. Participants were asked to complete an anonymised survey in respect of all clients (adults and young persons) who were subject to a probation order, supervision order, adjourned supervision, or supervised temporary release. In total, 3,096 surveys were completed by Probation Officers (Male n=2,566; Female n=522; Unknown n=8). Persons included in the research sample ranged in age between 12–17 years and 60+ years; the vast majority of the sample were White Irish (80%), Irish Traveller (11%), Other White Background (5%) (see Table 1). It is worth noting that these findings demonstrate an overrepresentation of Irish Travellers in the Probation Service supervision population, given that census data from 2016 indicate that Irish Travellers make up less than 1% of the general population (CSO, 2019). Given the high representation of Irish Travellers within the research sample, special consideration and exploration will be given to the data generated on this minority group so that recommendations for service provision and development may be made accordingly.

The survey was developed by a multidisciplinary team of Probation Officers, statisticians and researchers employed by the Probation Service and the Central Statistics Office. Survey questions were broken down into four main sections — namely, Demographics, Alcohol Misuse Behaviour, Drug Misuse Behaviour and Service Engagement — and Probation Officer response.

Survey data were collated by the Central Statistics Office (CSO) and inputted in the Statistics Package for the Social Sciences (SPSS) for analysis. Descriptive statistical analysis was undertaken (frequencies and averages), along with inferential analysis (t-tests, chi-square) to examine trends, identify prevalence rates, and explore relationships within the dataset.

Table 1: *Sample demographics*

Sex	%	Age	%	Ethnicity	%	Probation Service Region	%
Female	17	12–17 yrs	5	White/ Black Irish	80	YPP	5
Male	83	18–24 yrs	24	Irish Traveller	11	Dublin Nth and NE	24
		25–34 yrs	34	Other Ethnicity	5	Dublin South and Wicklow	16
		35–49 yrs	27	Unknown	4	West NW and Westmeath	14
		50–59 yrs	7			Southwest	20
		60+ yrs	3			Midlands and SE	21

Limitations

There were several limitations associated with this study's methodology. Firstly, the measure employed was a 'self-to-other' survey completed by Probation Officers based on information compiled in client case files. It is important to note that gathering life histories from clients is not always straightforward as individuals may be tentative about being forthright regarding their level of drug and alcohol misuse. Secondly, some case files may be more developed than others, depending on the length of time a client has been on probation supervision and their level of engagement with their Probation Officer. As a result, there were some gaps in the information provided for some people.

Results

The nature and frequency of substance misuse

Analysis revealed that 81% of the sample were reported to have misused drugs or alcohol at some point in their lifetime. Combined Drug and Alcohol Misuse (50%) was the most common type of misuse pattern reported, followed by Drug Misuse Only (17%), Alcohol Misuse Only (14%), No Substance Misuse (10%), and Unknown (9%).

Combined drug and alcohol misuse

Male clients (52%) were reported as having a higher rate of Combined Drug and Alcohol Misuse than females (42%). However, gender differences were not statistically significant. The highest prevalence rates of Combined Drug and Alcohol Misuse were observed for clients aged 25–34 years, with a peak prevalence rate of 61%. Elevated levels were also observed for clients aged 18–24 years (57%), 35–49 years (51%), and 12–17 years (47%). These findings indicate that persons aged 25–34 years are the most at-risk group for drug and alcohol misuse on presentation to the Probation Service. Finally, similar rates of Combined Misuse were identified for White/Black Irish (55%) and Irish Travellers (50%), while the lowest frequencies were reported for clients from Other ethnic backgrounds (38%) (see Table 2).

The nature of alcohol misuse

Of the sample, 64% (n=1,982) were reported to have misused alcohol at some point in their lives. Binge drinking (44%) was identified as the most common type of alcohol misuse amongst clients, followed by Harmful (31%) and Dependent (18%). When exploring gender differences, male clients were observed to have significantly higher rates of Binge (56%) and Harmful (38%) alcohol consumption than females (36%, 27%), while comparable rates of Alcohol Dependence were reported for men (20%) and women (19%). The types of Alcohol Misuse engaged in by clients differed across the lifespan. For instance, high rates of Binge drinking were identified amongst younger clients aged 12–34 years, whilst Alcohol Dependency was more frequent amongst older clients aged between 35 and 60+ years. Finally, Binge drinking was reported as the most common form of Alcohol Misuse for all three ethnic groupings, followed by Harmful Misuse and Dependent drinking (see Table 2).

The nature of drug misuse

A total of 2,074 (67%) persons were reported to misuse drugs. A sizable 84% (n= 1,765) of the sample were reported to misuse Cannabis, highlighting it as the most popular drug among the research sample. High rates of misuse were also identified for Benzodiazepines (55%), Cocaine (48%), Heroin (41%), and Ecstasy (27%). When exploring the types of substances misused by clients, findings revealed a series of significant differences across client Sex, Age and Ethnicity. Males misused Cocaine, Ecstasy, and Cannabis at a higher

Table 2: Substance misuse: Nature and frequency

	Combined Misuse %	Alcohol Misuse				Drug Misuse					
		Binge %	Harmful %	Dependent %	Cannabis %	Benzo %	Cocaine %	Heroin %	Ecstasy %		
Female	42	36	27	19	39	35	22	38	11		
Male	52	56	38	20	61	37	35	27	20		
12-17 yrs	47	45	13	3	63	33	24	4	16		
18-24 yrs	57	56	26	7	65	41	26	10	21		
25-34 yrs	61	46	34	16	44	35	42	36	23		
35-49 yrs	51	39	36	28	48	35	31	42	16		
50-59 yrs	27	32	29	26	24	12	12	18	5		
60+ yrs	14	28	24	27	9	7	8	5	5		
White/ Black Irish	55	44	31	18	60	39	35	30	21		
Irish Traveller	50	49	31	14	47	33	26	22	12		
Other	38	39	29	19	47	30	21	19	10		

rate than females, whereas females misused Heroin at a significantly higher rate than males. Furthermore, White/Black Irish clients were found to misuse Heroin, Cocaine, Ecstasy, Benzodiazepines, and Cannabis more frequently than Irish Travellers and clients from Other ethnicities. Whilst Cannabis was the most common substance used by clients across all Age categories, findings revealed that different types of substance misuse peaked at different times across the life course. For instance, Cannabis misuse (69%) peaked amongst young adult clients aged 18–24 years, whereas Heroin misuse (42%) was highest amongst older clients aged 35–49 years. Finally, peak misuse of Benzodiazepines (44%), Cocaine (41%) and Ecstasy (23%) was observed amongst clients aged 24–34 years (see Table 2).

Misuse link to current offence

Alcohol

Results from the present study revealed a link between alcohol misuse and current offence amongst 38% (n=1,172) of the research sample, revealing a considerable level of alcohol-related offending. Males (42%) were reported to have a significantly higher rate of alcohol-related offending (Alcohol Link to Current Offence) than females (32%). Differences were also observed across Irish ethnic groups, with members of the Traveller Community (49%) having a higher frequency of alcohol-related offending than White/Black Irish (40%) and Other ethnicities (39%). Finally, Alcohol Misuse was linked to the current offences of 61% of Binge drinkers, 50% of Harmful misusers and 35% of Alcohol Dependent clients. These findings indicate that more Binge drinkers come into contact with the Probation Service as a result of their alcohol-related offending than Harmful and Dependent misusers.

Drugs

A link between drug misuse and current offence was reported for almost half of the research sample (48%). In contrast to the findings outlined above, analysis revealed comparable rates of drug-related offending across male (48%) and female (47%) clients; and White/Black Irish (54%) were reported to have a significantly higher rate of drug-related offending than Irish Travellers (43%) and clients from Other ethnicities (36%). Cannabis (56%) and Benzodiazepines (37%) were the most frequently misused substances by clients whose current offence was linked to drug misuse. Clients who misused

Cannabis were three times more likely to have their current offence linked to drugs misuse.

Service engagement

Alcohol services and interventions

Whilst considerable rates of Alcohol Misuse (n=1,981) were identified within the research sample, low levels of engagement with alcohol-specific Medical Interventions (16%) and Community Support Services (25%) were reported for clients presenting to the Probation Service. The most common Medical Intervention was GP Attendance (11%), whereas Counselling and Psychotherapy (14%) was the most frequent Community Support Service reported. No differences were observed across Sex, Age, Ethnicity, or Region when examining clients' engagement with alcohol-misuse interventions and services (see Table 3).

Drug services and interventions

On referral to the Probation Service, a total of 2,169 offenders reported drug misuse to their Probation Officers. One-third (33%) of clients were engaged with some form of Medical Intervention when presenting to the Probation Service. Methadone Treatment (18%) was the most frequently cited Medical Intervention. Significant differences across Sex were observed, with females (50%) reporting a higher rate of engagement with Medical Interventions than their male counterparts (30%) on referral to the Probation Service. Specifically, women (35%) were over twice as likely to be engaged with a methadone programme as men (15%). Differences were also identified when examining Age, with the highest rates of engagement observed among 35–49-year-olds (48%), 25–34-year-olds (37%), and 50–59-year-olds (32%), and the lowest observed for clients aged 12–17 years (8%) and 18–24 years (17%), and 60+ years (20%). Furthermore, White/Black Irish (34%) reported a significantly higher rate of engagement with Medical Interventions than Irish Travellers (25%) and clients from Other (25%) ethnic backgrounds (25%) (see Table 3).

Almost a third of clients who reported Drug Misuse were engaged with a Community Support Service on referral to the Probation Service, of which Counselling/Psychotherapy (19%) was the most common. Sex differences were observed, with women (47%) reporting a significantly higher rate of

engagement than men (31%). Differences were also identified across Ethnicity with White/Black Irish clients (35%) engaging with Community Support Services at a higher rate than Irish Travellers (25%) and clients from Other ethnicities (26%). Finally, Community Support Service engagement differed across client Age. The highest levels were observed for 35–49-year-olds (38%), 25–34-year-olds (36%), and 50–59-year-olds (35%), whereas the lowest levels were observed amongst clients aged 12–17 years and 18–24 years, and 60+ years (27%) (see Table 3).

Table 3: *Service engagement*

<i>Engagement with Alcohol Misuse Services</i>				<i>Engagement with Drug Misuse Services</i>			
<i>Medical Interventions</i>		<i>Community-Based Services</i>		<i>Medical Interventions</i>		<i>Community-Based Services</i>	
	%		%		%		%
GP	11	Counselling/ Psychotherapy	14	GP	12	Counselling/ Psychotherapy	19
Inpatient	3	Aftercare	5	Inpatient	3	Aftercare	5
Outpatient	5	Pharmacies	1	Outpatient	6	Pharmacies	3
Other	2	Family Support	2	Low Threshold	1	Family Support	3
		Alcoholics Anonymous	8	Prison	6	Narcotics Anonymous	6
		Outreach	6	Methadone Treatment	18	Other	9

Discussion

The present study identifies a high level of drug and/or alcohol misuse (81%) amongst people on probation supervision. A similar figure for drug and/or alcohol misuse (87%) was reported in the Probation Service's 2011 Drug and Alcohol report (Probation Service, 2012), suggesting that substance misuse has remained relatively stable throughout the target population in the intervening eight years (2011–2019). Moreover, findings also reveal that drug

and alcohol misuse, the impact it has on offending behaviour, and the level of client engagement with substance misuse services on referral to the Probation Service varied across age, gender, and ethnicity. Next, these findings will be situated within the context of the existing research. They will also be used to identify potential 'at risk' groups, and to highlight key areas for future developments within criminal justice policy and practice.

The importance of early intervention

The highest prevalence rates of Combined Drug and Alcohol Misuse were observed for clients aged 25–34 years, with a peak prevalence rate of 61%, identifying them as the most at-risk group for drug and alcohol misuse on presentation to the Probation Service. However, a more focused look at the nature and frequency of drug and alcohol misuse revealed some interesting age-related trends. For instance, the drinking habits of clients on supervision varied somewhat according to age profile. Binge drinking was highest among clients aged 18–24 years, Harmful alcohol misuse was most prevalent among clients aged 35–49 years, and Alcohol Dependency was most frequent amongst clients aged 60+. These findings are in line with domestic scholarship which shows that Binge and Harmful drinking among the general population is associated with a younger demographic (see Health Research Board, 2016; Long and Mongan, 2014). Similarly, differences in the misuse of illicit substances were also observed across age category. Cocaine misuse was more prevalent among younger clients (12–35 years), whereas Heroin misuse was more frequent among older clients (25–59 years). Finally, clients under 25 years of age had the lowest levels of engagement with drug misuse services, on referral to the Probation Service. This is particularly concerning given findings that show clients as young as 12 years of age misuse a variety of substances at a significant level.

Early-onset and frequent substance misuse in young persons (aged 10–24 years²), specifically those in early adolescence, increases the risk of developing a range of adverse outcomes, such as serious physical health issues (Stankowski *et al.*, 2015), mental health issues and psychiatric disorders (Welsh *et al.*, 2017), neurocognitive deficits (Jovanovski *et al.*, 2005), sleep disorders (Schierenbeck *et al.*, 2008), alcohol and/or drug dependence, educational underachievement, and psychosocial difficulties (Hall, 2006; Loxley *et al.*, 2004; Newcomb *et al.*,

² Definition of youth set out by United Nations Department of Economic and Social Affairs, available at <http://www.un.org/esa/socdev/documents/youth/fact-sheets/youth-definition.pdf> (accessed 27 July 2021)

2007). Because young people are at a different developmental stage, and because they are less likely to be drug and/or alcohol dependent when compared to the adult population, responses to drug and alcohol misuse often focus heavily on prevention, early intervention, and harm reduction, as opposed to intensive treatment programmes involving detoxification and psychological therapies (Stockings *et al.*, 2016). The development of such programmes is of the utmost importance given that continued and chronic misuse amongst young misusers increases their chances of developing substance dependency and augmenting offending behaviour (Lubman *et al.*, 2007).

This study highlights Young Persons Probation as an opportune juncture for effective screening, followed by the delivery of substance misuse education, prevention, awareness, and early intervention programmes where appropriate. For that reason, it is important that Probation Officers in all areas are adequately trained in evidence-based approaches specifically designed for implementation with young offenders. However, it is also important to note that the Probation Service has contact with only a small subset of this population. The pervasiveness of substance misuse amongst Irish youths warrants a collaborative multi-agency response that includes HSE, community-based youth programmes, An Garda Síochána, TUSLA, and Drug Task Forces, education services, etc. This approach is very much reflected in the actions set out in the current National Drug Strategy, *Reducing Harm, Supporting Recovery* (Department of Health, 2017).

Gendered risk

This study identified variability in the nature and frequency of substance misuse among men and women. It also uncovered gender differences across service engagement on referral to the Probation Service. These findings call attention to the differential risk profiles of male and female substance misusers on probation supervision.

Divergent substance misuse behaviour

Exploration of alcohol misuse amongst the sample revealed that men were not only significantly more likely than women to misuse alcohol but were reported to have significantly higher rates of alcohol-related offending. These findings are in line with national research conducted with the general population, which reveals a higher rate of problematic alcohol misuse amongst Irish men (Long and Mongan, 2014). Interestingly, results concerning

drug misuse across gender relayed quite a different story. Indeed, while men and women were reported as having similar levels of drug misuse, findings also showed that their risk of misusing particular types of substances differed somewhat across gender. Men on supervision were significantly more likely to misuse cocaine, cannabis, and ecstasy; whereas women were significantly more likely to misuse heroin. These findings echo international evidence to show that male offenders typically misuse higher rates of cannabis, amphetamines and ecstasy (Adams *et al.*, 2008; Holloway and Bennett, 2007), whereas their female counterparts typically misuse higher rates of heroin and prescription medications (Johnson, 2004; Loxley and Adams, 2009).

Help-seeking for substance misuse

Despite the fact that two-thirds of the sample were reported to misuse alcohol, engagement with both medical interventions and community support services for alcohol misuse on referral to the Probation Service were considerably low. Poor levels of engagement may be a reflection of the cultural normalcy that exists around alcohol consumption in contemporary Ireland, which perhaps fuels a belief amongst misusers that their drinking behaviour is not problematic (Hope and Mongan, 2011). Moreover, even though men were found to misuse alcohol at a significantly higher rate than women, no gender differences were detected when exploring service engagement on referral. These findings are at odds with research conducted on the general population, which shows that two-thirds of persons engaged with alcohol misuse interventions between 2011 and 2017 were male (Health Research Board, 2019).

In direct contrast to the findings outlined above, differential rates of engagement with community-based support services and medical interventions for drug misuse were observed across gender. Indeed, women were more inclined to be engaged with drug misuse services and interventions than men, on referral to the Probation Service. Evidence-based research investigating masculinities and help-seeking behaviour perhaps helps to shed some light on why such differences in service engagement were revealed. For instance, males are less likely than females to seek professional help for a broad range of physical and mental health issues (Addis and Mahalik, 2003), even when experiencing severe levels of distress (Biddle *et al.*, 2004). Addis and Mahalik (2003) suggest that men may struggle to ask for help because they feel it demonstrates vulnerability and challenges their masculine

identities. Poor help-seeking behaviour among men is especially problematic within the context of the criminal justice system given that offenders (in custody and on community supervision) have higher rates of mental and physical illness than the general population (Pratt *et al.*, 2006), report a higher incidence of substance misuse disorders (Sirdifield *et al.*, 2009), radically underuse health services (Howerton *et al.*, 2007), distrust health professionals, and are often unaware of the services available to them (Mitchell and Latchford, 2010). When considered altogether, results from the present study outlining poor service engagement by male clients, coupled with key learnings from the masculinities and help-seeking research, highlight a male-centric risk factor that warrants consideration within Probation practice.

Given compelling evidence to show that a range of gender-specific factors impact substance misuse behaviour and recovery, academics and practitioners have called upon criminal justice decision-makers to introduce approaches and interventions that are gender-informed (Gobeil *et al.*, 2016; SAMHSA, 2009; 2017). The Probation Service is committed to delivering a gender-informed approach to meet the needs of women offenders, to offer effective and appropriate community sanctions, and to achieve improved outcomes for this client group.^{3,4} This is extremely positive given recent research indicating that women and girls are more likely to respond well to gender-informed approaches, especially if their backgrounds and pathways to offending are associated with gendered issues (Gobeil *et al.*, 2016). However, while efforts have been made to make Probation Service practice more gender-informed when working with women, it is important to note that similar efforts have not been made regarding gender-informed policy and practice as it applies to men. Looking to the future, consideration should be given to the establishment of a gender-informed policy for male offenders subject to Probation Service Supervision, with a specific focus on the identification of gender-based barriers and facilitators associated with male help-seeking behaviour, engagement, and desistance.

Cultural competency and inclusivity

The present study revealed interesting findings regarding ethnic background and substance misuse. Firstly, significant differences in the types of drugs

³ See: 'A Gender Informed Approach to Writing Pre-sanction Reports on Female Offenders: Probation Service Operational Guideline', October 2015.

⁴ See: *Joint Probation Service–Irish Prison Service Strategy 2014–2016: An Effective Response to Women Who Offend*, available at http://www.irishprisons.ie/images/pdf/women_strat_2014.pdf (accessed 27 July 2021)

misused by clients were observed across ethnic groups, with White/Black Irish more likely to misuse Ecstasy and Benzodiazepines than clients from the Traveller Community and Other ethnicities. Secondly, Irish Travellers were reported as having the highest level of alcohol-related offending of all ethnic groups, whereas White/Black Irish were identified as having the highest rates of drug-related offending. Thirdly, clients from the Traveller Community and Other ethnic groups were less likely to be engaged with both Medical and Community Interventions for drug misuse than White/Black Irish clients, on referral to the Probation Service. Findings show ethnic diversity across alcohol-related offending, level of service engagement and the types of substances misused by service clients, emphasising the importance of implementing cultural awareness and sensitivity training for Probation Officers. Moreover, such findings evidence the need for the development and roll-out of culturally appropriate substance misuse interventions, especially given the overrepresentation of clients from the Traveller community engaged with the Probation Service.

The paucity of research investigating substance misuse amongst ethnic minority groups in Ireland makes it difficult to draw comparisons across the general population and the present study's sample of probationers (Crowley, 2017). However, evidence-based research that does exist reveals a low level of engagement with community-based services resulting from social and systemic barriers. For instance, limited knowledge and understanding of the services available, coupled with a lack of culturally specific programmes, has been identified as a barrier to engagement (Corr, 2004). Moreover, language barriers, an absence of cultural competency, discriminatory attitudes and behaviour by professionals, and racist stereotyping have also been highlighted as significant barriers faced by ethnic minority groups when it comes to accessing community-based substance misuse services (Kelly *et al.*, 2009). Irish Travellers face many of the same challenges experienced by other indigenous and ethnic minorities across the globe. Specifically, negative stereotyping and prejudice, marginalisation and discrimination, socio-economic deprivation and poverty, and perilous environmental conditions (Gracey and King, 2009; King *et al.*, 2009). Recent research has documented not only a rise in mental ill-health and suicide amongst the Traveller Community, but an increase in substance misuse behaviour (Van Hout and Hearne, 2017). This is especially problematic given that Travellers experience a variety of barriers when it comes to accessing support services, which in turn works to deter help-seeking behaviour. For instance, research investigating the Traveller Community's experience of primary care and drug

services reveals that they often suffer discrimination, feel their confidentiality is undermined, experience difficulties accessing referral networks, and report feeling a lack of cultural acceptance from both healthcare professionals and administrative staff (Van Cleemput, 2009). As a result, Irish Travellers have a tendency to rely heavily on acute services (such as Accident and Emergency departments) and avoid preventive health services (such as community-based addiction services) (Van Cleemput et al., 2007).

The Irish Human Rights and Equality Commission Act, 2014 requires public agencies to work toward eliminating discrimination, promoting equality, and protecting human rights when fulfilling their functions. Public agencies are also required to identify any equality and human rights issues that may be relevant to their function and to implement policy and practice to address such issues. In accordance with this Act, Ireland's most recent drug strategy, *Reducing Harm, Supporting Recovery: A Health-Led Response to Drug and Alcohol Use in Ireland 2017–2025* (Department of Health, 2017), states:

There is a need to recognise the diversity evident among drug users and to take steps in providing services that can accommodate this diversity and address the needs of particular groups in relation to problem drug and alcohol use. (p. 44)

Moving forward, it is important that the Probation Service continues to build on cultural competency and equality training for staff. It is also essential that Probation Officers have the skills and the resource capacity to make culturally appropriate assessments and referrals that are respectful, relevant, and accessible for these client groups.

Conclusion

This study has endeavoured to build on previous research conducted by the Probation Service regarding substance misuse. Specifically, it has aimed to identify substance misuse among persons supervised by the Probation Service, to examine the relationship between substance misuse behaviour and offending, and to explore service-user engagement. Findings generated by research indicate a high prevalence of substance misuse amongst people on probation supervision. They also demonstrate that the risks associated with substance misuse behaviour vary considerably across client age, gender, and ethnicity. These findings inform the following recommendations.

Firstly, substance misuse is a pervasive issue amongst young people in Ireland. Accordingly, structured and co-ordinated engagement between the HSE and key stakeholders to facilitate increased accessibility to youth-focused substance misuse services is required. Additionally, to ensure that the support needs of young people are met within the Probation Service supervision, Probation Officers should receive training in adolescent assessment and the delivery of early intervention, prevention and harm-reduction techniques.

Secondly, it is recommended that the Probation Service continue in the development and implementation of gender-informed research, policy and practice. Particular attention should be given to the identification of gender-based barriers and facilitators associated with male help-seeking behaviour, engagement, and desistance. Such consideration will enhance the Probation Service's response to the gendered risks associated with substance misuse and offending behaviour.

Thirdly, Cultural Awareness and Sensitivity Training should be provided to all Probation Service staff to promote and support anti-racism, cultural competency, and equity. Training should be specific to Probation practice and include evidence-based principles regarding effective engagement with individuals from ethnic minority groups and new communities. Education surrounding the differential acceptability of substance misuse and offending behaviour across minority groups would also be appropriate.

Finally, there is a need to increase service-user access to programmes and interventions that provide information, support, and methods that are culturally relevant and appropriate. Accordingly, consideration should be given to the development of culturally specific substance-misuse-and-offending-behaviour programmes and services.

References

- Adams, K., Sandy, L., Smith, L. and Triglone, B. (2008), *Drug Use Monitoring in Australia: 2007 Annual Report on Drug Use Among Police Detainees*, Research and public policy series, no. 93, Canberra: Australian Institute of Criminology
- Addis, M.E. and Mahalik, J.R. (2003), 'Men, masculinity, and the contexts of help seeking', *American Psychologist*, vol. 58, no. 1, p. 5
- Baillargeon, J., Penn, J.V., Knight, K., Harzke, A.J., Baillargeon, G. and Becker, E.A. (2010), 'Risk of reincarceration among prisoners with co-occurring severe mental illness and substance use disorders',

-
- Administration and Policy in Mental Health and Mental Health Services Research*, vol. 37, no. 4, pp 367–74
- Biddle, L., Gunnell, D., Sharp, D., Donovan, J.L. (2004), 'Factors influencing help seeking in mentally distressed young adults: A cross-sectional survey', *British Journal of General Practice*, vol. 54, pp 248–53
- Corr, C. (2004), *Drug Use Among New Communities in Ireland – An exploratory study*, Dublin: Merchants Quay Ireland/National Advisory Committee on Drugs
- Crowley, N. (2017), *Stimulating and Supporting a Black and Minority Ethnic Voice on Drugs Issues*, Dublin: CityWide Drugs Crisis Campaign, available at https://www.drugsandalcohol.ie/27501/1/black_minority_ethnic_voice_on_drugs_issues.pdf (accessed 28 October 2020)
- Department of Health (2017), *Reducing Harm, Supporting Recovery: A Health-Led Response to Drug and Alcohol Use in Ireland 2017–2025*, available at http://www.drugs.ie/downloadDocs/2017/ReducingHarmSupportingRecovery2017_2025.pdf (accessed 21 October 2020)
- Drummond, A., Kelleher, C.C., Donnelly, N.A., McCausland, D. and Codd, M. (2015), *The Prevalence of Drug Use, Including Intravenous Drug Use, Among the Irish Prisoner Population*, Dublin: National Advisory Committee on Drugs and Alcohol
- European Monitoring Centre for Drug Addiction (EMCDDA) (2007), *Drugs and Crime: A Complex Relationship*, available at: <https://www.emcdda.europa.eu/html.cfm/index36331EN.html?LayoutFormat=print> (accessed 22 October 2020)
- European Monitoring Centre for Drug Addiction (EMCDDA) (2019), *Ireland: Country Drug Report*, available at http://www.emcdda.europa.eu/countries/drug-reports/2019/ireland_en (accessed 20 October 2020)
- Fridell, M., Hesse, M., Jaeger, M.M. and Kühlnhorn, E. (2008), 'Antisocial personality disorder as a predictor of criminal behaviour in a longitudinal study of a cohort of abusers of several classes of drugs: Relation to type of substance and type of crime', *Addictive Behaviors*, vol. 33, pp 799–811
- Gobeil, R., Blanchette, K. and Stewart, L. (2016), 'A meta-analytic review of correctional interventions for women offenders: Gender-neutral versus gender-informed approaches', *Criminal Justice and Behavior*, vol. 43, pp 301–22
- Gracey, M. and King, M. (2009), 'Indigenous health part 1: Determinants and disease patterns', *The Lancet*, vol. 374, no. 9683, pp 65–75

- Hall, W.D. (2006), 'Cannabis use and the mental health of young people', *Australian and New Zealand Journal of Psychiatry*, vol. 40, pp 105–13
- Health Research Board (2016), 'Factsheet—Alcohol: The Irish situation', available at https://alcoholireland.ie/download/reports/how_much_do_we_drink/Alcohol-factsheet-July-20161.pdf (accessed 1 January 2021)
- Health Research Board (2019), *Drug Treatment in Ireland 2011 to 2017*, available at <https://www.hrb.ie/publications/publication/drug-treatment-in-ireland-2011-to-2017/> (accessed 31 October 2020)
- Health Research Board (2021), *Irish National Focal Point to the European Monitoring Centre for Drugs and Drug Addiction. Ireland: National Report for 2020 — Prison*, available at <https://www.drugsandalcohol.ie/25265/1/NRPrison2020.pdf> (accessed 5 June 2021)
- Holloway, K. and Bennett, T. (2007), 'Gender differences in drug misuse and related problem behaviors among arrestees in the UK', *Substance Use and Misuse*, vol. 42, no. 6, pp 899–921
- Hope, A., and Mongan, D. (2011), 'A profile of self-reported alcohol-related violence in Ireland', *Contemporary Drug Problems*, vol. 38, no. 2, pp 237–58
- Howerton, A., Byng, R., Campbell, J., Hess, D., Owens, C. and Aitken, P. (2007), 'Understanding help seeking behaviour among male offenders: Qualitative interview study', *BMJ*, vol. 334, no. 7588, p. 303
- Johnson, H. (2004), *Drugs and Crime: A Study of Incarcerated Female Offenders*, Research and public policy series, no. 63, Canberra: Australian Institute of Criminology
- Jovanovski, D., Erb, S. and Zakzanis, K.K. (2005), 'Neurocognitive deficits in cocaine users: A quantitative review of the evidence', *Journal of Clinical and Experimental Neuropsychology*, vol. 27, pp 189–204
- Kelly, C., Fitzpatrick, C. and Nic Gabhainn, S. (2009), *Substance Use in New Communities: A Way Forward*, Galway: Health Promotion Research Centre, NUIG/Western Region Drugs Task Force
- King, M., Smith, A. and Gracey, M. (2009), 'Indigenous health part 2: The underlying causes of the health gap', *The Lancet*, vol. 374, no. 9683, pp 76–85
- Larney, S. and Martire, K.A. (2010), 'Factors affecting criminal recidivism among participants in the Magistrates Early Referral into Treatment (MERIT) programme in New South Wales, Australia', *Drug and Alcohol Review*, vol. 29, 684–688.

- Long, J. and Mongan, D. (2014), *Alcohol Consumption in Ireland 2013: Analysis of a National Alcohol Diary Survey*, Dublin: Health Research Board
- Loxley, W. and Adams, K. (2009), *Women, Drug Use and Crime: Findings from the Drug Use Monitoring in Australia Programme*, Research and public policy series no. 99, Canberra: Australian Institute of Criminology
- Loxley, W., Toumbourou, J., Stockwell, T., Haines, B., Scott, K., Godfrey, C., ... and Williams, J. (2004), 'The prevention of substance use, risk and harm in Australia: A review of the evidence', National Drug Research Institute, available at http://www.health.gov.au/internet/main/publishing.nsf/Content/health-pubhlth-publicat-document-mono_prevention-cnt.htm (accessed 31 October 2020)
- Lubman, D.I., Yücel, M., and Hall, W.D. (2007), 'Substance use and the adolescent brain: A toxic combination?', *Journal of Psychopharmacology*, vol. 21, no. 8, pp 792–4
- Mitchell, J. and Latchford, G. (2010), 'Prisoner perspectives on mental health problems and help-seeking', *Journal of Forensic Psychiatry and Psychology*, vol. 21, no. 5, pp 773–8
- Newcomb, M.D. and Bentler, P.M. (2007), 'Impact of adolescent drug use and social support on problems of young adults: A longitudinal study', *Journal of Abnormal Psychology*, vol. 97, no. 1, p. 64
- Pratt, D., Piper, M., Appleby, L., Webb, R., Shaw, J. (2006), 'Suicide in recently released prisoners: A population-based cohort study', *The Lancet*, vol. 368, pp 119–23
- Probation Service (2012), *Drug and Alcohol Misuse Amongst Adult Offenders on Probation Supervision in Ireland: Findings from the Drug and Alcohol Survey 2011*, available at <http://www.drugs.ie/resourcesfiles/ResearchDocs/Ireland/2012/Drug+and+Alcohol+Misuse+among+Adult+Offenders+on+Probation+Supervision+in+Ireland.pdf> (accessed 31 October 2020)
- Probation Service (2019) *Annual Report 2019*, available at http://www.justice.ie/en/JELR/Pages/Probation_Service_Annual_Report_2019 (accessed 6 December 2020)
- SAMHSA (2009), *Addressing the Specific Needs of Women*, Treatment Improvement Protocol (TIP) series, no. 51, Rockville, MD: Substance Abuse and Mental Health Services Administration
- SAMHSA (2017), *Results from the 2016 National Survey on Drug Use and Health: Detailed Tables*, Rockville, MD: Substance Abuse and Mental Health Services Administration

- Schierenbeck, T., Riemann, D., Berger, M. and Hornyak, M. (2008), 'Effect of illicit recreational drugs upon sleep: Cocaine, ecstasy and marijuana', *Sleep Medicine Reviews*, vol. 12, no. 5, pp 381–9
- Sirdifield, C., Gojkovic, D., Brooker, C. and Ferriter, M. (2009), 'A systematic review of research on the epidemiology of mental health disorders in prison populations: A summary of findings', *Journal of Forensic Psychiatry and Psychology*, vol. 20, no. 1, pp S78–S101
- Stankowski, R.V., Kloner, R.A. and Rezkalla, S.H. (2015), 'Cardiovascular consequences of cocaine use', *Trends in Cardiovascular Medicine*, vol. 25, pp 517–26
- Steadman, H.J., Mulvey, E.P., Monahan, J., Robbins, P.C., Appelbaum, P.S., Grisso, T., ... and Silver, E. (1998), 'Violence by people discharged from acute psychiatric inpatient facilities and by others in the same neighborhoods', *Archives of General Psychiatry*, vol. 55, no. 5, pp 393–401
- Stewart, D., Gossop, M., Marsden, J. and Rolfe, A. (2000), 'Drug misuse and acquisitive crime among clients recruited to the National Treatment Outcome Research Study (NTORS)', *Criminal Behaviour and Mental Health*, vol. 10, no. 1, pp 10–20
- Stockings, E., Hall, W.D., Lynskey, M., Morley, K.I., Reavley, N., Strang, J., ... and Degenhardt, L. (2016), 'Prevention, early intervention, harm reduction, and treatment of substance use in young people', *The Lancet Psychiatry*, vol. 3, no. 3, pp 280–96
- Van Cleemput, P. (2009), 'Abstract of thesis: Gypsies and Travellers accessing primary health care: Interactions with health staff and requirements for "culturally safe" services', *Journal of Research in Nursing*, vol. 14, no. 4, pp 365–9
- Van Cleemput, P., Parry, G., Thomas, K., Peters, J., and Cooper, C. (2007), 'Health-related beliefs and experiences of Gypsies and Travellers: A qualitative study', *Journal of Epidemiology and Community Health*, vol. 61, no. 3, pp 205–10
- Van Hout, M.C. and Hearne, E. (2017), 'The changing landscape of Irish Traveller alcohol and drug use', *Drugs: Education, Prevention and Policy*, vol. 24, no. 2, pp 220–22
- Wallace, C., Mullen, P., Burgess, P., Palmer, S., Ruschena, D., Browne, C. (1998), 'Serious criminal offending and mental disorder: Case linkage study', *British Journal of Psychiatry*, vol. 172, pp 477–84

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- Walter, M., Wiesbeck, G.A., Dittmann, V. and Graf, M. (2011), 'Criminal recidivism in offenders with personality disorders and substance use disorders over 8 years of time at risk', *Psychiatry Research*, vol. 186, no. 2–3, pp 443–5
- Welsh, J.W., Knight, J.R., Hou, S.S.Y., Malowney, M., Schram, P., Sherritt, L. and Boyd, J.W. (2017), 'Association between substance use diagnoses and psychiatric disorders in an adolescent and young adult clinic-based population', *Journal of Adolescent Health*, vol, 60, no. 6, pp 648–52
- World Health Organization (WHO) (2018), *Global Status Report on Alcohol and Health (2018)*, available at: https://www.who.int/substance_abuse/publications/global_alcohol_report/en/ (accessed 20 October 2020)

Probation in Latvia: ‘For a Safer Society’

Sintija Stivrina and Diana Ziedina*

Summary: The Republic of Latvia is a small country in Northern Europe, with an area of 64,589km². It is one of the Baltic States, with a population of approximately 1.9 million. The Republic of Latvia was established on 18 November 1918; however, the country’s de facto independence was interrupted at the outset of World War II. From 1944, Latvia remained part of the Soviet Union for the next 45 years. The restoring of de facto independence occurred on 21 August 1991. Since then, the country has been a democratic, unitary parliamentary republic. Latvia became a member of the European Union in 2004. On 1 January 2014, the euro became the country’s currency. Latvia is divided into 43 territories, which are administered by a local government.

The State Probation Service of Latvia works with offenders at all stages of the criminal process. Across all functions, the Service worked with a total of 17,787 people in 2019 and 16,850 in 2020. This paper tracks the development of probation practice in Latvia from its earliest configuration, through the development of regional structures under the Ministry for Justice up to the current structure for service delivery. The core functions of Probation Officers are outlined with a focus on programmed activities. The article concludes with some reflections on challenges for the Service and opportunities for future development.

Keywords: Latvian Probation Service, probation system, community service, community supervision, case management, Victim–Offender Mediation (VOM), restorative justice, Electronic Monitoring (EM), volunteers, Circles of Support and Accountability.

History of the probation system in Latvia

The beginning of the probation system in Latvia can be traced to the first period of independence (1918–1940), when assistance to prisoners and suspended sentences were introduced. During Soviet times, some community sanctions and measures (like suspended sentences, correctional work and early release from imprisonment) existed.¹ At that time, the supervision of

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¹ A more detailed description of the development of probation during the period of first independence and the Soviet period is available in A.M. van Kalmthout, J. Roberts and S. Vinding (eds) (2003), *Probation and Probation Services in the EU Accession Countries*, Nijmegen, The Netherlands: Wolf Legal Publishers, pp 185–9.

offenders in the community was organised by the police. The development of the probation system in its Western European sense took place after Latvia regained its independence in 1991.

The term 'probation' appeared in the Sentence Execution Code² with the amendments of 14 October 1998. These amendments provided for the creation of the Probation Service, whose main task was assistance to persons released from prison. In 2001, a working group under the auspices of the Ministry of Justice developed a policy paper on the development of a probation service and draft legislation to underpin the establishment of the State Probation Service (SPS). In order to inform that development, various models of probation services from around the world were reviewed. From 1998 to 2004, the Canadian International Development Agency (CIDA) funded several projects focused on different aspects of the criminal justice sector, including expertise on the development of new legislation on Criminal Procedure to underpin a statutory probation service. The probation working group visited Canada and European countries that included Sweden and the United Kingdom. At the same time, CIDA funded several pilot projects in local municipalities, which were aimed at juvenile crime prevention. Some of those projects went on to develop specific programmes for juveniles. Canadian experts were the first trainers of Probation Officers in Latvia. In accordance with the Concept Paper on Development of the State Probation Service (SPS), SPS was founded as an institution under the Ministry of Justice in October 2003. Legislation for the State Probation Service was enacted on 1 January 2004.

The Concept Paper on Development of the State Probation Service (adopted in 2002) provided for the gradual introduction of a probation system in Latvia in two ways — territorial development and the development of competent practice. The Concept Paper provided for the gradual creation of regional offices throughout Latvia over a number of years up until 2007. In fact, SPS completed its territorial development by 2005, creating headquarters and 28 regional offices (five in 2003, five in 2004, 18 in 2005). During 2003 and 2004, SPS had developed its competence in a number of areas — the delivery of aftercare to ex-prisoners (on a voluntary basis), preparation of pre-sentence reports at the request of judges and prosecutors, and the co-ordination of community service. Since 2006, SPS also supervises

² The law which governs the provisions and procedures for the execution of criminal sentences, the legal status of convicted persons, and the competence of state and local government institutions in the execution of sentences.

persons during probation periods in the community and prepares parole reports. Community supervision was gradually transferred from the State Police, with sentences coming into force after 31 December 2005 being managed by the SPS, while the Police continued to oversee older ones.

Due to the financial crisis in 2009, the SPS's budget was significantly reduced. Therefore, a general trend during this period was the reduction of probation activities in different areas:

- SPS sharply reduced financing to non-governmental agencies providing treatment and different rehabilitation services for probation clients;
- Aftercare was removed from the functions of SPS, with the decision to discontinue any institutionalised aftercare services (there is currently no agency responsible for aftercare services). Following release from prison, a person must apply for access to more general social services;
- Categories of clients for whom SPS delivered pre-sentence reports to courts and prosecutors were reduced (to include reports on sex offenders and juveniles only) until 2013;
- Supervision of persons who had been granted a conditional waiver by the public prosecutor was suspended until 2013;
- Victim–Offender Mediation in criminal matters carried out by Probation Officers was constrained to specific stages of criminal proceedings until 2013;
- Delivery of treatment programmes in prisons by Probation Officers was suspended until 2015, with the exception of treatment programmes for sex offenders.

Thanks to projects financed by grants from Norway and other financial processes, significant resources were invested in the development of Probation Officers' professional skills through various training activities during the years 2008–12. During this period also, a system for work with sex offenders was created. It includes specialised training for work with this category of probation clients, introduction of assessment tools *Static-99R*, *Stable-2007* and *Acute-2007*, and cognitive behavioural treatment programmes in community and prisons. Work was started on the introduction of *Circles of Support and Accountability* for the work with sex offenders, and four pilots of *Multi-Agency Public Protection Arrangements (MAPPA)* were implemented.

The use of imprisonment was substantially reformed at the end of 2012. Since April 2013, it is possible to combine a suspended sentence with community service.³

With the end of the financial crisis in 2012, the wider role of SPS in the criminal justice area was reinstated and various functions renewed. New additional sanctions — including probation supervision — were developed, which replaced the former practice of increased police surveillance and control.

Since July 2015, Electronic Monitoring (EM) has been implemented in Latvia. The technological solution selected is radio-frequencies-based technology to control the location of a person in a specific place. In Latvia, EM is regarded as an alternative to imprisonment and is introduced as one of the additional conditions for parole (when granted at an earlier stage of a sentence). The court can order EM for a period of one to twelve months.

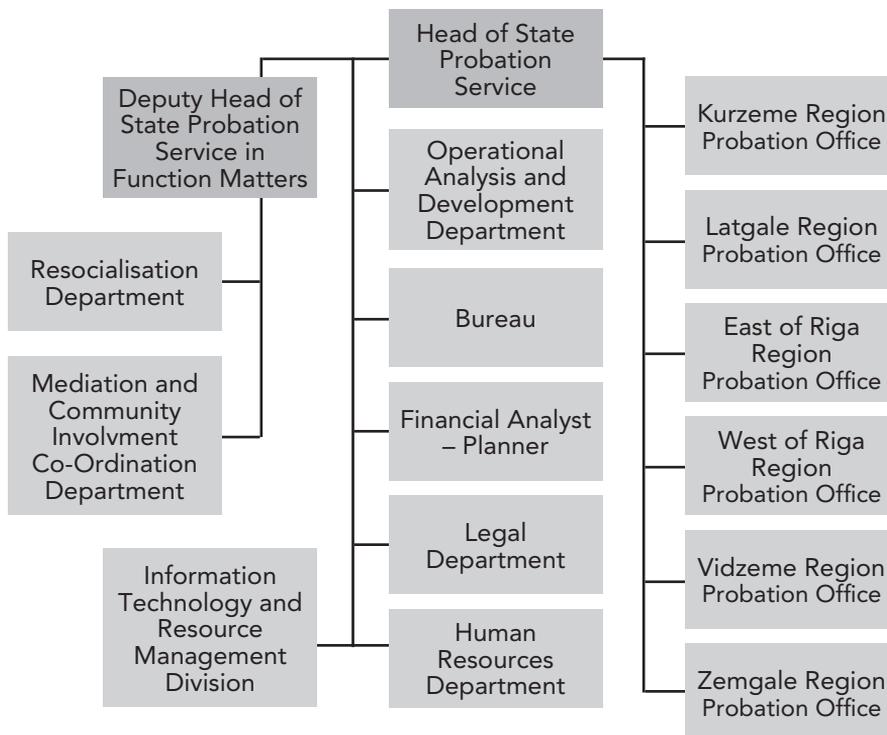
In November 2015, the first agreement between SPS, the Latvian Prison Administration and the State Police was concluded, ensuring the implementation of a new offender-management system — Multi-Agency Public Protection Arrangements (MAPPAs). Agreement was reached to facilitate the necessary exchange of information and to identify needs and risks to be addressed in joint meetings of representatives of the institutions, with the aim of preventing a new criminal offence. Based on that agreement, in all cases when a person has been convicted of a criminal offence against morality and sexual inviolability (sex offence) a MAPPAs is convened. In each case, the group will consider the work to be undertaken with the offender to address areas of risk; existing and potential victims, and particular safeguards that may be required; and the role and responsibility of each of the institutions. Since 2015, the range of offenders for whom MAPPAs meetings are convened has been extended and now also includes violent offenders.

Structure of the State Probation Service (SPS)

The organisation of SPS comprises a headquarters and local offices. In 2019, SPS went through regional reform in which six region probation offices have been formed. Local offices of SPS are located throughout Latvia. Each territorial division is divided into smaller divisions (see Figure 1).

³Judins, A., Jurevičius, I. and Klišāne, L. (2013), *Probation in Europe: Latvia*, part of A. van Kalmthout and I. Durnescu (eds), *Probation in Europe*, Utrecht, The Netherlands: CEP: Conférence Permanente Européenne de la Probation/The European Organisation for Probation, available at <https://www.cep-probation.org/wp-content/uploads/2018/10/Probation-in-Europe-2013-Chapter-Latvia.pdf> (accessed 7 July 2021)

Figure 1: Structure of the State Probation Service (SPS)



The staff

The total number of employees in SPS on 1 January 2021 was 401. These employees can be divided into three categories:

1. Staff working in headquarters,
2. Regional managers, and
3. Probation Officers.

The staff working in headquarters can be divided into two categories:

1. Those undertaking probation work with clients; this involves two departments — the Resocialisation Department, and Mediation and Community Involvement Co-ordination Department;

2. Administrative staff who have oversight of administration, record management and public and human relations, and the Operational Analysis and Development Department, which deals with research and the organisation of training for Probation Officers, etc.

Overall, the tasks undertaken in Headquarters are: planning and implementation of probation policy; recruitment of employees; delivery of training; drafting amendments to laws, and preparation of by-laws; oversight of internal regulations; monitoring standards and performance; provision and maintenance of technical equipment in local offices, and other resources necessary for work; managing budget and salaries; representation of the service in different working groups, and providing opinion on legal acts or policy documents prepared by other institutions.

Following regional reform in 2019, inspired by the Irish Probation Service, six regional probation offices of equal size were established, divided into local probation offices of equal size. The regional probation offices are led by regional managers, who are responsible for operations across local offices.

Local offices are staffed by Probation Officers. There are probation office managers, who are responsible for distribution of responsibilities among the staff. Probation office managers not only organise the work of the office, but also work with probation clients. Probation office managers' case management responsibilities amount to at least 20 per cent of their total workload. In all divisions, there are Senior Probation Officers who work with Probation Officers to deliver probation functions. There are some divisions where some Probation Officers work with a specific function, but Probation Officers' responsibilities generally include several functions (e.g. supervision, pre-sentence reports and community service). Six territorial divisions are divided into smaller divisions of five to ten Probation Officers. The caseload of Probation Officers varies depending on administrative territory, functions of the Probation Officer, and categories of probation clients (e.g. minors, sex offenders, violent offenders, etc.). Average caseload per Probation Officer is 25–30 clients at the same time.

Probation Service employees are civil servants or volunteers in the cases of mediation. Probation Officers are highly educated (highest education equivalent to at least a bachelor's degree) and the majority have an educational background in social work, social pedagogy, pedagogy, psychology or law; these might also be engineers or physicians. It is very important for Probation Officers to have the right competencies for practice, and these are assessed and tested during the recruitment process.

SPS has been a member of the Confederation of European Probation since 2004, and a member of the European Forum for Restorative Justice since 2017.

Functions of the State Probation Service

The State Probation Service of Latvia is involved in work with offenders at all stages of criminal proceedings. The tasks and functions of SPS are described in the Law of the State Probation Service (2004), Criminal Procedure Law (2005) and Sentence Execution Code of Latvia (1971).

Pre-sentence and parole reports

Pre-sentence reports are provided by SPS at the request of a court or a prosecutor for an accused person in criminal proceedings. Parole reports are provided at the request of the prison administration for those serving a sentence who apply for parole (including determination of EM).

The pre-sentence report is one of the criminal procedural tools that can help the court or the prosecutor to obtain comprehensive and objective information about someone's personality and circumstances. This ensures the individualisation of a sentence that can support the effective re-socialisation of the offender and opportunities for reparation and restoration of justice.

Since 2 December 2015, in accordance with the Criminal Procedure Law, the prosecutor, as the person directing the proceedings, has a duty to request a pre-sentence report from SPS regarding a person who has been accused of a sex offence. Also, since 1 January 2019, the same obligation has been established with regard to requesting a pre-sentence report on a minor who has been accused of a criminal offence.

The pre-sentence report is a valuable tool in criminal proceedings because it provides comprehensive and objective information about the probation client (including information from state and local government institutions, the probation client themselves, their contact persons, including their employer, family members and others, and also information from the victim). This report provides valuable information for the court or prosecutor in decision-making regarding the sanction. Another goal of the pre-sentence report is to provide information about potential restorative interventions that can adequately meet the needs of the victim.

The basis of the pre-sentence report is a risk-and-needs assessment of the probation client, which provides the opportunity for the SPS employee to

assess the criminogenic needs of the client, the nature and pattern of the offending, and the possible resources/interventions required to reduce the risk of reoffending. The report can also provide an objective opinion on the sanction which could be imposed on the probation client.

The parole report is focused on similar aims — comprehensive and objective information about the probation client which will help the court to decide on parole, including conditions for EM. In the case of conditional early release, the preparation of an evaluation report is mandatory.

A convicted person may request conditional early release from serving the sentence, including with EM, if the following conditions are satisfied:

1. A significant part of the sentence has been served;
2. There is no recent history of breaches of prison rules;
3. The request complies with other criteria laid down in legislation (e.g. unless the convicted person agrees to EM, it cannot be considered).

All requests are reviewed by the Head of the Prison and, subject to meeting the conditions above, a request for a parole report is sent to the Probation Service. This is submitted to the prison within 15 working days of the request. This report, together with additional progress reports from the prison, is submitted to the local court in the area where the prison is located. The court then adjudicates on the application for conditional release.

The Criminal Law states that conditional release prior to completion of punishment may be considered if the convicted person meets several criteria:

1. They have demonstrated motivation to change anti-social patterns of behaviour;
2. As far as possible, they have voluntarily made compensation for the losses caused by their crime;
3. They can legally access the necessary finance to support community living;
4. They have addressed issues of drug and alcohol addiction and other psychological difficulties whilst in prison and are committed to accessing further supports in the community on release.

When a convicted person requests conditional early release from serving a sentence, with determination of EM, they must meet several technical and personal conditions. This includes confirmation that the probable place of

residence is suitable for the implementation of EM and there is agreement and understanding from others resident at that address. It is important that any plans for employment and the person's behavioural characteristics and management of substance abuse are aligned with EM conditions.

Community service

The State Probation Service organises community service and also oversees a compulsory measure of a correctional nature — community service, which is not a criminal sanction, but it can be applied to a child from 11 to 18 years of age if they have committed an offence or violation for which criminal liability is provided. This provides an opportunity to hold the child and the family accountable for unlawful behaviour, thus responding in a timely manner and reducing the likelihood that the child will repeat the offence.

Community service is compulsory participation in work that benefits society (public service). A convicted person, or a person for whom community service has been specified by public prosecutor's injunction, will serve the punishment by doing work in the area where they reside. Authorities implementing the community service will specify the work that has to be done in the person's free time — outside regular employment or study schedules and without remuneration.

The community service provider (employer) is a significant resource for ensuring the effective organisation of community service. Community service can be provided by state or local government institutions; state or local government companies; state or municipal agencies; associations; foundations; or religious organisations. Community service is usually organised individually; in some circumstances, it may be organised in groups. The type of work in which probation clients are involved depends on their education, skills, health problems, etc. The jobs tend to be those requiring fewer skills, such as seasonal jobs — leaf-raking, snow removal, landscaping in spring, cleaning — and those requiring specific technical skills, such as paving, welding, IT work, etc.

If a probation client, who is convicted with community service, and for whom community service has been specified by public prosecutor's injunction, evades serving the punishment without a justified reason, SPS will forward a submission to the court requesting the substitution of the unserved punishment with temporary imprisonment, calculating four hours of work as one day of temporary deprivation of liberty.

At the same time, if community service has been determined for a period of at least 80 hours and if a person executes community service and other duties

imposed thereto in an exemplary manner, and if actually less than a half of the punishment imposed has been served, SPS may request the court to release the person from serving the rest of the sentence.

Community service is one of the harshest possible compulsory measures for children involved in criminal behaviour. Given that the SPS does not deal with the causes of criminal behaviour during community service, special attention is paid to attracting socially responsible employers, who could help change the child's values, encourage the child to spend their free time usefully and promote the acquisition of new skills.

Community supervision

The State Probation Service supervises various kinds of categories of person: those who have received a conditional discharge from the court, those placed on probation supervision, people who have received a suspended sentence with supervision, and those who have been conditionally released from prison.

The number of people on conditional charges who are supervised by the SPS is small. These are people against whom a criminal matter has been terminated, conditionally releasing them from criminal liability, where the prosecutor has imposed a duty to register periodically at SPS and to participate in probation programmes. If a person has been conditionally released from criminal liability and during the period of probation commits a new offence or does not fulfil the imposed duties or conditions, their criminal prosecution is reactivated.

Risk-and-needs assessment as a daily working method are used in jurisdictions across the world when planning and organising work with offenders. SPS has developed risk-and-needs assessment, and uses a number of assessment tools to work with the probation client, according to the nature of the criminal offences committed. SPS uses three risk-and-needs assessment tools — the general recidivism risk-assessment tool, the violence recidivism risk-assessment tool, as well as the sexual offence recidivism risk-assessment tool. All these tools are empirically validated for their predictive accuracy.

According to the risk-and-needs assessment, five levels of supervision and support have been identified: very low, low, medium, high and very high. Since SPS in supervision follows risk-needs-responsivity principles, more resources are invested in working with medium-, high- and very high-risk probation clients.

Under SPS supervision, probation clients have the following obligations:

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- To register at SPS within a certain period following the court ruling or release from prison;
 - To fulfil the obligations and lawful requirements determined by SPS;
 - To appear at SPS at the time specified;
 - To inform the official of SPS of their place of residence, workplace or educational institution, as well as, without delay (as soon as it has become known to the person) to notify of changes therein;
 - To request permission from SPS for departure outside of their place of residence for a period which is longer than fifteen days (this Clause shall not apply to a conditionally released person for whom EM has been determined);
 - To submit information to an official of SPS regarding the fulfilment of the imposed obligations and means of support.

In addition to the obligations specified above, a conditionally released person with EM has the following obligations:

- Not to change their place of residence without the permission of SPS;
- Not to use alcohol, narcotic, toxic or psychotropic substances;
- Not to damage electronic devices in any way that would hamper the management of restrictions on their freedom of movement and so ensure continuous operation of the system;
- To advise an official of SPS in the event of damage to electronic devices;
- To comply with the EM schedule prepared by an official of SPS;
- To advise an official of SPS of the persons permanently residing at their place of residence. Also, to inform SPS immediately if any additional person is planning to reside permanently at their place of residence after installation of electronic devices;
- To remove any possible obstacles which could hinder an official of the State Probation Service from accessing their place of residence at any time of the day.

In addition to previously noted obligations during supervision, SPS itself can impose several obligations on a probation client. This means that only the court determines the punishment and its period, but SPS is responsible for the content of the punishment, including additional obligations, e.g. to comply with the prohibition on leaving the place of residence at a specific

time of the day; to comply with the prohibition on visiting specific public places or on contacting specific people; to comply with the prohibition on abusing alcohol and other intoxicating substances; to participate in one or more probation programmes; to see a specialist identified by SPS for resolving issues of a criminal nature (if the probation client agrees to pay the additional expenses related to such visits or if it does not result in additional expenses for the conditionally released person, etc.). There are some opportunities for probation clients to receive free drug or alcohol treatment — for example, if a means test by local government has confirmed that the person is part of a low-income household. There are some projects where a person can get treatment if they have been in prison and are now under the supervision of SPS.

In carrying out community supervision, SPS uses both internal and external resources, depending on individual needs. The most widely used internal resources are probation programmes and SPS volunteers (mentorship). Volunteers are an important resource, particularly in work with children and juveniles. External resources include the MAPPA structure, social rehabilitation centres, and state or local government institutions. Social rehabilitation centres provide a range of services that can include temporary accommodation; initial medical care; free nutrition; the possibility of participating in household activities; consultations with a psychologist, a social worker, or counsellors in addiction-management programmes, etc.

If a probation client who is under SPS supervision violates the obligations specified previously (including those imposed by SPS) without a justified reason, or commits a new criminal offence, SPS will forward a submission to the court requesting (a) the execution of the sentence determined in the judgement or extending the term of probation for up to one year, (b) the substitution of probation supervision with imprisonment, or (c) the execution of the unserved part of the sentence, depending on the supervision category.

At the same time, in some cases (for example, when a person is placed on probation supervision), if a probation client, who is under SPS supervision, has successfully served half of the term of probation and has exemplary complied with the duties provided by law and by the Probation Officer, and has resolved criminogenic problems, SPS may request the court to revoke the probation supervision or reduce the term of probation supervision.

Probation programmes

One of SPS's functions is to support the development of probation programmes and the implementation of licensed programmes.

As part of community supervision, SPS can implement two types of probation programme — social behaviour correctional programmes or social rehabilitation programmes. Social behaviour correctional programmes help probation clients to analyse the causes and consequences of different life situations, identify and reduce thinking errors, recognise various risk situations, and promote responsibility. Social rehabilitation programmes provide an opportunity for probation clients who have previously been in prison for a long time or who lack life-skills to develop the skills needed to deal with everyday issues, mainly to reduce the risk of social exclusion and the likelihood of reoffending. Selection for participation in particular programmes is based on individual specific risk and need.

Involvement of the probation clients in probation programmes during community supervision provides an opportunity to change their thinking, attitudes and behaviour; and helps probation clients to analyse the causes and consequences of various life situations, as well as strengthening their resources. Probation programmes also provide an opportunity for probation clients to develop the skills needed to deal with everyday issues after a long stay in prison, in order to reduce the risk of social exclusion.

Restorative justice

The Council of Europe Recommendation CM/Rec (2018)⁴ defines the term 'Restorative Justice' as follows:

'Restorative justice' refers to any process which enables those harmed by crime, and those responsible for that harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party ('facilitator'). Depending on the country in which it is being used and the manner in which it is administered, restorative justice may be referred to as victim-offender mediation, penal mediation, restorative conferencing, family group conferencing, sentencing circles or peacemaking circles, inter alia.

⁴ Available at https://www.euforumrj.org/sites/default/files/2020-01/pb_on_coe_rec_general.pdf (accessed 7 July 2021).

The term 'restorative justice' is itself difficult to translate directly into Latvian, and it is still a challenge to find the best version of translation and a term that can be used and understood by everyone.

Following reform of criminal proceedings in Latvia, it was decided to implement Victim–Offender Mediation (VOM) as an alternative in criminal proceedings. However, Latvia had no previous experience of the practice. A Ministry of Justice working group decided that the SPS would be the most appropriate professional institution for the development of VOM. Early training was provided by Canadian probation specialists on restorative justice, including Dr Liz Elliott, Founding Director of the Centre for RJ at Simon Frazer University.

In 2005, the Mediation Division in SPS was established, and the training of staff mediators was provided by specialists from the National Mediation Service of Norway. We have adopted the Norwegian model of VOM, involving both volunteers and SPS staff in service delivery.

In 2019, following the creation of the Mediation and Community Involvement Co-ordination Department, restorative justice was implemented more widely with offenders under supervision. The main restorative justice programmes are VOM and Conferencing, mostly in the case of juveniles.

VOM is a voluntary face-to-face negotiation/dialogue between the victim and the offender, managed by a third person — a mediator — who gives assistance to the parties involved to reach a mutually acceptable and impartial solution. Probation Officers are trained mediators, and volunteer mediators who have completed a two-year certification training programme also work with the SPS. In 2020, the Service organised 1,384 mediations, and 14 per cent of those cases were conducted by volunteer mediators.

Our Probation Officers wear two hats — one is Probation Officer and the other is Mediator in criminal proceedings. This task can be challenging, so not all Probation Officers are Mediators. Staff of the Mediation and Community Involvement Department identify the criteria for selection of the volunteers and Probation Officers to train as Mediators to ensure that the service is delivered to a high standard. Our Mediators also give information and support to victims of crime. In addition, SPS organises activities for European Day for Victims of Crime, on 22 February, and to mark International Restorative Justice Week each November.

Criminal procedure states that a victim has the right to meet the offender and participate at the VOM, as well to receive information about VOM and the outcomes of any concluded settlement. According to the legal regulations,

the police must inform the victim about the possibility of taking part in VOM, which can feature in all types and stages of criminal procedure. An important detail is that criminal procedure law provides the possibility for VOM to be organised not only by SPS mediators, but also by the person directing the proceedings, during a court hearing, etc. Application for VOM may be requested by the Police, the Public Prosecutor, the court, any of the parties to the proceedings (victim, offender, parents) and the judge (relating to cases of Law on Compulsory Measures of Correctional Nature for Children). A very important regulation in Criminal Procedure Law, article 381, states:

If criminal procedure finds that a settlement is possible in the criminal proceedings and it is appropriate to involve a mediator, then he or she may inform the State Probation Service, but if the offender is a juvenile, the State Probation Service will be informed as a matter of course in all cases, unless the settlement has already been concluded.

In some cases, the VOM can take place online. In particular, online VOM has developed more widely during the COVID-19 pandemic. This is a short-term solution when it is not possible to organise face-to-face meetings. We believe that VOM is most effective when persons can be physically present in the same room, allowing greater and more visible emotional engagement. In particular situations, online VOM will continue into the future, e.g. if the parties live in different places, have some illness, etc.

One of the restorative justice programmes is a mentoring programme where SPS invites community members to act as volunteer mentors to probation clients, with a focus on social skills and use of leisure time. The main target group of probation clients is young people from age 14 (age of criminal liability) until 25; the mentoring programme is also available for probation clients in other age-groups. The main role here is played by the Probation Officer who is responsible for assessing and motivating the probation client for involvement in the mentoring programme, which is voluntary. There are currently 61 volunteer mentors in SPS. In 2020, there were 35 active mentors and 49 probation clients involved in the programme.

The Circles of Support and Accountability (COSA) programme was initially introduced in 2015 and has seen increased development since 2019. This programme involves groups of volunteers who provide support to sex offenders in their reintegration into society after their release from prison. There are six trained volunteers for COSA in SPS. Participation in this

programme is voluntary. The programme is in the early stages of development, and we hope to learn from best and more established practice in Europe and beyond.

Management of volunteers

SPS organises recruitment of volunteers, interviews and two days' training for mentors and also for COSA volunteers. The main topics of training for mentors are: Philosophy of Restorative Justice; Conflicts and their resolution; Portrait of probation client; Safety; Co-dependency and boundaries; and meeting with real mentors and exchange of stories about co-operation with probation clients. The main topics of the training for COSA volunteers are similar, with just a few differences: Philosophy of Restorative Justice; Conflicts and their resolution; Exercises for team building; Sexual deviances; meeting with COSA volunteers. Volunteer mediators are trained in one group with staff mediators. The training programme consists of 65 hours and practice of VOM, followed by a certification process with an exam.

SPS has more than 100 active volunteers (mediators, mentors and COSA volunteers). Since 2017, SPS in co-operation with the Latvian Prison Administration, within the framework of the European Social Fund project, organises a volunteers' conference entitled, 'Volunteering for a Safer Society'. However, the first 'Volunteering for a Safer Society' conference had already taken place in 2016 (having been organised with Norwegian grants support). The conference honours and congratulates both SPS Volunteers and Prison Volunteers. In 2019, for the first time, four volunteers received a vocational award from the Ministry of Justice — the 'Human being to Human being' award.

Challenges and future developments

Challenges and future developments will be considered under four distinct categories.

1. Work with juveniles and young adults

Given that a large proportion of probation clients are young people between the ages of 14 and 25, SPS has considered the findings of research and has implemented a number of initiatives, including the development and implementation of a specific probation programme for juvenile probation

clients — 'Ready! Set! Go!' The programme, for 17- to 25-year-olds, aims to promote the involvement of young people in group work, to help overcome fear and shame, to better understand their own needs, to develop new social skills as an alternative to criminal behaviour, and to strengthen their motivation and sense of competence to apply the skills acquired in everyday situations after the end of the programme. The philosophy of the programme is based on the Good Lives Model, which is determined by the belief that all human beings have similar goals in life, such as the pursuit of health, physical security, peace, happiness, joy, good relationships with friends, independence, success at work, belonging to a group, etc.

SPS currently uses the same general and violent risk-assessment tools for working with adults and with children. When using the tools with children, staff consider the developmental and personality traits of minors and their differences from adults, in order to adapt a specific tool to their needs.

Since 2020, SPS in collaboration with the Latvian Prison Administration, as part of the European Social Fund project, is working on a new assessment tool for children and juveniles. This tool will be more focused on a child and adolescent's needs and strengths, not static risk factors. It is planned to use this approach not only for children (minors), but also for young people (up to 26 years).

A pilot project is currently underway for the implementation of Family Group Conferencing with minors, involving family members and significant others in problem-solving and the preparation of the supervision plan.

2. Electronic case management

Since 2019, SPS has a fully electronic SPS information system, which enables the more efficient management of client data. In addition, the judicial system in Latvia is moving toward an electronic case-management system, and it is planned to establish a centralised and integrated, permanent electronic platform by 2023, to improve the transfer and appropriate sharing of information.

'E-case' projects aim to introduce online systems at all stages of criminal justice proceedings — pre-trial and court proceedings — involving all institutions, courts, prosecutor's offices, and including SPS. This means that procedural documents, as well as the necessary information flow with other authorities, will take place electronically.

Within the framework of the project, communication with the persons involved in the process — victims, witnesses, accused persons, convicts —

will also be improved, providing an opportunity to become familiar with the case materials in an electronic database.

3. Probation supervision as an alternative to imprisonment

Probation supervision was adjudged as an additional punishment by a court or by a prosecutor to ensure the supervision of the behaviour of a convicted person or a person sentenced by a prosecutor's order, to facilitate their resocialisation and to prevent further criminal offences.

In December 2020, amendments were adopted in criminal law, which provide that probation supervision can be applied also as an alternative to custody as a basic punishment. If a person evades probation supervision, in bad faith, a court shall substitute deprivation of liberty for the unserved period, calculating one day of probationary supervision as one day of deprivation of liberty.

With the previously mentioned amendments in criminal law, it is stipulated that the primary purpose of punishment in relation to minors (children) will be resocialisation. The problematic behaviour of most juveniles is temporary, therefore punishment without resocialisation — that is, imprisonment — can potentially negatively affect the juvenile's identity and self-confidence, which is necessary for successful development. In order not to isolate the child from society, but to promote resocialisation and changed behaviour, the amendments to the law provide for the possibility, depending on the seriousness of the crime, for the court to impose probation supervision as an alternative to custody. If the child evades probation supervision, in bad faith, the deprivation of liberty as a substitute for the unserved period will be calculated counting two days of probationary supervision as one day of deprivation of liberty, thus establishing a more favourable substitution rate than for adults.

4. Development of Electronic Monitoring (EM)

Over five years, we have made some progress with the development of EM. The main technological solution selected for EM is radio-frequencies-based technology to control the location of a person in a specific place.

SPS had prepared amendments to the law (which came into force in June 2020) that provide the opportunity for SPS to reinforce the conditions for EM in cases where a person violates the EM schedule or other obligations related to being in a certain place at a certain time, by applying GPS technology for the

person. It follows that GPS technology will be used only as an additional tool for SPS to reinforce EM in cases where the probation client, without justifiable reason, fails to comply with restrictions on their freedom of movement.

Progress is also being made in relation to the prevention of substance abuse during the EM period. The amendments will include SPS's right to use devices for the remote determination of alcohol use if a person has violated obligations regarding the use of substances during EM. Still, there are some challenges related to solutions for remote alcohol monitoring. Furthermore, SPS did not succeed in purchasing a remote alcohol detection device/system in the last procurement contract (although it was planned to get them). This problem must be solved, as one of the main reasons for EM violation is the use of substances.

Another challenge for the future is the potential extension of the scope of EM. As noted previously, EM in Latvia is one of the additional conditions for parole. This means that EM can be applied only for inmates who are conditionally released on parole. In the future, it would be progressive to move to a 'front-door model' and apply EM before a person gets to prison.

Since SPS is still in the relatively early stages of its development, we are open to co-operation with other countries, and we are interested in learning the experiences of others in this field.

Violent Female Offenders: An Exploration of Adversity, Trauma, and Offending Behaviour in a Sample of Females Supervised by the Probation Board for Northern Ireland

Hannadi Al Hassan*

Summary: Research shows that trauma and adversity, as well as the subsequent development of maladaptive coping strategies, are said to increase significantly the propensity, frequency, and seriousness of violent offending (Mahoney and Karatzias, 2012). Exploring these variables can provide insight into the causes of crime and explain its perpetuation in society, which, in turn, can be used to inform crime-prevention initiatives and assist in the reduction of recidivism. While there has been an increased focus on the initiation and maintenance of risk-factors that perpetuate violent offending, comparisons between one-time violent offenders (OVO) and repeat violent offenders (RVO) have rarely been explored. Furthermore, much of the available literature details the experiences of male offenders. Despite the fact that women in the criminal justice system consistently report experiences of trauma and adversity in their lives, the relationship between those experiences and female violent offending has not been widely explored. This paper outlines and discusses the findings from the author's postgraduate research and draws from previous work comparing OVO and RVO profiles and experiences, in particular that of Mahoney and Karatzias (2012). The research explores the role of trauma and adverse life experiences in the onset and maintenance of violent offending by two groups of females: OVO (n=8) and RVO (n=8). Excerpts of qualitative data gathered from the Probation Board for Northern Ireland (PBNi) was explored using a thematic analysis. Five major themes emerged, providing an overview of the social, personal, and offending domains of the participants. Both groups report extensive adverse experiences, with similarities and differences reported, as well as varying degrees of severity. This research highlights the behavioural heterogeneity of violent female offenders and provides a personal profile of one-time and repeat offenders.

Keywords: Female violent offending, one-time violent offenders (OVO), repeat violent offenders (RVO), recidivism, trauma, adverse experiences.

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Introduction

‘Violent offending’ is a type of criminal behaviour that varies in severity from offences such as robbery to what are commonly thought of as more damaging offences, such as serious assault, manslaughter and homicide (Polaschek, 2018). This type of offending is understood to occur as a result of a complex interaction between situation and individual-based factors and social cognitive variables (Polaschek, 2018). As a result, research on violence has focused on the risk factors that may increase the likelihood that an individual will engage in criminal activity, and the variables that may perpetuate and maintain that violent behaviour (Weizmann-Henelius *et al.*, 2004).

A flexible framework for understanding causes of violent behaviour is the General Aggression Model (GAM) (Anderson and Bushman, 2002). This theory acknowledges the factors that may add to aggression, such as biological factors including impairment in executive cognitive functioning (Allen *et al.*, 2018), and environment-based factors like adversity and negative peer influence (Polaschek, 2018). Several authors have since applied the GAM to explain criminal violence (Polaschek, 2018). This model is useful when conceptualising the wide range of factors that can contribute to violent and aggressive behaviour as it focuses on both stable individual differences in aggression, including low self-control, and research on situational risk factors, such as substance abuse (Polaschek, 2018). These interacting individual and situational factors lead to engagement in aggressive or non-aggressive action (Polaschek, 2018).

Violent female offenders

Of the risk factors associated with violent offending, adverse experiences have been thoroughly researched. These experiences include negative environmental factors, such as instability in employment and education, exposure to violence, substance misuse, untreated mental health difficulties, and interpersonal conflict (Bowles *et al.*, 2012; Hilton *et al.*, 2019). These high-stress environments can shape a person’s view of themselves and the world around them, leading to cognitive distortions about acceptable social behaviours (Levenson *et al.*, 2015). Thus, individuals adopt high-risk behaviours as part of a continuum of maladaptive coping strategies (Levenson *et al.*, 2015), leading to psychosocial problems later in life (Felitti, 2002), including engagement in criminal behaviour (Toth and Cicchetti, 2013). It is with this in mind that researchers have sought to investigate the potential

role of adversity as a risk and maintaining factor of violent offending (Hilton *et al.*, 2019).

One population of individuals at risk of being exposed to repeated adversity is that of offenders (Bowen *et al.*, 2018). Adults with a history of criminal behaviour are more likely to come from low-income families (Miller and Barnes, 2013) and report experiencing domestic violence, substance misuse (O'Neill, 2017; Willis and Levenson, 2016), or trauma as a result of loss and abandonment (Courtney and Maschi, 2013), and consistently report more lifetime stress factors, including unemployment and financial instability, than a control group (Horwitz *et al.*, 2001).

Furthermore, some studies report adversity experienced more frequently by female offenders than males. In a study of 203 violent offenders, the females reported a higher level of stressful life events in childhood and reported experiencing sexual abuse ten times more often than men (Rossegger *et al.*, 2009). Similarly, Belknap and Holsinger (2006) report that female offenders had experienced higher instances of verbal, physical, and sexual abuse than their male counterparts. In this study, when asked if the participants believed that their history of maltreatment had contributed to their offending behaviour, over half of the sample indicated that it had (Belknap and Holsinger, 2006). An evaluation of the PBNi Inspire Model in 2011 found that female offenders in Northern Ireland faced a range of vulnerabilities in relation to their health and wellbeing, family relationships, children, and addictions, and a significant proportion had also experienced serious and sustained violence or sexual violence either as adults or as children. The research highlights the importance of the environmental and social context in determining how adverse experiences may fit within female pathways into crime and the role they may play in maintaining criminal behaviour (Bowles *et al.*, 2012).

While research exploring the link between violent offending and adversity has grown in recent years, it is still not clear how it relates to criminal propensity in OVO and RVO. Mahoney and Karatzias (2012) have suggested that both groups have differing behavioural profiles; thus both offenders may have different risk and maintaining factors, or varying degrees of severity in these factors, that increase the propensity for engaging in violent behaviour. Some studies have sought to explore the factors that may correlate with, or be predictive of, violent female offending through comparison of offending histories (Bell, 2004; Mahoney and Karatzias, 2012). Chambers (2010) suggests that the identification of these risk factors may improve

understanding of how certain developmental trajectories result in engagement in criminal pathways.

Different behavioural patterns were explored by Bell (2004), who reports that OVO were significantly more likely to have committed homicide. Yet interestingly, Weizmann-Henelius and colleagues (2004) report recidivists as having significantly higher levels of antisocial personality traits, substance misuse issues, and a history of non-violent criminality; they were also less likely to be emotionally close to their victims than the first-time offenders. While there were no significant differences between the groups in terms of psychiatric care, a significantly larger proportion of the RVO (80.6 per cent) had a diagnosis of antisocial personality disorder than the OVO (16.7 per cent) (Weizmann-Henelius *et al.*, 2004). Interestingly, the study reported no significant differences in stressful life events or experiences of childhood or adulthood victimisation (Weizmann-Henelius *et al.*, 2004).

Mahoney and Karatzias (2012) investigated the behavioural patterns, demographic history, and personality traits of 87 female violent offenders. The RVO reported greater instances of child-conduct problems and onset of offending at an earlier age than OVO (Mahoney and Karatzias, 2012). Furthermore, RVO were more likely to commit crimes against victims who were not known to them, a similar finding to the Weizmann-Henelius *et al.* (2004) study, which suggests a difficulty in formulating intimate and supportive relationships (Mahoney and Karatzias, 2012). Thus, existing research shows that these two categories of offenders present as distinct sub-groups, both in the type of violent offences they commit, and across a range of social and psychological factors (Mahoney and Karatzias, 2012).

Methodology

Given the gap in specific research focusing on violent female offenders, the nature of the study is exploratory, in order to gain an insight into adverse experiences and explore these comparatively, based on offending histories. As this research focused on a female population sample, with specific offending behaviour, purposive sampling was employed. Braun and Clarke's (2006) model of thematic analysis was applied to the data to gain an understanding of the personal, offending, and social domains of each female offender.

Prior to commencement of the research, ethical approval was gained from Trinity College, Dublin, and the PBNI. Statisticians within the PBNI selected a

random sample on the Probation caseload, stratified by the gender and offence type requested by the author. For the purposes of this study, participants had to be female and had to have committed at least one violent offence; based on inclusion criteria, 16 violent female offenders were selected, all of whom had committed violent crimes. Qualitative information that had been analysed had come from reports produced by the PBNI.

Participants

Within the participant sample, two naturally occurring groups were formed: eight OVO with no previous convictions, and eight RVO with more than one conviction for a violent crime. Table 1 illustrates the demographic and offending information of the OVO participants. First-time offences ranged from common assault and assault with actual bodily harm, to manslaughter and murder. All victims of the crimes were personally known to the offender, with the most commonly reported victim being an intimate partner. The most common age range reported at the time of conviction for this group was 40–49.

The offence history of the RVO group is more extensive, illustrated by Table 2. The repeat offenders had varying types of violent crimes committed, including assault, manslaughter, grievous bodily harm, criminal damage, drug-related offences, assault on police, breach of bail, fraud, driving offences, and arson. The most common age range reported at the time of the current conviction was 30–39.

Table 1: *Demographic and offending information of OVO participants*

<i>Participant</i>	<i>Order type</i>	<i>Order duration</i>	<i>Age at conviction</i>	<i>Offence description</i>
OVO 1	Probation order	3 years	30–39	Assault — actual bodily harm (AOABH)
OVO 2	Enhanced combination order	2 years	20–29	Common assault
OVO 3	Life sentence/licence	15 years	30–39	Murder

<i>Participant</i>	<i>Order type</i>	<i>Order duration</i>	<i>Age at conviction</i>	<i>Offence description</i>
OVO 4	Indeterminate custodial sentence	99 years	40–49	Manslaughter
OVO 5	Probation order	12 months	40–49	AOABH
OVO 6	Probation order	12 months	20–29	Assault
OVO 7	Determinate custodial sentence	27 months	40–49	Wounding with intent
OVO 8	Life sentence/ licence	10 years	50–59	Murder

Table 2: *Demographic and offending information of RVO participants*

<i>Participant</i>	<i>Age at current conviction</i>	<i>Current offence</i>	<i>Past offence details</i>
RVO 1	18–19	AOABH	30 previous convictions, incl. assault on police, common assault, and serious assault
RVO 2	30–39	Manslaughter	96 previous convictions, incl. serious assault
RVO 3	50–59	Grievous bodily harm with intent, and serious assault	200 previous convictions, incl. threats to kill, assault on police
RVO 4	30–39	Criminal damage, theft, assault	39 previous convictions, incl. assault
RVO 5	30–39	Arson, assault on police	Incl. assault on police, common assault, criminal damage
RVO 6	20–29	Criminal damage	34 previous convictions, incl. assault on police

<i>Participant</i>	<i>Age at current conviction</i>	<i>Current offence</i>	<i>Past offence details</i>
RVO 7	40–49	Wounding with intent	Incl. child cruelty, intimidation
RVO 8	20–29	Breach of an order	Incl. assault on police, common assault, serious assault

Procedure

Qualitative information was gathered from the Assessment Case Management and Evaluation Systems report produced by PBNI, and it was transcribed by the statistics unit. This is an assessment of general reoffending for all service-users under statutory supervision with PBNI. It contains three sections that pertain to the Social (Section A), Personal (Section B), and Offending (Section C) domain of all participants (PBNI, 2011). Section A focuses on the offender's current social circumstances, providing information on accommodation, community, employment, education and training, finances, and family and personal relationships. Section B provides information regarding the personalised factors that may exist as problems for the offender, and which may have contributed to their offending behaviour. This includes information on substance misuse and addiction, health, personal skills, and individual characteristics. Section C focuses on the lifestyle and associates of the offender, their attitude, motivation, and any risk of serious harm.

Key findings and discussion

The dataset was thematically analysed, and five major themes were identified, all of which pertain to the social, personal, and offending domains of the participants. Environmental Factors, Support, Individual Characteristics, Substance Misuse, and Violence and Trauma all provide insights into the adversity experienced by the OVO and RVO, within the individual themes.

Environmental factors

'Environmental factors' relates to the situational context that may influence the offending behaviour of the participant. This includes references to education, employment, and the living situation of the participants. There is

only one reference made to education in the OVO group: OVO 3 has been described as 'capable' and is currently 'pursuing an honours degree' whilst she is in custody. It is also mentioned that she had received a positive reference from her school principal, which was presented at her appeal hearing as a testament to her character.

The education experiences recalled by the RVO are significantly more negative. Reports were made of either not finishing and/or moving school due to abusive and aggressive behaviour. For example, RVO 1 is reported to have been expelled from school at the age of 14, This is similarly reported with RVO 2, who is reported as having to complete:

her education at an alternative setting due to violent behaviour and substance misuse during her school days. (RVO 2).

It would appear that the repeat offenders demonstrate earlier conduct problems than the OVO, indicated by their aggressive behaviour in a school context. Andrews and Bonta (2003) identify problematic circumstances at school as a risk factor for criminal behaviour, and one of the best predictors of recidivism, as it has significantly lasting effects on the individual, including reducing access to adequate services, as well as having social implications.

Unemployment is a common theme reported by the offenders in both groups. O'Neill (2017) reports that out of the 14 recently released female offenders in Northern Ireland interviewed in her research, only three had secured employment in the nine months following their release. One participant reported being laid off one month after her return from prison, with the financial impact being extremely difficult for her family, with importance of working being linked to the self-worth of the participants (O'Neill, 2017). Similarly, Mahoney and Karatzias (2012) suggest that unemployment and other socially devaluing factors, such as financial stress, significantly increase the propensity of offending. In keeping with these findings, of the sixteen participants, six RVO and four OVO report limited employment, with only two participants in the dataset reporting stable employment, both of whom had committed one crime. Reasons for unemployment range from a lack of motivation to mental health difficulties, chaotic lifestyles, and addiction.

While past studies have reported a higher rate of reconviction amongst those living in unstable conditions, the causal relationship between homelessness and offending is a difficult and complex one to define. Thus, a

more accurate assumption is that criminal offending is both a cause and an effect of an unstable living environment (Seymour, 2004). Of the OVO participants, four report having a permanent residence, with two reporting previous periods of homelessness. OVO 4 and 7 both expressed uncertainty with regard to the nature of their living situation upon release, with them reporting that they will not be able to return to the area in which they once lived.

Similarly, the repeat offenders report 'several addresses in recent years', reflecting a degree of instability (RVO 4). RVO 1 reports being in care from the age of 14 due to her mother's inability to manage her 'erratic and aggressive behaviour'. Only one participant reports having previously had a permanent address, which was eventually lost due to drug addiction (RVO 2). Half of the participants report an unstable living situation, including being temporarily released to a hostel and then returning to custody, periods of homelessness, and living in areas of reportedly high antisocial behaviour, where criminal activity is engaged in frequently.

Support

This theme provides an insight into the positive and negative interpersonal influences, as well as engagement with professional support, and the impact that these interventions may have had on their offending behaviour.

The OVO group reports supportive relationships, such as OVO 1 who lives near her sisters and other family members who 'attempt to remove negative elements from her company', with her sister helping her to manage her finances. Poor interpersonal relationships and negative peer influences are also reported: OVO 1, 5, and 6 report a current unstable relationship status, with on/off relationships, and one non-contact order in place, and OVO 2 committed her offence with her partner. OVO 4 is estranged from her children, who were raised by her parents, and then their fathers when she left for a new relationship. OVO 6 similarly has a strained relationship with her children, who are known to social services for suspected emotional abuse. She also has ongoing issues with an ex-partner, who now has a new child with the woman against whom the offence was committed.

Very little reference is made to any positive relationships experienced by the repeat offenders. Contrastingly, negative relationships are reported in all participants: RVO 1 is reported as surrounding 'herself with negative persons': she is currently in a relationship with a prolific offender, and associates 'with

known drug users'. This is similarly seen with RVO 2 who socialises with 'negative peer associates', and RVO 3 whose partner is known to PBNI.

RVO 2 and 3 have limited contact with their family, with both RVO 2 and 4 having other family members raising their children. This is similarly seen with RVO 6, whose children have been placed in the care of her grandmother due to her addiction and neglect. RVO 5 reports a challenging family situation: her two older children are with their father and her other two younger children are in care, and she reports having a turbulent relationship with her mother, who was emotionally abusive. Furthermore, she is the youngest of three children, one of whom is deceased, and the other has serious mental health difficulties.

Stable intimate relationships, positive peer relationships, and social support networks have all been identified as effective protective factors for offenders (Mahoney and Karatzias, 2012). The OVO group reports family members living nearby and actively engaging in supportive behaviours, including assisting in the management of finances. The RVO group reports strained familial relationships, complete social isolation in the community, and estrangement from their own children.

Engagement with professional intervention was polarised in the groups: RVO frequently rejected support from professional intervention, whereas the OVO report improvement by working with mental health professionals. Three participants from the OVO group have reported receiving successful professional intervention by attending addiction groups and agreeing to referral for self-esteem issues, demonstrating a desire for personal growth (OVO 1), and victim awareness programmes (OVO 2). OVO 3 experiences PTSD following an IRA bombing, but she did not recognise this 'until working with psychologists in prison'. Unsuccessful intervention is reported only by OVO 8, who completed an alcohol-management programme, but did not feel it was personally relevant to her. There is very little engagement with mental health professionals within the RVO group: three have rejected support and refuse to engage in offence-focused work, with RVO 1 reporting a general mistrust of professionals.

Individual characteristics

Differences in individual characteristics is another theme that emerges. This provides insight into the physical and mental health of the participants, and personal characteristics — including temperament, personality, personal

skills, feelings of responsibility and remorse, and engagement in risk-taking behaviours — are all factors that may influence the offending behaviour of the participants and act as maintaining factors for antisocial behaviour.

Most OVO participants report mental health difficulties (n=6). Common reports included anxiety and depression (n=3), PTSD (n=1), and personality disorders (n=2). OVO 1 reports being in receipt of benefits for anxiety and depression, with her mental health issues affecting her ability to find and maintain employment, an issue she has been dealing with for over 20 years. OVO 4 is described as 'easily irritated, demanding', with 'anger issues', as well as being 'impulsive'. OVO 3 reports suffering from complex PTSD due to traumatic experiences in her past, including the death of her mother and experiences of bombings when she was growing up.

In terms of mental health issues in the RVO group, poor psychological wellbeing is reported in seven out of eight participants. Depression (n=1), anxiety (n=1), deliberate self-harm (n=3), suicidal ideation (n=3), psychosis (n=1), and addiction (n=3) are all mentioned in the reports. RVO 4 reports an 'unstructured transient lifestyle characterised by misuse of alcohol and prescription drugs' that led to substantial mental health difficulties. She also feels that her mental health further deteriorated after experiences of rape, which led to psychotic episodes, and a history of self-harm, all further maintained by a history of poor coping skills.

The literature indicates that female offenders, especially those who have experienced trauma, are more likely to have histories of mental illness when compared to male offenders and females in the general population (Bloom and Covington, 2009). Thus, it is no surprise that these issues were reported in both groups, with anxiety and depression being most frequently reported in the OVO group. The repeat offenders report more heterogeneous issues, including self-harm and suicidal ideation. This group discrepancy in mental health difficulties is similarly stated by Weizmann-Henelius *et al.* (2004), who report that women who commit violent offences against strangers have reported involvement in prior offending, and report more psychiatric disturbances and substance misuse.

Reference is made to feelings of responsibility, as well as a capacity to exhibit remorse for the offences. While little reference to this individual characteristic is made in the OVO group, there are reported instances in the RVO group (n=3). It would appear that all three participants display distorted thinking, and an inability to see from the perspective of others. Furthermore, more reference is made to the risk-taking behaviours of the RVO (n=3) in

which the participants have engaged in impulsive and aggressive actions, with a lack of consequential thinking. For example, RVO 3 is said to minimise her behaviour and the impact it has had on others, with RVO 5 having demonstrated a limited level of responsibility and control 'particularly when she perceives she is being judged by others'.

Substance misuse

Substance misuse is reported frequently in the OVO (n=7). While some report drug misuse during their teenage years, the present substance abuse mostly refers to alcohol. Historical substance abuse is reported by half of the participants: OVO 4 has been abusing alcohol for decades, and she engages in aggressive behaviour, which she feels is fuelled by alcohol and prescription drugs. Moreover, intoxication at the time of the offence is reported. OVO 5 reports rarely drinking but being drunk at the time of the offence, and she was experiencing stress as well, impacted by relationship issues and the alcohol. OVO 1 reports having an alcohol problem to the point that her sister helps her manage her finances as she would 'just drink the money', and reports drinking heavily at the time her offence was committed, when she was:

...so highly intoxicated she doesn't remember it and police confirmed she could not be interviewed for 11 hours. (OVO 1).

All repeat offenders report drug and/or alcohol issues, showing substance abuse as chronic. It is reported that both alcohol and drugs were a feature of the offending: RVO 1 was under the influence at the time of the offence, and she demonstrates poor reasoning skills when generally under the influence of alcohol. She reports starting at the age of 14, which eventually escalated into Class A drugs by the age of 16, and reports that heroin was a major factor in her life. RVO 8 reports using opioids and prescription medication, which eventually led to suicidal ideation, and she believes that this addiction, and her excessive alcohol consumption, are a factor in her offending. RVO 2 reports losing her permanent address due to her heroin addiction, and she discloses that it has played a part in her inability to gain significant employment.

Alcohol and drugs appear to be used by some of the participants as a coping strategy. RVO 4 reports her alcohol consumption as getting worse since the death of her sister, and RVO 5 reports 'misusing alcohol to deal with her disruptive upbringing and trauma'. RVO 6 reports addiction issues

following the death of an aunt, and RVO 1 reports using cannabis as a way to desensitise herself from her difficult personal circumstances.

Substance misuse was reported in all but one of the sixteen participants. Mannerfelt and Håkansson (2018) report that female offenders have a heavier pattern of drug use than males. Interestingly, there are differences between the two groups in this study: the OVO report very little drug use, with references instead to alcohol intoxication while committing the crime. Drug abuse is frequently reported in the RVO, characterised by lengthy abuse. It appears to have a distinct function, being reported frequently amongst the RVO as a type of coping mechanism and form of self-medication. Furthermore, the negative impact of the addiction is not minimised: participants attribute their loss of accommodation and mental health deterioration to the substance misuse.

Violence and trauma

Finally, most participants in both groups report experiences of historical abuse, domestic violence, and singular traumatic events that they believe shaped their later perceptions and behaviour, including bereavement, threat to life, sexual assault, and abandonment.

OVO participants report experiencing domestic violence (DV) in current and past relationships ($n=6$). OVO 3 discloses having a volatile relationship with her husband, characterising the relationship as 'controlling', involving physical, sexual, and psychological abuse. She tried to leave the marriage but felt her personal safety was more at risk, so she stayed. OVO 4 had a similarly controlling relationship with her husband: she reports her husband financially controlling her, with the money she received being spent on alcohol, causing contention in the relationship. OVO 8 describes her relationship with her current partner as 'loving' but 'controlling and abusive'. Experiences of DV are not limited to current relationships: OVO 1, 2, and 3 report experiencing violence at a young age, from parental figures and other family members.

Relationships of the repeat offenders are described as volatile, with significant histories of DV reported. RVO 3 reports DV with her current partner, who is under probation supervision. RVO 5 reports that an ex-partner is serving time for attempting to murder her, and discloses that 'three of four recent relationships ended due to domestic violence'. Moreover, RVO 7 reports having two long-term relationships as a young person that were both physically abusive. She 'discloses domestic violence, broken jaw and other injuries'.

Historical sexual abuse is disclosed in both groups: OVO 7 reports being subjected to 'sexual offences from the age of 10 and raped age 13'. Past sexual abuse is disclosed by RVO 1 and 3, by family members and neighbours during childhood and adolescence. RVO 1 discloses past 'sexual abuse from her older brother', with RVO 3 reporting child sexual abuse by neighbours and friends.

Traumatic singular events are reported by the OVO: OVO 1 recalls a traumatic childhood and adolescence, including abandonment by her mother who left when she was 7 or 8. Others report recent bereavement and loss: OVO 3 had discovered her husband after he had tried to take his own life, and 'feels that this event changed his personality'. Furthermore, both OVO 3 and 7 report the death of their mothers as having had an impact on their development. Threats against life were experienced by OVO 3 and 8, with OVO 3 reporting:

She was present with her younger siblings at time of IRA bomb during troubles and feels this was a significant and traumatic event in her life. She became separated from younger siblings at the time of the blast but both survived. She experiences post-traumatic stress following this event. (OVO 3).

Seven out of eight RVO report significant experiences of bereavement: RVO 1 has an extensive history of loss, including a friend's suicide and an ex-boyfriend's death from a drug overdose. RVO 2 had a baby with her ex-partner, and the baby died after a few weeks, resulting in a heroin relapse and further offending and custody. Experiences of murder are also reported by the participants: RVO 5 reports poor emotional wellbeing as a result of various circumstances surrounding family bereavements, including the suicide of a sibling and the murder of her uncle who was 'shot dead', with RVO 8 reporting a 'close family member was murdered when she was [a] young teen'.

Rape is reported by three of the RVO: RVO 2 reports threats from the paramilitaries in the area where she lived, and being previously raped by them. RVO 3 was raped at the age of 22 and had a child from this experience, and RVO 4 reports a distinct deterioration in her mental health after experiencing rape by two different men.

As reported by Willis and Levenson (2016), cumulative trauma has been associated with a greater likelihood of psychosocial problems, setting the stage for unhealthy relational patterns, which may contribute to abusive

behaviours and the utilisation of maladaptive coping behaviours. This in turn increases the likelihood of mental health issues, addictions, and engagement in criminal behaviours (Willis and Levenson, 2016). All participants within the dataset mention some form of trauma, substantiating research which suggests that there is a higher prevalence of experiences of adversity, victimisation, and trauma among female offenders (Bowen *et al.*, 2018). For example, DV was reported by both groups. Most women in the criminal justice system report unstable intimate relationships, and they are more likely to be involved in abusive relationships and report high instances of victimisation (Comartin *et al.*, 2018). O'Neill (2017) reports that nine out of the fourteen female offenders reported experiences of both historical and recent DV, with other trauma including bereavement and loss, as well as substance misuse, and mental health difficulties.

Conclusion

The findings in this article are based primarily on the transcribed excerpts of data received by the PBNi on eight females who committed one violent offence, and eight females who have repeatedly offended. It must be acknowledged that the small sample size is a major limitation of the study, and it is therefore difficult to generalise the findings to the wider population. That being said, the objective of this article was to draw on previous work comparing OVO and RVO profiles and experiences, such as that of Mahoney and Karatzias (2012), and to consider how those findings were echoed in the Northern Irish context.

While studies have shown that RVO and OVO present as distinct subgroups, differing in range factors including psychological wellbeing, the resulting data from this study are not as definitive as that assumption would suggest. While offending, social, psychological, and economic differences are noted, they are not significantly different, and reported differences seem to relate to the depth of negative experiences. For example, while both groups report negative interpersonal relationships, the OVO report receiving more positive support than the RVO, acting as a protective factor. Substance misuse is frequently reported by both groups, but while the OVO report a history of abuse of legal substances (alcohol), it is the repeat offenders who report, and attribute the motivation of their crimes, to heroin and other illegal drugs. That being said, beyond some minor differences in experiences, both groups report significant trauma and adversity, from domestic violence, rape,

and sexual abuse, to experiences of familial loss, mental health issues, and financial difficulties. From the outset and throughout, both RVO and OVO report significant hardships in their lives, with most participants citing these factors as influencing their engagement in violent offending. Thus, while the sample size is small, it is important to acknowledge the extensive adverse experiences reported by each participant, irrespective of the number of crimes they have committed, and to consider the potentially interactive nature of trauma and adversity, and the influence this has on offending behaviours and criminal propensity.

Researchers, such as Covington and Bloom (2004) and O'Neill (2017), demonstrate that women have different pathways into criminality, they respond differently to supervision and imprisonment, they exhibit differences in terms of substance abuse, trauma, mental illness, and employment histories, and they represent different levels of risk within prison and the community. This research highlights the complexity of past and present difficulties experienced by the female offender, and in recognition of this, Probation practice in Northern Ireland has adopted the 'Inspire approach', a gender-informed approach for women under probation supervision (O'Neill, 2011). The Inspire approach is based on the emerging knowledge of what works with women offenders in the community (Gelsthorpe *et al.*, 2007), and the starting point is that gender matters. The primary focus of Inspire is to ensure that women fulfil the requirements of the court order; it does so by adopting a women-centred approach, assisting women to address the impact of their experiences; improving self-esteem, helping them to develop coping strategies, and empowering them to take control of their lives and thus reduce the likelihood of their reoffending — factors that were reported as lacking in the lives of the participants in this study.

Studies that focus exclusively on a female population sample, while increasing in number, are still small in comparison to male studies. Furthermore, studies that focus on the risk and maintaining factors of those who commit one crime and those who chronically offend are even smaller. This study builds on previous literature (Mahoney and Karatzias, 2012) that suggests that repeated exposure to trauma and adversity may play a role in the different violent offending trajectories of OVO and RVO. It reinforces the importance of adopting a gender-informed perspective and approaching female offenders from a different and more individualised point of view, in order to improve understanding of violent female offending, and to tackle the causes of their offending and reduce recidivism.

References

- Allen, J.J., Anderson, C.A. and Bushman, B. (2018), 'The general aggression model', *Current Opinion in Psychology*, vol. 19, pp 75–80, available at DOI: 10.1016/j.copsy.2017.03.034 (accessed 29 June 2021)
- Anderson, C.A. and Bushman, B.J. (2002), 'Human aggression', *Annual Review of Psychology*, vol. 53, pp 27–51, available at <https://doi.org/10.1146/annurev.psych.53.100901.135231> (accessed 29 June 2021)
- Andrews, D.A. and Bonta, J. (2003), *The Psychology of Criminal Conduct* (3rd edn), Cincinnati, OH: Anderson
- Belknap, J. and Holsinger, K. (2006), 'The gendered nature of risk factors for delinquency', *Feminist Criminology*, vol. 1, no. 1, pp 48–71, available at <https://doi.org/10.1177/1557085105282897> (accessed 29 June 2021)
- Bell, A. (2004), 'Women with violent offense histories: A comparison', *Forum on Corrections Research*, vol. 16, pp 21–3
- Bloom, B. and Covington, S. (2009), 'Addressing the mental health needs of women offenders', in R.L. Gido and L. Dalley (eds), *Women's Mental Health Issues Across the Criminal Justice System*, pp 160–76, Upper Saddle River, NJ: Prentice Hall
- Bowen, K., Jarrett, M., Stahl, D., Forrester, A. and Valmaggia, L. (2018), 'The relationship between exposure to adverse life events in childhood and adolescent years and subsequent adult psychopathology in 49,163 adult prisoners: A systematic review', *Personality and Individual Differences*, vol. 131, pp 74–92, available at <https://doi.org/10.1016/j.paid.2018.04.023> (accessed 29 June 2021)
- Bowles, M.A., DeHart, D. and Reid Webb, J. (2012), 'Family influences on female offenders' substance use: The role of adverse childhood events among incarcerated women', *Journal of Family Violence*, vol. 27, pp 681–6, available at DOI: 10.1007/s10896-012-9450-4 (accessed 29 June 2021)
- Braun, V. and Clarke, V. (2006), 'Using thematic analysis in psychology', *Qualitative Research in Psychology*, vol. 3, no. 2, pp 77–101, available at DOI: 10.1191/1478088706qp063oa (accessed 29 June 2021)
- Chambers, J.C. (2010), 'An exploration of the mechanisms underlying the development of repeat and one-time violent offenders', *Aggression and Violent Behaviour*, vol. 15, pp 310–23, available at <https://doi.org/10.1016/j.avb.2010.03.002> (accessed 29 June 2021)

- Comartin, E.B., Burgess-Proctor, A., Kubiak, S. and Kernsmith, P. (2018), 'Factors related to co-offending and coerced offending among female sex offenders: The role of childhood and adult trauma histories', *Violence and Victims*, vol. 33, no. 1, pp 53–74, available at <https://doi.org/10.1891/0886-6708.VV-D-16-00073> (accessed 29 June 2021)
- Courtney, D. and Maschi, T. (2013), 'Trauma and stress among older adults in prison: Breaking the cycle of silence', *Traumatology*, vol. 19, no. 1, pp 73–81, available at <https://doi.org/10.1177/1534765612437378> (accessed 29 June 2021)
- Covington, S.S. and Bloom, B.E. (2004), *Creating Gender-Responsive Services in Correctional Settings: Context and Considerations*, Paper presented at the 2004 American Society of Criminology Conference, Nashville, TN
- Felitti, V.J. (2002), 'The relation between adverse childhood experiences and adult health: Turning gold into lead', *The Permanente Journal*, vol. 6, pp 44–7
- Gelsthorpe, L., Sharpe, G. and Roberts, J. (2007), *Provision for Women Offenders in the Community*, Fawcett Society, available at https://www.researchgate.net/profile/Lorraine-Gelsthorpe/publication/242406567_Provision_for_Women_Offenders_in_the_Community/links/54a154110cf256bf8baf6798/Provision-for-Women-Offenders-in-the-Community.pdf (accessed 29 June 2021)
- Hilton, N.Z., Ham, E. and Green, M.M. (2019), 'Adverse childhood experiences and criminal propensity among intimate partner violence offenders', *Journal of Interpersonal Violence*, vol. 34, no. 19, pp 4137–61, available at <https://doi.org/10.1177/0886260516674943> (accessed 29 June 2021)
- Horwitz, A.V., Widom, C.S., McLaughlin, J. and White, H.R. (2001), 'The impact of childhood abuse and neglect on adult mental health: A prospective study', *Journal of Health and Social Behavior*, vol. 42, pp 184–201
- Levenson, J.S., Willis, G.M. and Prescott, D.S. (2015), 'Adverse childhood experiences in the lives of female sex offenders', *Sexual Abuse: A Journal of Research and Treatment*, vol. 27, no. 3, pp 258–83, available at DOI: 10.1177/1079063214544332 (accessed 29 June 2021)
- Mahoney, A.L., and Karatzias, T. (2012), 'Violent female offending: An exploration of repeat and one-time offending', *International Journal of Forensic Mental Health*, vol. 11, pp 191–202, available at DOI: 10.1080/14999013.2012.723664 (accessed 29 June 2021)

- Mannerfelt, C. and Håkansson, A. (2018), 'Substance use, criminal recidivism, and morality in criminal justice clients: A comparison between men and women', *Journal of Addiction*, vol. 2, pp 1–9
- Miller, H.V. and Barnes, J. (2013), 'Genetic transmission effects and intergenerational contact with the criminal justice system: A consideration of three dopamine polymorphisms', *Criminal Justice and Behaviour*, vol. 40, no. 6, pp 671–89, available at <https://doi.org/10.1177/0093854812468434> (accessed 29 June 2021)
- O'Neill, J. (2011), 'The Inspire Women's Project: Managing women offenders within the community', *Irish Probation Journal*, vol. 8, pp 93–108
- O'Neill, J. (2017), 'Women's transitions from custody in Northern Ireland – time after time?' *Irish Probation Journal*, vol. 14, pp 112–32
- Polaschek, D.L.L. (2018), 'The psychology of violent offending', in D.L.L. Polaschek, A. Day and C.R. Hollin (eds), *The Handbook of Correctional Psychology*, Chichester: Wiley
- Probation Board for Northern Ireland (PBNi) (2011), *Assessment, Case Management, Evaluation System*, Belfast: Probation Studies Unit
- Rossegger, A., Wetli, N., Urbaniok, F., Elbert, T., Cortoni, F. and Endrass, J. (2009), 'Women convicted for violent offenses: Adverse childhood experiences, low level of education and poor mental health', *BMC Psychiatry*, vol. 9, no. 81, <https://doi.org/10.1186/1471-244X-9-81> (accessed 29 June 2021)
- Seymour, M. (2004), 'Homeless offenders in the community: The issues and challenges for probation supervision', *Irish Probation Journal*, vol. 1, no. 1, pp 3–13
- Toth, S.L., and Cicchetti, D. (2013), 'A developmental psychopathology perspective on child maltreatment', *Child Maltreatment*, vol. 18, pp 135–9, available at DOI: 10.1177/1077559513500380 (accessed 29 June 2021)
- Weizmann-Henelius, G., Viemerö, V. and Eronen, M. (2004), 'Psychological risk markers in violent female behavior', *International Journal of Forensic Mental Health*, vol. 3, pp 185–196, available at <https://doi.org/10.1080/14999013.2004.10471206> (accessed 29 June 2021)
- Willis, G.M., and Levenson, J.S. (2016), 'The relationship between childhood adversity and adult psychosocial outcomes in females who have sexually offended: Implications for treatment', *Journal of Sexual Aggression*, vol. 22, no. 3, pp 355–67, available at <https://doi.org/10.1080/13552600.2015.1131341> (accessed 29 June 2021)

Building Bridges to Successful Reintegration

Aisling Meyler

Summary: This paper draws on qualitative research carried out by a staff member based in 'Care After Prison' (CAP), a national, peer-led criminal justice charity supporting people affected by imprisonment, current and former offenders and their families. The research, conducted in 2020, during the COVID-19 pandemic, explores the experiences of a group of people who have a history of imprisonment and of accessing community organisations and health services on release. This transition was mapped against their level of interagency engagement, the continuity of care received, and related policies and frameworks for release planning. One of the key aims of the research was to identify, through the voices of participants, any gaps in the provision of care in the journey through prison and back to the community, and to explore how these gaps could be addressed. In delineating the narratives of the research participants, the focus was on the structural and individual barriers they encountered in accessing services in prison, and their experiences of pre-release care, as they were released back into the community. The article sets out the domestic and international literature, within the context outlined above, to examine the process of reintegration experienced by prisoners' pre-release and following their release into the community. It subsequently details the research methodology and method of data analysis, before outlining the research findings. The paper concludes by making a number of recommendations for improving the experiences and outcomes for people pre and post release from custody.

Keywords: Interagency healthcare provision, prison, sentence management, access to services, pre-release planning, reintegration, health outcomes.

Introduction

Upon leaving prison, those trying to resettle and reintegrate into society may face considerable challenges, including addiction, physical and/or mental health issues, unemployment, and housing issues. National and international literature consistently highlights the prevalence of addiction — approximately 80 per cent; mental health issues — typically 50 per cent; and dual diagnoses, which affect roughly 50 per cent of the prison population (Dillon *et al.*, 2020). Health disparities within this cohort are compounded by family breakdown,

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low levels of education and employment attainment, social stigma and isolation, poverty, and housing shortages (Binswanger *et al.*, 2011). When present prior to committal, these multifaceted issues can be exacerbated by imprisonment and often continue upon release. In 2019, there were 8,939 committals across Ireland's twelve prisons (IPS, 2019). While there is no absolute data on year-to-year releases, the majority of those committed to prison will eventually be released. The need for greater and more integrated support for those being released has been consistently called for in literature, policy, and strategy documents (IOG, 2019; IPRT, 2019).

Individual and structural barriers to service access and pre-release planning exist in a complex, interlinked relationship. Individual barriers include the capacity to address substance misuse, mental wellbeing, and distrust of services. Structural barriers include failure to implement policy pertaining to healthcare access in prisons and reintegration practices, prison overcrowding, resource issues, and inconsistency in service provision across the prison estate.

In Ireland, some progress has been made by government and voluntary agencies to assist the transition from prison into the community. One example of this progress includes the multi-departmental commitment to implement a 'Housing First' justice model in Irish prisons. 'Housing First' is a model which aims to accommodate those with a history of rough sleeping, coming into contact with the criminal justice system, and co-morbid issues such as mental health and addiction needs (Department of Health, 2018). Nevertheless, gaps and inconsistencies in resettlement policy persist. Given the complexity of the transition from custody to the community, it is vital that such strategies and policies are shaped by the lived experience of those they seek to assist. There is a national dearth of research on how the bridge from prison to the community is experienced by those who have been directly impacted by imprisonment and subsequent release. Furthermore, the Interagency Group for a Fairer and Safer Ireland¹ 'believes there is a need to increase the amount of information and research about the experiences of offenders following release from custody so that policies can be evaluated and adjusted accordingly' (Department of Justice, 2018, p. 3). Additionally, prison data are not compiled centrally and there has been little by way of empirical data published in Ireland, thus creating challenges for academics and programme developers to design, implement, and evaluate comprehensive interventions tailored for a heterogeneous prison population (Scott-Hayward and Williamson, 2016).

¹ A group formed to implement key recommendations of the 2014 report, *Strategic Review of Penal Policy*.

Structural barriers to post-release care plans

Nicholson and Mann (2020) posit that the prisoner's individual rehabilitation journey begins within the prison walls and ends with resettlement and reintegration post-release. In Ireland, the Integrated Sentence Management (ISM) prison service staff are tasked with creating goal-oriented plans for sentenced prisoners at the start of their sentence, and these plans should continue post-release (Fennessy *et al.*, 2020). In 2018, the *Mountjoy Visiting Committee Annual Report* raised concerns regarding the inadequate resourcing of the ISM, with each staff member having a caseload of 200 prisoners, who in turn complained to the visiting committee that they had no involvement with ISM at all (Fennessy *et al.*, 2020). The ISM post was introduced by the Irish Prison Service (IPS) over a decade ago, and various supported, structured Temporary Release (TR) schemes were implemented shortly after (IPS and PS, 2020). Previous research indicates that these initiatives are not being consistently utilised across the Irish prison estate (Clarke and Eustace, 2016), which is corroborated by the findings of the current study.

Several studies in the field have highlighted the positive impact of pre-release planning, which incorporates community referral pathways and positive staff/client relationships into a prisoner's engagement with health treatments in the community (O'Neill, 2011; Marlow *et al.*, 2010). However, in 2016, the healthcare staff to prisoner ratio was 42 per 1,000. This ratio is low in comparison to Ireland's European prison counterparts: 46.3 per 1,000 in Belgium; 49.9 per 1,000 in France; 61 per 1,000 in Finland; and 89.1 per 1,000 in Switzerland (Department of Justice, 2018). Psychologist to prisoner ratio across Ireland's twelve prisons is 1: 251. There were 614 prisoners on the waiting list to see a psychologist in 2019 (IPRT, 2019). Furthermore, while 70–80 per cent of prisoners have addiction issues (Dillon *et al.*, 2020), there was an average three-month waiting list to access an addiction counsellor (Clarke and Eustace, 2016). This raises a question regarding whether adequate referral pathways into the community could ever be made for those experiencing mental distress when healthcare provision in prison is so insufficient.

Similarly, overcrowding has been a consistent problem in Irish prisons for over a quarter of a century (IPRT, 2019; NESF, 2002). National and international research emphasises the damaging impact of prison overcrowding on the capacity of staff in prison, probation and community-based organisations to formulate, resource and deliver effective reintegration care plans. This is particularly problematic when there is little information-sharing across agencies

working within prisons (Eshareturi and Serrant, 2018). In its 2015 report, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) highlighted concerns relating to the chronic overcrowding issue in certain Irish prisons. The CPT was informed by prison authorities that many prisoners could not participate in structured TR schemes because they did not fulfil the criterion of having a stable address to return to upon temporary release (Council of Europe, 2015). This impasse not only exacerbates overcrowding in Irish prisons, but also accentuates the impact of Ireland's current housing and homelessness crisis on prison overcrowding and opportunities to access structured early-release programmes for those prisoners affected by the crisis (Department of Justice, 2018).

Overcrowding is often cited as a justification for inadequate healthcare access in prison, given the lack of capacity of healthcare staff to deliver interventions (Hummert, 2011). To alleviate overcrowding, prisoners are moved to different locations within the prison estate or released in an unstructured way, in an attempt to reduce quickly the numbers of those in custody (Martynowicz and Quigley, 2010). Staff in the CAP project have experience of working with people who were released not only in an unplanned way, but also without any referral for social welfare benefits. Contrary to guidelines, unstructured and late releases on Fridays can occur, without access to any emergency welfare payment. Consequently, the risk of offending is increased, with implications for the individual, their family, and their local community.

Individual barriers to post-release care plans

While structural barriers have a far-reaching impact and often require a multi-agency response to ensure that practices such as effective pre-release planning are fulfilled, individual barriers affecting help-seeking behaviour can compound the structural barriers to pre-release care planning. Howerton *et al.* (2007) identify a chaotic upbringing and distrust of authority and service-providers as factors that negatively impact the capacity of prisoners with mental health issues to seek help. Feeling respected by a healthcare professional and having positive peer and family support increases the likelihood of individuals within the criminal justice system (CJS) seeking help (Howerton *et al.*, 2007).

In New Zealand, a model of assertive engagement has been applied with prisoners experiencing severe mental illness, a significant proportion also

having substance misuse issues. This method has been evaluated as effective in engaging a traditionally hard-to-reach prison population (McKenna *et al.*, 2015), and was developed with the understanding that vulnerable populations such as those in the homeless and/or criminal justice sector experience high levels of distrust which affects their motivation to access services (Parsell *et al.*, 2019). Assertive engagement is an intentional and proactive form of contact that aims to connect individuals with agencies through persistence and encouragement even when an individual initially appears reluctant.

Methodology

This research study was carried out as a central component of a Master's dissertation. Ethical approval was granted by the School of Social Work and Social Policy, Trinity College Dublin. In this study, desktop research, semi-structured interviews, and consultations with experts in the fields of criminal justice, homelessness, and addiction were employed. Qualitative semi-structured interviews allow enough flexibility for rapport to develop between the interviewer and respondent, thus enabling the interviewer to ask probing questions if necessary (Turner, 2010). This framework facilitated the elicitation of previous complex and multidimensional experiences of respondents — a crucial addition to the breadth of policy documents and recommendations regarding prison-to-community transition.

As a result of the societal stigma to which ex-prisoners are often subjected, they may be unwilling to identify themselves as such and/or to disclose socially and criminally deviant behaviour (Ellard-Gray *et al.*, 2015). It was therefore decided to utilise a range of services and agencies within the community to recruit research participants. Information sheets detailing the steps of the research and consent forms written in accessible language were sent to 22 service-providers, consisting of addiction, homeless, Traveller specific, health-based, and criminal justice sector services carefully selected with the aim of recruiting a diverse sample. Written informed consent was obtained for all the interviews.

The final recruitment sample consisted of two women and eight men; one person was a member of the Traveller community. Participants had the experience of release from prison over a nine-year period up to 2020. The sample served various lengths of prison sentences, ranging from five months to twelve years. Of the participants, 20 per cent ($n=2$) had served only one sentence of imprisonment, and the remaining eight had repeated experience

of imprisonment. Broad findings showed that 60 per cent (n=6) of participants in this study had no history of reintegration planning, while 50 per cent (n=5) did not engage with services in prison. Of the sample, 80 per cent (n=8) were affected by addiction, while 80 per cent (n=8) had experienced homelessness. Data analysis led to the identification of the following themes: demographic profile affecting access to services; the level of interagency and multidisciplinary continuums of care; motivation to access support; the impact of COVID-19 on service access and its disruption of care planning; reintegration from prison into the community; and perceived and experienced enablers to successful integration into the community and access of services.

My dual position as researcher and part of the management team in CAP was an ethical consideration in this study. To reduce both researcher bias and participant influence during the interview, it was ensured that participants were not also service-users within CAP. Furthermore, the limitations of the research — a small number of sample participants referred from a small number of services — indicate that the findings of this research are not generalisable.

Findings and discussion

Help-seeking behaviour and access to services

While individual experiences were diverse, it is noteworthy that participant situations, especially in relation to the extent of self-reported chaotic drug use and poor mental health, long-term homelessness, the length of prison time served, and challenges of reintegration, were notably bleak. Entitlement to reintegration planning and prison case management is viewed in the literature as diminished for those on remand and doing shorter sentences when compared to those on longer sentences (Crowley *et al.*, 2018). This study's findings confirm that access to services in a remand prison is limited. Sentence length appeared to have little bearing on this cohort's experience of pre-release preparation for the eight participants (sample n=8) who served multiple short sentences.

The high-support needs of the sample were perceived as exerting influence over their capacity to seek help and access services within the prison. Participants with extreme marginality were less likely to seek help for the issues they encountered. This diminished capacity to ask for support is reflected in the literature (Binswanger *et al.*, 2011). Moreover, several participants perceived the prison as being deficient in resources, or as

offering 'no help', and felt that the system 'doesn't care' about them or their peers. The perception of receiving 'no help' derives from a lack of trust, often resulting from prior poor experiences with agencies (Howerton *et al.*, 2007).

Conversely, those in the sample (n=2) who did experience a high level of multidisciplinary, pre-release planning, which followed them post-release, showed significant progress in terms of their reintegration at the time of interview. Both participants had positive histories of service provision prior to committal. Common among this sample was the expectation that the individual should, rather than waiting for the service, actively seek support. Louise, who appeared proactive in her pursuit of accessing services in prison, detailed an almost constant request to prison staff to see a psychologist, signalling that this requirement had been ordered by the court.

Like, there is a lot of support in the prison, if you actually go and ask for it. Like, they won't come to you, you actually have to go and ask them for it. (Louise)

Those in the sample who were in recovery from substance use at the time of interview noted that their lack of capacity to seek help should have alerted the prison and agencies operating within it, and that the hard-to-reach prisoner should be approached with offers of support.

Well, I know I was stoned all the time and I didn't [...], nothing really made sense to me but what I do know is no staff never pulled me [...] and asked me what do I want to do. (Philip)

While an assertive engagement model, like the aforementioned example in New Zealand, has not yet been applied in Irish prisons, experiences of ad-hoc assertive engagement from low-threshold drug and homeless services were found to have a positive effect on marginalised research participants' access to services. Participants signalled that drugs and mental health issues affect motivation to access services, but that agencies and programmes should be made accessible so that people leaving prison have the option to engage if and when they are ready. Robert, for example, who actively used drugs for two decades, had no experience of accessing services before, during or upon leaving prison:

I never linked in with anyone. See, I never cared about anything like that. When I was getting out, I'd just say 'yeah yeah yeah' to whatever they were saying to me. Then I'd get out and wouldn't do anything, I'd be gone. (Robert)

Robert engaged with an addiction service for the first time a few months prior to the interview and described the realisation that he, rather than his family, is accountable for his actions and behaviour:

I just want to talk nice to me ex-girlfriend cos I was giving her abuse over nothing. I was on drugs. I was on heroin, I was on tablets at the same time. I was blaming her, I was blaming me ma at the same time. I was blaming everyone but meself. Now I realise it's [...] me. (Robert)

A further complication in accessing services was posed by the impact of COVID-19, with some participants describing 'feeling stuck', particularly in relation to the stalling of their care plans with addiction services in the community. This frustration is also echoed by those accessing CAP for support during the pandemic. Nonetheless, opportunities have arisen as a direct result of the pandemic and the changes it has imposed on workplace practices. Although it is paramount to recognise the numerous ways in which the virus has increased health risks for prison populations, there are also opportunities due to the changes in how prison healthcare is delivered, such as telemedicine and video consultations (Crowley *et al.*, 2020). Further research is required to investigate the extent to which assertive engagement improves health outcomes for those within the CJS who may have a poor history of service engagement, or who encounter barriers to accessing therapeutic support in prison. This initiative could provide effective progression along a continuum of care for those hoping to access addiction services and residential treatment upon release, as supported by the National Drugs Strategy (Department of Health, 2017). The Housing First pilot initiative for those leaving prison, which aims to accommodate 25 'hard to house' prisoners per year, is a welcome step in engaging those due for release who have a housing need. One of the key principles of Housing First is assertive engagement, which simultaneously presents an opportunity for addiction services to collaborate on this initiative while assertively engaging a 'hard to reach' cohort of prisoners with addiction issues.

Preparation for release

Access to therapeutic addiction support in prison was inconsistent for participants. Prochaska *et al.* (1992) suggest that a setting such as prison, in which drug use and feelings of isolation are a common narrative, does not appear to be an environment conducive to behaviour change under the States of Change model; and the findings of the current study corroborate this. The States of Change model posits that the process of individual motivation to change signifies a temporal shift in behaviour, attitudes, and intentions of a person in relation to their problem, such as substance use (Prochaska *et al.*, 1992). While methadone was easily accessed in prison, participants receiving this medication rarely accessed supplementary therapies, such as counselling. Peter described the difficulty of detoxing off methadone without therapeutic interventions. The prison he was in does offer these additional supports, but appeared to have been insufficiently resourced:

I know the medical unit is there but sure that's always full and you have to wait to go onto that. Like, if you have it in your mind that you want to come off whatever you are addicted to, then you should get help straight away to do that [...] It's hard like, to be honest with you. (Peter)

Stages of change are underpinned by the following: pre-contemplation; contemplation; action; maintenance; and recovery. Effective progression through the stages of this model requires individual change, comprising self-awareness and self-regulatory processes, and situational change, which includes environmental development, building on positive peer groups and family support (Prochaska *et al.*, 1992). Placing someone who is at the contemplation stage in a treatment programme designed for those in the action stage could lead to the participant dropping out and potentially relapsing. It is vital that the received treatment matches the stage the individual is at (Prochaska *et al.*, 1992).

Another participant in the research sample, Terence, requested to go to residential treatment from prison. He received a pre-treatment assessment during a sentence but no addiction interventions while in custody. Terence entered the residential treatment but was soon discharged and subsequently relapsed. Further research is required to assess alternative approaches which could serve to prepare those being released into an addiction treatment centre, such as the provision of addiction therapeutic communities in Irish

prisons. The effectiveness of therapeutic communities in addressing both addiction issues and recidivism rates has been evidenced in the UK, where these communities exist in prison (Rawlings and Haige, 2017).

Homelessness and overcrowding

Homelessness and precarious living arrangements were an issue for 80 per cent (n=8) of the sample. Terence, who served numerous short sentences and was often released with nowhere to go and with no preparation prior to release, described how this created a sense of fatalism for him and his peers:

Like you need all these little things sorted cos when I got out and I'd nearly freak out. The first thing I'd think was 'I'm getting stoned'. That was my attitude and I know that's the attitude of a lot of guys in jail. And like, I know you have to do a lot of this ourselves but a lot of us don't know how to do it. (Terence)

Those with such complex needs are often the most visible in prison and within services, as they require the highest level of crisis management. Nevertheless, this high level of visible marginality runs the risk of pathologising those accessing agencies, thus overlooking the structural gaps driving inequity (O'Sullivan, 2020). Housing shortages, however, are seen to affect those with and without complex needs. The findings of this study highlight how the extent of uncertainty in the private rented sector and the lack of social housing impact on a diverse range of the prison population.

During the interview, Louise, who has a history of employment and no disclosed addiction or mental health issues, recounted a short period of homelessness with her child in recent years. Without new social housing developments or measures to ensure an exit from homelessness, Louise and her young child were approved for a private rented tenancy supplemented by the Homeless Housing Assistance Payment. These tenancies are subject to private landlord ownership rules and impose on tenants the same precarities as the private rented sector (O'Sullivan, 2020). Louise and her daughter lost this property when Louise went to prison.

Another participant, Charlie, also commented on the impact overcrowding has on prisoners being inappropriately transferred to sections of the prison that are designed for reintegrating those who have engaged well with their care plans, in a bid to free up space in other parts of the prison:

But because main Mountjoy is so full [...] they move them over to the Progression Unit — they're all over there and there are people there that genuinely — they could have 3 months left or 6 months left — they should be allowed to start getting out, but they're not allowed out anymore because there is a risk of them bringing drugs back. (Charlie)

In attempting to address the need for structured and supported pre-release and post-release plans, in 2018, the IPS, in partnership with the Probation Service, opened a 'step-down facility' from the Dóchas Centre, Women's Prison, which has a capacity of nine beds (Houses of the Oireachtas, 2020). Further research is required to evaluate the scope of expanding step-down facilities for those leaving prison who have housing needs. Delivered through a multi-agency approach, these facilities have the potential to alleviate overcrowding issues, while ensuring that the individual's care plan is protected under a continuum of care model (Clarke and Eustace, 2016).

Conclusion

This article provided an overview of the literature which situates the study in the context of evidence-based research on service provision access in prison and pre-release planning. The research conducted identified gaps in the provision of prison-to-community care and explored how these gaps could be filled, from the perspective of those with a history of imprisonment and those working within the field. It is widely acknowledged that vulnerable people are being released from prison without support, with those hardest to reach being the most marginalised. This practice not only puts the individual at risk, but has consequences for the prisoner's family, and their community. If prisoners are not supported in their journey towards release and through transition, the opportunity is lost to address effectively issues that contributed to their imprisonment, as well as the possibility of interrupting and breaking the cycle of the 'revolving door'.

Those serving under 12-month sentences make up the majority (76 per cent) of those in prison (IPS, 2019). This study's findings illustrated that for eight participants in this study, who had served multiple short sentences, sentence length appeared to have little bearing on their experience of pre-release preparation. Furthermore, the multiple short sentences these eight participants experienced, devoid of service engagement within the confines of the prison, appeared to compound their extreme marginality by disrupting

attempts at recovery and stability in the community. Given that the (ISM) initiative was implemented by the Irish Prison Service in 2008 and is intended for all sentenced prisoners, the expectation is that all of those in the sample would have had some experience of sentence and pre-release planning. While acknowledging that this research was conducted during the COVID-19 pandemic, thus limiting access to post-release services, the pandemic did not appear to have had an impact on access to, or availability of, pre-release services for participants.

This paper has suggested that structural barriers to the development and implementation of reintegration planning are multifaceted and require a cross-sectoral approach. Furthermore, this research acknowledged the individual barriers that negatively impacted on the capacity of those with high-support needs to seek help and access services within the prison and into the community. In recognition of these barriers, pilot initiatives have been designed and delivered by both state and voluntary bodies, utilising an assertive engagement approach, which aims to connect individuals with agencies through persistence, even when an individual initially appears reluctant. There are several low-threshold addiction and homeless services in Ireland currently providing assertive engagement initiatives in the community. Multi-agency initiatives — such as the Outlook Programme, which offers a step-down facility for women exiting the Dóchas Centre, or the recently launched 'Housing First' pilot project for 25 'harder to reach' prisoners — are models that employ a cross-departmental, cross-sectoral approach to address the high-support and often complex needs of those leaving prison. These programmes have the potential to increase service access to a cohort typically resistant to service involvement, and support a continuum-of-care model between the prison and community-based services, thus improving health and recidivism outcomes for this population. Moreover, to improve outcomes for cohorts similar to those in the study, prison staff, service-providers and, above all, policymakers should assess the learning from adaptations to primary healthcare practice during COVID-19, such as telemedicine and video conferencing, and consider how they could be used in the realm of addiction, mental healthcare, and pre- and post-release care planning. Finally, the voices and feedback of service-users, their families and communities are a critical component in continuing to build those bridges to successful reintegration.

References

- Binswanger, I., Redmond, A.N., Steiner, J.F. and Hicks, L.S. (2011), 'Health disparities and the criminal justice system: An agenda for further research and action', *Journal of Urban Health*, vol. 89, no. 1, pp 98–107, available at doi: 10.1007/s11524-011-9614-1 (accessed 23 February 2021)
- Care After Prison Strategic Plan 2018–2020, available at <http://careafterprison.ie/wp-content/uploads/2019/04/Strategic-Plan-2018-2020.pdf> (accessed 13 February 2021).
- Clarke, A. and Eustace, A. (2016), *Review of Drug and Alcohol Treatment Services for Adult Offenders in Prison and in the Community*, Dublin: Probation Service and Irish Prison Service, available at <http://www.drugsandalcohol.ie/26569/> (accessed 13 February 2021)
- Crowley, D., Van Hout, M.C., Lambert, J.S., Kelly, E., Murphy, C. and Cullen, W. (2018), 'Barriers and facilitators to hepatitis C (HCV) screening and treatment — A description of prisoners' perspective', *Harm Reduction Journal*, vol. 15, no. 62, available at doi: 10.1186/s12954-018-0269-z (accessed 21 March 2021)
- Crowley, D., Cullen, W., O'Donnell, P. and Van Hout, M. (2020), 'Prison and opportunities for the management of COVID-19', *BJGP Open*, vol. 4, no. 3, available at doi: <https://doi.org/10.3399/bjgpopen20X101106> (accessed 21 March 2021)
- Council of Europe (2015), *Report to the Government of Ireland on the Visit to Ireland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, Strasbourg: Council of Europe, available at <https://rm.coe.int/pdf%20/1680727e23> (accessed 21 March 2021)
- Department of Health (2017), *Reducing Harm, Supporting Recovery: A Health-Led Response to Drug and Alcohol Use in Ireland 2017–2025*, Dublin: Department of Health, available at http://www.drugs.ie/downloadDocs/2017/ReducingHarmSupportingRecovery2017_2025.pdf (accessed 2 February 2021)
- Department of Housing, Planning and Local Government (2018), *Housing First National Implementation Plan 2018–2021*, Dublin: Government of Ireland, available at <https://www.homelessdublin.ie/content/files/Housing-First-Implementation-Plan-2018-2021-final.pdf> (accessed 10 April 2021)
- Department of Justice (2018), *First Report of the Interagency Group for a Fairer and Safer Ireland*, July, Dublin: Government of Ireland, available at

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- http://www.justice.ie/en/JELR/Interagency_Group_for_a_Fairer_and_Safer_Ireland_Annual_Report_2017.pdf/Files/Interagency_Group_for_a_Fairer_and_Safer_Ireland_Annual_Report_2017.pdf (accessed 15 February 2021)
- Dillon, L., Galvin, B., Guiney, C., Lyons, S. and Millar, S. (2020), *Irish National Focal Point to the European Monitoring Centre for Drugs and Drug Addiction Focal Point Ireland: National Report for 2019 – prison*, Dublin: Health Research Board, available at <http://www.drugsandalcohol.ie/25265/> (accessed 20 February 2021)
- Ellard-Gray, A., Jeffrey, N., Choubak, M. and Crann, S. (2015), 'Finding the hidden participant: Solutions for recruiting hidden, hard-to-reach, and vulnerable populations', *International Journal of Qualitative Methods*, December, available at doi: 10.1177/1609406915621420 (accessed 22 March 2021)
- Eshareturi, C. and Serrant, L. (2018), 'Challenges and opportunities for ex-offender support through community nursing', *International Journal of Offender Therapy & Comparative Criminology*, vol. 62, no. 13, pp 4642–54, available at doi: 10.1177/0306624X18764854 (accessed 29 March 2021).
- Fennessy, M., Ahern, J., Conroy, P., Gough, J. and McGee, P. (2020), *Mountjoy Visiting Committee Annual Report 2018*, available at <https://www.gov.ie/en/collection/e6067-prison-visiting-committee-annual-reports-2018/> (accessed 23 February 2021)
- Houses of the Oireachtas (2020), Prison Building Programme, Thursday, 22 October, PQ 30914 /20, available at <https://www.oireachtas.ie/en/debates/question/2020-10-22/20/#pq-answers-20> (accessed 8 April 2021)
- Howerton, A., Byng, R., Campbell, J., Hess, D., Owens, C., and Aitken, P. (2007), 'Understanding help seeking behaviour among male offenders: qualitative interview study', *BMJ (Clinical research edn)*, vol. 334, no. 303, available at <https://doi.org/10.1136/bmj.39059.594444.AE> (accessed 21 March 2021)
- Hummert, C. (2011), 'Middle of the Road', *Journal of Legal Medicine*, vol. 32, no. 3, pp 295–313, available at doi: 10.1080/01947648.2011.600170 (accessed 12 March 2021).
- Implementation Oversight Group (IOG) (2019), *Strategic Review of Penal Policy Implementation Group: Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality*, February, Dublin: Department of Justice, available at <http://www.justice.ie/en/>

- JELR/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf/Files/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf (accessed 24 February 2021)
- Irish Penal Reform Trust (IPRT) (2019), *Progress in the Penal System (PIPS): A Framework for Penal Reform*, Dublin: Irish Penal Reform Trust, available at: <https://pips.iprt.ie/site/assets/files/Progress-in-the-Penal-System-2019.pdf> (accessed 2 March 2021)
- Irish Prison Service (IPS) (2019), *Annual Report, 2019*, Longford: Irish Prison Service, available at https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf (accessed 21 March 2021)
- Irish Prison Service (IPS) (n.d.), 'Integrated sentence management', Longford: Irish Prison Service, available at <https://www.irishprisons.ie/prisoner-services/integrated-sentence-management/> (accessed 15 March 2021)
- Irish Prison Service (IPS) and Probation Service (PS) (2020), *Irish Prison Service & Probation Service Strategic Plan 2018–2020*, available at https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-PS-Strategic-Plan-2018-2020.pdf (accessed 3 May 2021)
- McKenna, B., Skipworth, J., Tapsell, R., Madell, D., Pillai, K., Simpson, A., Cavney, J., Rouse, P. (2015), 'A prison mental health in-reach model informed by assertive community treatment principles: Evaluation of its impact on planning during the pre-release period, community mental health service engagement and reoffending', *Criminal Behavioral Mental Health*, December, vol. 25, no. 5, pp 429–39, available at doi: 10.1002/cbm.1942 (accessed 3 March 2021)
- Marlow, E., White, M.C. and Chesla, C.A. (2010), 'Barriers and facilitators: Parolees' perceptions of community health care', *Journal of Correctional Health Care*, vol. 16, no. 1, pp 17–26, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2882291/> (accessed 9 March 2021)
- Martynowicz, A., and Quigley, M. (2010), 'Reintegration of prisoners in Ireland: New research findings', *Irish Probation Journal*, vol. 7, September, available at [http://www.probation.ie/EN/PB/0/247F2B39C5F078D980258033002EF985/\\$File/IPJ2010MARTYNOWICZandQUIGLEY.pdf](http://www.probation.ie/EN/PB/0/247F2B39C5F078D980258033002EF985/$File/IPJ2010MARTYNOWICZandQUIGLEY.pdf) (accessed 3 March 2021)
- National and Economic Social Forum, The (NESF) (2002), *Reintegration of Prisoners: Forum Report No. 22*, Dublin: NESF, available at https://www.drugsandalcohol.ie/5823/1/NESF_No-22-Re-integration-of-Prisoners%5B1%5D.pdf (accessed 22 March 2021)

- Nicholson, M. and Mann, S. (2020), 'Partnership working towards more effective resettlement', *Irish Probation Journal*, vol. 17, October, pp 228–37, available at [http://www.probation.ie/EN/PB/0/883169249D1645F38025862C004FB3E2/\\$File/IPJ%20Vol%2017%20full%20pdf%20compressed.pdf](http://www.probation.ie/EN/PB/0/883169249D1645F38025862C004FB3E2/$File/IPJ%20Vol%2017%20full%20pdf%20compressed.pdf) (accessed 21 March 2021)
- O'Neill, J. (2011), 'The Inspire Women's Project: Managing women offenders within the community', *Irish Probation Journal*, vol. 8, October, available at [http://www.probation.ie/EN/PB/0/9FD4ACBA439E267980258030003CC8E9/\\$File/ONeill.pdf](http://www.probation.ie/EN/PB/0/9FD4ACBA439E267980258030003CC8E9/$File/ONeill.pdf) (accessed 2 March 2021)
- O'Sullivan, E. (2020), *Reimagining Homeless: For Policy and Practice*, Bristol: Policy Press, available at <https://library.oapen.org/handle/20.500.12657/37224> (accessed 2 February 2021)
- Parsell, C., Clarke, A. and Vorsina, M. (2019), 'Evidence for an integrated healthcare and psychosocial multidisciplinary model to address rough sleeping', *Health and Social Care in the Community*, vol. 28, no. 1, available at doi: 10.1111/hsc.12835 (accessed 2 February 2021)
- Prochaska, J.O., DiClemente, C.C. and Norcross, J.C. (1992), 'In search of how people change: Applications to addictive behaviors', *American Psychologist*, vol. 47, no. 9, pp 1102–14, available at <https://doi.org/10.1037/0003-066X.47.9.1102> (accessed 2 February 2021)
- Rawlings, B. and Haigh, R. (2017), 'Therapeutic communities and planned environments for serious offenders in English prisons', *BJPsych Advances*, vol. 23, no. 5, pp 338–46, available at doi: 10.1192/apt.bp.115.015636 (accessed 3 March 2021)
- Scott-Hayward, C. and Williamson, D. (2016), 'Post-custody supervision in Ireland: From tickets-of-leave to parole?' *Irish Probation Journal*, vol. 13, October, available at [http://www.probation.ie/EN/PB/0/8CF5E22D4FDC7F908025805E002B3843/\\$File/ChristineScottHayward_DavidWilliamson_IPJ.pdf](http://www.probation.ie/EN/PB/0/8CF5E22D4FDC7F908025805E002B3843/$File/ChristineScottHayward_DavidWilliamson_IPJ.pdf) (accessed 21 March 2021)
- Turner, D.W., III (2010), 'Qualitative interview design: A practical guide for novice investigators', *The Qualitative Report*, vol. 15, no. 3, pp 754–60, available at https://doi.org/10.1007/978-3-319-28099-8_857-1 (accessed 21 March 2021)
- World Health Organization (WHO) (2020), 'WHO SAGE values framework for the allocation and prioritization of COVID-19 vaccination', September, Geneva: World Health Organization, available at [WHO-2019-nCoV-SAGE_Framework-Allocation_and_prioritization-2020.1-eng \(1\).pdf](#) (accessed 21 March 2021)

Restorative Justice with Adults who Have Offended

Aideen McLaughlin*

Summary: In recent years, Northern Ireland has seen the introduction and significant growth of the use of restorative justice practice within the criminal justice system. There have been two main drivers behind these developments. First, the desire to better meet the needs of, and provide redress for the harm caused to, victims of crime; and second, to find an effective alternative to punitive responses and establish positive ways of dealing with children, young people and adults when incidents occur. Within the adult criminal justice context, restorative justice is not generally the way in which crime is addressed. Courts will have regard to the Victim Impact Statement to aid sentencing, but victims will not normally have an opportunity to participate in a dialogue with the person who has harmed. Victims of crime have not had the opportunity to ask questions of the person responsible for the crime, about how and why the crime occurred, to share the impact of the offence on them and to share their views on what could be done to repair the harm and reduce the likelihood of further offending. To date, the most extensive, formal application of restorative justice in Northern Ireland has been in the area of youth justice. Some progress has been made in the application and use of restorative practices with adults, through community-based interventions, in particular; but to date this has largely been driven by individual organisations. Until now, there has been no overarching strategic or co-ordinated approach to its development, in spite of the proven benefits of this approach.

The Department of Justice (DOJ), in conjunction with the Probation Board for Northern Ireland, the Public Prosecution Service for Northern Ireland, the Police Service of Northern Ireland, the Northern Ireland Prison Service, Victim Support NI, Community Restorative Justice Ireland and Northern Ireland Alternatives, is now developing a strategic approach to the use of restorative justice at all stages of the adult criminal justice system. In June 2020, the DOJ held a full public consultation on the proposed *Adult Restorative Justice Strategy for Northern Ireland*, and the responses were shared with the Justice Committee on 9 March 2021 (<https://www.justice-ni.gov.uk/publications/adult-restorative-justice-strategy>). It is anticipated that the strategy will be published later this year. The Probation Board for Northern Ireland (PBNi) has contributed fully to the development of the

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strategy and is now developing a Restorative Justice Framework, which will flow from the *Adult Restorative Justice Strategy for Northern Ireland*.

This practice piece outlines the origins and development of restorative justice in Northern Ireland; reviews current practice in the Probation context; identifies the core principles in the forthcoming justice strategy, and reflects on the shape and content of the PBNI framework. The paper also draws from the experience of the author as a former facilitator of restorative justice interventions with young people.

Keywords: Restorative justice practice, victim/s, probation, strategy, community, conferencing, pre-sentence, interventions, opportunities.

The origins of restorative justice in Northern Ireland

Within the statutory criminal justice sector, restorative justice has its origins in the 1998 Good Friday Agreement,¹ which provided for a wide-ranging review of criminal justice. A Review Group commissioned research relating to restorative justice and its applicability in Northern Ireland and, in 2000, it recommended that a restorative justice model should be established to deal with young people who had offended, through a process of ‘youth conferencing’, which would be based in statute. The model proposed had similarities to the New Zealand family group conference system, though there were several differences, including an emphasis on the rights of victims of crime and the need to involve victims and offenders actively in a process of dialogue (O’Mahony, 2012).

It was hoped that centring the youth justice process around restorative justice principles would considerably enhance community participation and bolster confidence in the justice system.

The Justice (Northern Ireland) Act 2002 makes provision for the delivery of both diversionary and court-ordered conferences for young people.

Restorative interventions with young people

The Youth Justice Agency (YJA) was subsequently established in April 2003 with the principal aim of reducing offending by children. Initially the remit of the YJA was to work with children under the age of 16 only, but this was

¹The Good Friday Agreement, also known as the Belfast Agreement, was an agreement between the British and Irish governments, on how Northern Ireland should be governed. The talks leading to the Agreement addressed issues which had caused conflict during previous decades. The aim was to establish a new, devolved government for Northern Ireland, in which unionists and nationalists would share power (<https://www.gov.uk/government/publications/the-belfast-agreement>).

extended in September 2005 to include 17-year-olds. The Agency's Annual Report for 2004/2005 notes that the emphasis of the work:

... is on helping children to address their offending behaviour, diverting them from crime, assisting their integration into the community and also meeting the needs of the victims of crime. (YJA, 2005, p. 8)

The 'youth conferencing' process, is a meeting between the victim and young person who has offended, providing the victim with an opportunity to talk to the young person about how they have been affected by what has happened and to hear why the young person committed the offence. The conference is chaired by a professionally trained conference co-ordinator. The overall process is designed to give the offender an understanding of the impact of their actions and to help them understand the victim's perspective. For the victim, it gives them the opportunity to understand why they were victimised and to separate the offender from the offence (O'Mahony, 2012). By 2006, youth conferencing was fully operational in all court areas of Northern Ireland.

The implementation of restorative justice for young people under 18 years of age, and particularly the diversionary aspects, has had a marked impact on the number of children and young people coming into the formal justice system.

For example, in the 18 years since the establishment of youth conferencing for young people, there has been a marked decrease in the number of children being referred to the courts for offending and admissions to custody. The children in the Juvenile Justice Centre (JJC), the custodial facility for under 18s in Northern Ireland, may be held on a Police and Criminal Evidence Order (PACE),² remand or when committed, and information is recorded on each admission and each change of status (for example, when a child transfers from PACE to remand), and each discharge. The Youth Justice Agency's report for 2004/2005 notes that there was a total of 197 PACE admissions to the JJC, 216 remands and 52 committals.³ Care must be taken in interpreting these figures, as one child may have had multiple admissions. In 2019/20, although the number of PACE admissions remained the same at 197, there was a decrease in remands down to 95 and only six young people were committed (NI Youth Justice Agency, 2020).

² Police and Criminal Evidence Order (1989) makes provision for the detention of children following a serious alleged offence.

³ Committals to the Juvenile Justice Centre relate to Juvenile Justice Centre Orders

Restorative justice has become the established way of working with *young people* who have offended and their victims in Northern Ireland. The restorative process has enabled those victims who wish to participate to share the impact of the offence, and to contribute to the youth conference plan, supporting the young person to desist from offending. Studies have found it to be an effective way of working. Of the individual victims identified during 2018/19, 83.5 per cent participated in the YJA conference process and 95.7 per cent of victims surveyed expressed satisfaction with the restorative process.

It is a process where young people also report that they have felt fairly treated and are satisfied with the conference process.

Research has shown that this approach works, and statistics from the Youth Justice Agency (2019) confirm that there are 54 per cent fewer young people reaching the formal court system, compared to five years ago; this reduces the likelihood of these young people entering the adult criminal justice system (NIYJA, 2020).

Joanna Shapland in her 2008 research (also research on conferencing) for the Ministry of Justice concluded that:

Restorative Justice reduced the frequency of reconviction on average by 27%–33% when delivered to prisoners just prior to release; and by 55% when delivered to prisoners serving community sentences.

Given the positive outcomes for the application of restorative justice with young people, might its application with adults yield similar outcomes? If we can intervene at an early stage with adults who get into conflict with the law, and provide a restorative response, might we achieve the same results? For those who have been harmed by an offence, might restorative justice offer an opportunity for restoration, for the victim's needs to be addressed, for them to regain a sense of control over their lives, and for healing?

Restorative justice practice in PBNI

Since 2005, PBNI's restorative model has been delivered through a hybrid approach. In the first instance, the process can be victim-initiated, with requests being made via PBNI's Victim Information Unit; secondly, the process can be offender-initiated. The latter generally evolves when a Probation Officer identifies a suitable case, and a referral is made to external community-based restorative justice organisations for a restorative intervention.

Since 2007, PBNI staff in the Victims Unit have, in response to victim requests, facilitated restorative interventions in cases of death by dangerous driving, manslaughter, murder, attempted murder, rape, hijacking, robbery, intimidation and grievous bodily harm. Our trained staff have facilitated these restorative meetings with offenders in custody and with the direct victim or the families of victims.

The community-based restorative justice organisations with which PBNI works are NI Alternatives (NIA) and Community Restorative Justice Ireland (CRJI), which are accredited providers designated by the Minister for Justice. NIACRO and Barnardo's also have a role to play in the delivery of restorative interventions. These organisations have worked restoratively to address local community disputes, incidents of hate crime and anti-social behaviour by both young people and adults, and have helped to address conflict in children's homes. They have been successful in preventing escalation of issues and involvement in the formal criminal justice system. PBNI has worked closely with the community-based schemes in the delivery of our Enhanced Combination Orders (ECOs)⁴ (Doran, 2017) and our Aspire Programme⁵ (Ritchie and McGreevy, 2019) to assist service-users to reintegrate into their local communities. Delivery, however, has been on an ad-hoc basis and often dependent on whether or not the community organisation operates in a particular area. This presents some challenges in that restorative justice is not offered consistently to all victims across Northern Ireland, and in practice it means that victim surrogates are used within many of the restorative interventions.

In 2014, PBNI developed a *Restorative Interventions Strategy, 2014–2017* to ensure that victim needs and restorative principles were further integrated as components of PBNI's practice with adults who offended. Work arising from this Strategy focused on restorative training for PBNI staff, and embedding restorative interventions within everyday practice, including case-management supervision, custody and programmes. As part of this Strategy,

⁴ Enhanced Combination Orders (ECOs) have been developed by PBNI as an alternative to short prison sentences (12 months or less). Based on existing legislation, ECOs combine community service and probation supervision along with a range of community interventions including, restorative justice, and they offer courts a community-based sentencing option in a more intensive format. ECOs are currently available in three court areas, including Belfast.

⁵ The Aspire Programme is led by PBNI, and delivered in partnership with the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) and other voluntary and community-sector groups. It works with young men, aged between 16 and 30, who are marginalised in communities and at risk of becoming involved in criminality. It combines restorative practices and peer mentoring with targeted support in relation to employment, training, housing, poor mental health and addictions issues.

the PBNI Psychology and Programmes Teams designed the Victim Awareness intervention in which all staff are now trained. However, four years on from the completion of this Strategy, feedback from staff reflected that further work was needed to embed PBNI's restorative practice more widely and to ensure that there was consistency in how it was being delivered across all aspects of the work.

Over the past number of years, PBNI has invested resources in providing accredited Restorative Justice Training delivered by Ulster University for approximately 30 staff across the organisation. In November 2020, two focus groups were held with staff to review how they had integrated this training into practice. The focus groups explored what changes staff had made in their interactions with victims and offenders, and gathered ideas for developing restorative practices across PBNI. The staff were drawn from across the organisation within custody and community settings. They included Probation Service Officers (PSOs)⁶ as well as Probation Officers. Most of the staff in the focus groups had undertaken their training with Ulster University between 14 and 22 months earlier, and all were extremely positive about how useful it had been in helping them to approach their work with offenders, helping them to develop a victim perspective and focus on the harm that had been caused.

The findings from the focus groups unsurprisingly were that those staff who had most opportunities to make use of their training with both offenders and victims were those working within the Victim Information Unit. They provided examples of having facilitated restorative conferences between the offender and victims or family of the victim for some of the most serious offences, including murder. They had undertaken shuttle mediation between parties and supported offenders to write reflective letters for victims. It was evident that a restorative approach was an integral part of their practice, featuring in staff supervision sessions and included as a standing item on team meeting agendas. In addition, the Victims Unit had created a process which tracked progress and reviewed the restorative interventions delivered with registered victims. For practitioners in the Victims Unit, the impact of COVID-19 restrictions had limited their opportunities for face-to-face contact with victims and the delivery of conference meetings, but they were continuing to undertake preparation work with the intention of facilitating meetings at a future date. At the time

⁶ Probation Service Officers (PSOs) perform a support role within PBNI, assisting Probation Officers with supervision, assessment, community service and programme delivery.

of writing, one full restorative conference has been facilitated, with all participants participating remotely.

For those working in generic teams, their restorative work was less visible, less about the direct engagement with the victim and more about the way in which they engaged with the offender. Being restorative was evident in how they delivered their day-to-day supervision — using restorative language in their interactions to address issues of non-compliance and to support the individual to recommit to their order. They actively considered potential cases for restorative interventions and were open and alert to the possibilities of restorative meetings between the victim and offender, making referrals to the Victims Unit on a regular basis. They also saw the opportunities for wider applications of restorative practices, repairing fractured relationships within families or between the individual and other service-providers where communication had broken down.

Only those staff working directly in the Victims Unit had the opportunity for direct involvement with victims since receiving their training, but other practitioners noted that they had changed their practice as a result of the training, and from the time of the initial meeting with the service-user, they were maintaining a focus on the harm to the victim. It had been hoped that the trained staff would have carried out restorative justice interventions, but undertaking such a role in addition to case supervision and report-writing was not achievable; instead, Probation Officers have been working collaboratively with the Victim Information Unit to undertake this work jointly. In their case supervision with offenders, techniques such as role plays were used in individual supervision sessions. Through enabling the service-user to put themselves in the shoes of the victim, Probation staff were always keeping the possibility of a restorative intervention on the agenda.

A Probation Service Officer in the focus group reported that she makes use of a short video, *What is Restorative Practices?* (International Institute for Restorative Practice Graduate School, 2013), and DVD resources such as *The Wolf Within* (Restorative Justice Council, 2018) with her service-users to prompt discussion on restorative practices. In victim-awareness sessions, practitioners made use of storytelling with the service-user for other offences, to help them to understand how actions have consequences and cause harm, before moving to consider the index offence.

It's very hard if you don't do victim work to deliver for the victims. (Focus group participant, November 2020)

On 31 March 2019, PBNI had 4,552 orders on the caseload, relating to 1,415 individuals. Of this caseload, more than three-quarters of orders being supervised (3,551, 78 per cent) were allocated to PBNI teams in the community, with the remainder in custody (1,001, 22 per cent). The main type of order was a probation order, and the top four offences recorded by persons on the PBNI caseload in March 2019 were:

- Violence against the person
- Drugs offences
- Theft, and
- Sexual offences.

It is suggested that many of the offences where there was a direct victim may have been appropriate for consideration for a restorative intervention. However, unless the victim has registered with PBNI's Victim Information Unit and expressed a desire to participate in a restorative process, a restorative option will not be considered. Shapland *et al.* (2017) argue that the research evidence tends to show that restorative justice is as effective, or more effective, with more serious offences, and indeed with adult offenders, and it is these types of offence which can have the greatest impact.

Significant policy developments

The prospect of an Adult Restorative Justice Strategy for Northern Ireland opens up opportunities for adults across the whole region to benefit from this way of working, to reduce the number of people appearing in court and ultimately to reduce the number of victims.

In part, the impetus driving restorative practices for adults at both national and international levels has come from the recent Council of Europe Recommendation (2018), which called for governments to make restorative justice services widely available. This has helped to focus minds on how to implement restorative justice within the criminal justice system generally, and within probation services more specifically. The recommendation states that:

[R]estorative justice should be a generally available service [Rule 18], available at all stages of the criminal justice processes [while] victims and offenders should be provided [...] with sufficient information to determine whether they wish to participate [Rule 19].

Ian Marder (2020) notes that:

Restorative justice can represent a new direction for probation practice internationally. We know that almost everyone who commits an offence is also a victim at some point in their lives, and vice versa. Restorative justice gives us the language and the tools to overcome a zero-sum approach to meeting the needs of citizens engaged with the criminal justice process.

He contends that probation services are generally involved in delivering restorative justice in one of three different ways. Firstly, there are those services that are mandated by the state to use victim-offender mediation as part of the criminal justice process. The Czech Probation Service would be one example of this. Secondly, there are those services that can provide restorative practices when either a judge directs that a case should be considered, or the individual Probation Officer identifies a suitable offence; such is the current practice in the Irish Probation Service. Finally, there is a model whereby the case is referred to an external organisation for the restorative process. Examples of this can be seen in Norway, where a national mediation service is in place, and cases are referred into that service.

From a Northern Ireland perspective, new directions for restorative justice interventions as part of Probation practice are currently under discussion.

For example, *Gillen Review: Report Into the Law and Procedures in Serious Sexual Offences in Northern Ireland* (Gillen, 2019) highlighted the need to be innovative when looking at new mechanisms to deal with sexual offences, and this should include a restorative approach. The *Gillen Review* highlights the importance of victim-sensitive engagement, stating:

[A]ny new process must be victim-focused and based on the needs of the victim. It must put victims at the heart of the justice process, empowering and helping them to move on. It can be triggered only if the victim genuinely wishes to do it. It must never be allowed to become yet another instance of re-traumatising the victim.

The report also points to the fact that the Probation Board already has in place trained facilitators who could carry out this work.

Sir John Gillen admits that the recommendations in relation to restorative justice within the review are one of the more controversial issues, and states that how to approach it has split opinion. Gillen believes that there is

potential for such a scheme to encourage more victims to enter the criminal justice system, especially those who want to see an accused held accountable but do not wish to engage in the court process. He adds that given the level of people that the system is currently failing, the state has an obligation to consider an alternative.

According to Gillen:

Some might see this as a soft option. That there are people who won't go to jail, while others might for similar offences. My response to this is that this is already occurring given the level of under-reporting, drop-outs and system defects.⁷

Hate Crime Legislation in Northern Ireland, an independent review conducted by Judge Marrinan (2020), similarly highlighted the importance of a restorative approach when dealing with hate crime. Of particular interest to PBNI is recommendation 17, which states: 'It is desirable that such a statutory restorative justice framework be established with the necessary financial funding' and that such a scheme should 'be independent of the Department of Justice'. He continues at Recommendation 19 by stating:

As such a scheme will involve referrals from the *Public Prosecution Service* and the *Courts*, it is recommended that it should be run by a statutory agency such as the *Probation Service for Northern Ireland*.

PBNI's 2021 strategy on restorative justice

PBNI's 2021 strategy, *Restorative Justice: A Framework for Practice*, details how PBNI will progress our restorative justice practices, how we will identify and assess appropriate referrals, and how our work will align with the proposed DOJ *Adult Restorative Justice Strategy*.

The proposed DOJ strategy sets out proposals for the use of restorative approaches as:

- An alternative to the Criminal Justice System, diverting those who have offended before they come to court
- The sentence itself, or part of the sentence, and
- In addition to a sentence imposed by the courts.

⁷ AgendaNi Interview with Sir John Gillen, available at <https://www.agendani.com/the-gillen-review/> (accessed 6 July 2021)

One of the proposals is for a system for adults to be developed, which is similar to that delivered by the Youth Justice Agency. This would mean that, in addition to a diversionary process, adults would also be afforded the opportunity of a restorative meeting at the point of court appearance, where it would form part of sentencing. PBNI works with those who have been before the courts and are subject to a legal sanction as a result of their offending. Until legislative changes are in place, however, any delivery of restorative practices within PBNI must be undertaken within our current statutory remit — within our practice, we can support and encourage our staff to be creative and innovative in how they work restoratively. Marder (2019) in his article for the *Irish Probation Journal* describes what this might look like within the Irish Probation Service:

Whenever an offender is sentenced to supervision in the community, the first port of call would be to identify whether there are any direct or indirect victims and other stakeholders (e.g. the parties' families) who would be willing to engage. These parties would be invited to a restorative process at which they discuss the harm caused and what could help improve the situation and prevent it from reoccurring. Practitioners could revert to traditional decision-making approaches if nobody wanted to engage with this process, or in any other situation where a restorative process is not viable. However, when it is viable, the outcomes agreed by participants could inform — or, potentially, become — the sentence plan.

PBNI prepares in the region of 4,000 pre-sentence and magistrates court reports each year. Whilst these reports address the impact of the crime on the victims and the wider community, our 2021 strategy challenges us to do more. Within our court reports, we should give greater prominence to the insights of the individual as to the harm caused and, in consultation with the service-user, how they might take responsibility for repairing the harm and undertake reparation. We will ensure that our recommendations are linked to increasing the person's victim awareness, supporting them to undertake reparative projects within the community as part of their community service, and building their resilience by way of specialist interventions and programmes to address their offending behaviour. In this way, sentencers can become more familiar with how PBNI can work restoratively, hopefully mainstreaming this work, and paving the way for legislative changes in the future.

At the pre-sentence stage, when writing the court report, the Probation Officer will ask the individual to consider how the offence may have affected the victim. In many cases, the individual will not be able to place themselves in the other's shoes and consider the impact, but our revised strategy will prompt report-writers to make use of the restorative questions with the service-user:

- What happened?
- What were you thinking of at the time?
- What have you thought about since?
- Who has been affected by what you have done?
- In what way have they been affected?
- What do you think you need to do to make things right?

In so doing, service-users are introduced, at the earliest opportunity, to the concept that their actions have consequences and may have caused harm to others. By inviting them to consider what they might do to put things right, report-writers can support the service-user to begin to accept responsibility for their actions and believe in the possibility that they can take steps to repair the harm.

Where assessed as appropriate, report-writers will explain the opportunities for restorative interventions that may be available at some point during their supervision or custodial sentence.

Community service is potentially restorative if a victim has had a say in the type of unpaid work being carried out. Within PBNI, there is no legislative basis for Probation Officers to engage directly with the victim pre-court, so we are unable to hear the victim's views as to the type of community service they would like the person to undertake. In our practice with offenders, we can make the links with the offence and the type of unpaid work they are undertaking and advise the service-user that where we are in contact with the victim, they will be offered an opportunity to input into the type of community service work. Where possible, the community-service placement will be matched to the offence type and will make links to undertaking reparation for the benefit of the community/victim.

The second driver for restorative justice is changing the culture of the organisation and 'being restorative'. Probation staff can undertake restorative practices with offenders at all stages during their involvement, and working restoratively will be a continuous and explicit theme throughout all aspects of

supervision, both within the community and in custody. At induction meetings with service-users, staff will create the expectation that the service-user will engage in restorative practices and that a face-to-face meeting with the victim is a possibility. In order to implement fully this way of working, however, it will require a change in how we do business, a change in our language and our approach. In our practice standards, we have induction 'interviews', which almost suggests that the individual is having to endure a process rather than be an equal and contributing participant in their supervision. Some Probation Officers still use terminology such as 'disciplinary' when referring to meetings with a service-user where there have been issues of non-compliance, and there have been instances where verbal abuse by a service-user at a community-service placement has resulted in the placement being suspended and the order being returned to court for breach.

Whilst not suggesting that this type of behaviour is in any way acceptable, it should be noted that non-compliance and expressions of negative behaviours present opportunities for learning and for a restorative approach, enabling the service-user to be actively engaged in how they participate in their order, how they are able to take responsibility for their actions, to learn from their mistakes and to put things right in order to move on. The outcome of a non-compliance meeting where the person gets to consider the consequences of their actions, to identify what has not worked for them and consider how they can recommit to the requirements of supervision can have a more positive outcome than adopting a rigid approach of issuing formal warnings and being punitive in our response. A restorative conversation with the Community Service Supervisor can assist both parties to understand one another's perspective, to make amends and continue working together, rather than terminating the placement and initiating breach proceedings.

Even when an order needs to be returned to court for non-compliance, this can be managed in a restorative way, helping the person to understand what actions have led to the proceedings taking place and enabling them to take responsibility for re-committing to their order (if they choose to do so) and avoid a custodial sentence.

Such opportunities build resilience, restore relationships and build social capital, all of which in turn supports desistance.

The values that underpin restorative justice are fundamentally basic human values of justice, responsibility, respect and honesty. These are values that are closely aligned with PBNI's values of respect, integrity, openness and accountability. Probation Officers are social-work trained and they work to a

set of guiding principles which are informed by an approach that recognises and encourages people's capacity to change and transform their lives, is based on partnership and collaborative working, and values equality and diversity.

PBNI's 2021 Framework will ensure that Probation staff keep the victim at the heart of our practice when working with those who have harmed. As part of ongoing supervision, Probation staff will continue to support service-users to write letters of apology/reflection following completion of work on victim awareness. PBNI's Restorative Justice Strategy challenges staff to enhance and develop practice and to embrace fully a restorative approach in everything we do with victims and offenders.

There is a real opportunity for PBNI to develop its restorative work on hate crime and to begin to pilot restorative approaches for offences where the offence is motivated by hate. Likewise, there are opportunities to look at how we can contribute to the *Gillen Review* recommendations in a way that might better assist victims of sexual offences.

Getting from here to there

Implementing a more consistent application of restorative practices across all of PBNI's work will require some shifts in our current practice with service-users. At the core of interventions, Probation Officers will need continually to motivate and encourage people to consider the harm their actions have caused, identify what they can do to put things right, and prevent the same happening again by understanding and linking the consequences of their offending with their ability to make different choices in the future. Further staff training in delivering restorative practices is required. Already, 30 staff are trained, and it is planned that some of those staff will train and mentor others in the organisation to deliver restorative interventions.

The importance of training for staff cannot be underestimated as we have an obligation to victims to ensure that no further harm is caused as a result of a restorative intervention. PBNI staff need to 'be restorative', not just to 'deliver' restorative practices, and they need to own this way of working, and be both comfortable and competent in dealing with the strong emotions that are often expressed by both parties. Having trust in the process of the restorative conference is about enabling those parties who have a stake in the wrong that has happened to agree collectively the actions that are needed to repair that harm. This necessitates Probation staff creating that safe space for both offender and victim, and facilitating the dialogue, without imposing their views about what should happen.

Sharing of experience is important in progressing this work. A restorative practice forum is to be established within PBNI to bring together practitioners, managers and community-service supervisors to share good practice and develop guidance for other staff about how they can be more restorative. This will include making changes to our practice standards so that staff routinely assess an offender's suitability for a restorative process, at all stages during their probation supervision. We will also explore how restorative practices can be used in re-contracting offenders when they have breached hostel rules or are at risk of recall because they have not adhered to the requirements of their order — before breach is initiated.

As part of our strategy, we hope to expand the reach of the Victims Unit to create additional capacity for staff to engage with victims and give them opportunities to be involved in a restorative process. Where the direct victim does not want to be involved, we plan to develop victim panels where an offender will have an opportunity to meet with someone who can represent the views of the victim and can talk with authority about how they have been affected and what is now needed to put things right.

It is, perhaps, the work with victims that presents the greatest opportunities for Probation Officers. Our staff have many years' experience in working with those who offend, and challenging their behaviours and attitudes. Working with victims is very different, creating anxiety amongst staff as to how victims might present, how they as staff members might react to expressions of anger, resentment, sadness, and loss. There will be work to do in gaining the trust of the general public. PBNI is an organisation that works with offenders, which begs the question: why are we now involved with victims and engaged in this restorative work? The fact is that work has been ongoing for a number of years with over 340 victims currently registered with the Probation Service.

Developing our restorative practice is something that PBNI is committed to progressing, and we hope that legislative change will enable Probation Officers to make direct contact with victims at the point of referral pre-sentence, so that we can truly involve them at all stages, from the point of court through to completion of an order or custodial sentence.

The Council of Europe recommendation stresses the importance of safe and effective processes, ensuring that facilitators and their managers have the required skill-set to deliver restorative justice so that it is experienced by all parties as a safe and fair process. Within the DOJ strategy, there is a proposal for the establishment of a Centre of Excellence, which would

provide the lead for ensuring adherence to best practice and oversight of all of the organisations delivering restorative justice in the jurisdiction.

Conclusion

From a PBNI perspective, we welcome the opportunity that an Adult Restorative Justice Strategy presents to address the needs of victims; to enable those who have harmed to accept responsibility for their actions; and to offer members of the community a meaningful role in the justice process.

PBNI has developed a strong base for the delivery of restorative practices and has been cited by the DOJ in its recent consultation on the Adult Restorative Justice Strategy for the work we have been doing, in partnership with others, with adults who have been involved in very serious offending. From the feedback collated from PBNI practitioners, it is apparent that where face-to-face meetings have been facilitated between the offender and victim, these have been particularly valuable in assisting the offender to gain an understanding of how others have been harmed, and have helped the victim to have their voice heard. The process has also enabled the victim to hear the perpetrator accept responsibility for the harm caused.

We recognise that it is not a 'one size fits all' approach, and we need to provide a flexible and responsive approach to restorative justice, listening to the views of victims and working restoratively in all the interactions we have with our service-users.

Shaping and developing the culture of practice within PBNI to become more restorative will take time, but there are immediate actions that we can take to shift the balance, including using restorative language with service-users, and undertaking enforcement in a way that holds service-users to account but also reminds them that the reason why they are subject to PBNI supervision is the harm caused to victims. We can work to ensure that where the offence is relevant, practitioners keep restorative justice at the core of each of the supervision and case-planning sessions and undertake programme work with the intention of supporting the service-user to gain insight into the consequences of their actions.

It is hoped that PBNI's Restorative Justice Framework and Action Plan will provide a strong foundation on which PBNI can build our restorative practices with adults and align with the DOJ's overall strategy for Restorative Justice for Adults.

References

- AgendaNi interview with Sir John Gillen, available at <https://www.agendani.com/the-gillen-review/> (accessed 5 July 2021)
- Council of Europe Recommendation (2018), Adoption by the Committee of Ministers of the Recommendation CM/Rec(2018) 8 concerning restorative justice in criminal matters, available at Adoption by the Committee of Ministers of the Recommendation CM/Rec(2018) 8 concerning restorative justice in criminal matters - Promoting more humane and socially effective penal sanctions (coe.int) (accessed 5 July 2021)
- Criminal Justice Inspectorate (CJINI) (2015), *The Effectiveness of Youth Conferencing*, report, March, available at The-effectiveness-of-youth-conferencing.aspx (cjini.org) (accessed 5 July 2021)
- Department of Justice NI (2002), *Justice (Northern Ireland) Act 2002*, available at <https://www.legislation.gov.uk/ukpga/2002/26/contents> (accessed 5 July 2021)
- Department of Justice NI (2020), 'Development of an adult restorative justice strategy', *Restoring Relationships, Redressing Harm: An Adult Restorative Justice Strategy for Northern Ireland*, available at [Adult Restorative Justice Strategy | Department of Justice \(justice-ni.gov.uk\)](http://AdultRestorativeJusticeStrategy|DepartmentofJustice(justice-ni.gov.uk)) (accessed 5 July 2021)
- Doran, P. (2017), 'Enhanced combination orders', *Irish Probation Journal*, vol. 14, pp 133–50, available at IPJ-web-FULL-final-13.11.17.pdf (pbni.org.uk) (accessed 5 July 2021)
- Gillen, J., Sir (2019) *Gillen Review: Report into the Law and Procedures in Serious Sexual Offences in Northern Ireland*, April, available at [Gillen Review Report into the law and procedures in serious sexual offences in NI | Department of Justice \(justice-ni.gov.uk\)](http://GillenReviewReportintothelawandproceduresinserioussexualoffencesinNI|DepartmentofJustice(justice-ni.gov.uk)) (accessed 5 July 2021)
- Good Friday Agreement, The (1998), available at <https://www.gov.uk/government/publications/the-belfast-agreement> (accessed 5 July 2021)
- International Institute for Restorative Practice Graduate School (2013), 'What is Restorative Practices?' available at [What Is Restorative Practices? | Restorative Practices \(iirp.edu\)](http://WhatIsRestorativePractices|RestorativePractices(iirp.edu)) (accessed 5 July 2021)
- Marder, I. (2019), 'Restorative Justice as the new default in Irish criminal justice', *Irish Probation Journal*, vol. 16, October, pp 60–82
- Marder, I. (2020), *Building Restorative Probation Services*, June, Manchester: Her Majesty's Inspectorate of Probation
- Marrinan, D. (2020) *Hate Crime Legislation in Northern Ireland, An*

-
- Independent Review*, December, Belfast: Hate Crime Review Team, available at Hate crime legislation independent review | Department of Justice (justice-ni.gov.uk) (accessed 5 July 2021)
- NI Youth Justice Agency (NIYJA) (2005), *Annual Report 2004/2005*, available at <https://www.gov.uk/government/publications/the-youth-justice-agency> (accessed 18 July 2021)
- NI Youth Justice Agency (NIYJA) (2020), *Annual Workload Statistics 2019–20*, available at <https://www.justice-ni.gov.uk/publications/northern-ireland-youth-justice-agency-annual-workload-statistics-2019-20> (accessed 5 July 2021)
- O'Mahony, D. (2012), 'Criminal justice reform in a transitional context: Restorative youth conferencing in Northern Ireland', *International Criminal Law Review*, vol. 12, no. 3, January, pp 549–72
- Probation Board for Northern Ireland (PBNI) (2014), *Restorative Practice Strategy, 2014–2017*, available at [Restorative-Practice-Strategy-Final-Version-Approved-14-03-14-29.05.141.pdf](https://www.pbni.org.uk/restorative-practice-strategy-final-version-approved-14-03-14-29.05.141.pdf) (pbni.org.uk) (accessed 5 July 2021)
- Restorative Justice Council (2018), *The Wolf Within*, Bristol: Level Films, available at www.levelfilms.co.uk (accessed 5 July 2021)
- Ritchie, J. and McGreevy, G. (2019), 'Aspire — "Changing lives to make communities safer"', *Irish Probation Journal*, vol. 16, pp 119–34, available at [Aspire-Changing-Lives-to-Make-Communities-Safer.pdf](https://www.pbni.org.uk/aspire-changing-lives-to-make-communities-safer.pdf) (pbni.org.uk) (accessed 5 July 2021)
- Shapland, J. et al. (2008), *Restorative Justice: Does Restorative Justice Affect Reconviction, The Fourth Report from the Evaluation of Three Schemes*, Ministry of Justice Research Series 10/08. London: Ministry of Justice
- Shapland, J., Crawford, A., Gray, E. and Burn, D. (2017), 'Developing restorative policing: Using the evidence base to inform the delivery of restorative justice and improve engagement with victims', *Restorative Justice at the Level of the Police in England: Implementing Change*, available at: [Restorative-Justice-at-the-Level-of-the-Police-in-England-Implementing-Change.pdf](https://www.researchgate.net/publication/316111111) (researchgate.net) (accessed 5 July 2021)

‘Money Mules’: Exploited Victims or Collaborators in Organised Crime?

Rob Pickles*

Summary: In my role as a community-based Probation Officer, I have worked with service-users convicted under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. That experience was limited to cases involving fraud and deception charges in another jurisdiction, usually in the context of organised crime. In September 2020, I attended a national media event, which was a collaboration between An Garda Síochána (the Irish police force) and Irish financial institutions. The event aimed to highlight the dangers of falling prey to what is known as the ‘money mule’ system. Contributors highlighted the methods used to target young people whose potential vulnerabilities were manipulated to an extent that they were often, unwittingly, caught in the tentacles of international organised-crime groups. The descriptions of the sophisticated myriad grooming techniques used to lure recruits challenged the audience to reflect on more established notions of vulnerability and risk in relation to offending. The event also showcased a collaborative initiative between Europol and the police that provides for ongoing investigation into persons suspected of allowing their bank accounts to be used by organised-crime groups to withdraw and deposit money.¹ These groups are targeting young people, in particular, using them as money mules to launder their illicit gains.

The event was the catalyst that prompted me to explore and research what was to me a ‘new’ type of offending that required further examination. This practitioner article is based on my learning from that exploratory work, providing an overview of money laundering specifically in the context of ‘money mules’. The paper profiles those identified as money mules, how they are groomed and recruited, and the consequences for those who are recruited. It explores policy and practice against the backdrop of relevant legislation, and concludes with implications and learning for Probation practice.

Keywords: Money laundering, criminals, money mules, international organised crime, exploitation, victims, grooming.

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¹ This operation was part of the European Money Mule Action (EMMA) to combat the increase in the use of money mules across Europe.

Introduction

A 'money mule' is defined as a person who receives money, from a third party, in their bank account, and transfers it to another one, or takes it out in cash and gives it to someone else, obtaining a commission for doing so.²

On 21 September 2020, a media-awareness event was conducted by An Garda Síochána in collaboration with the Anti-Money Laundering Compliance Unit (AMLCU-Departments of Finance and Justice), and the Banking and Payments Federation of Ireland (BPF). This event, attended by national and local media, launched the #DontBeaMule campaign in association with Europol and EU enforcement authorities, as the theme for 'National Fraud Awareness Week'. The week is promoted and managed by FraudSMART, which is a fraud-awareness initiative, developed by the European Banking Federation (EBF) in conjunction with the main banking institutions in Ireland. The #DontBeaMule campaign is a global campaign, highlighting and warning of the dangers and risks of becoming a money mule.

The media launch highlighted the dangers of becoming a money mule. It explained how the practice is integral to laundering the criminal proceeds of international organised-crime groups or syndicates. The Garda National Economic Crime Bureau (GNECB)³ publicised the European Money Mule Action (EMMA) operation spearheaded by Europol between November 2019 and September 2020 in 26 different countries. The operation identified over 4,000 money mule accounts and arrested 422 suspects.

The police arm of EMMA was titled 'Operation Ransom'. It was noted at the event that up until September 2020, 30 arrests had been made through ongoing international collaboration involving law enforcement agencies and banking and financial institutions.

Prior to 2019, I had not worked with any cases where the index offence was money laundering. In the past, as a Probation Officer based in the United Kingdom, I was aware that a number of service-users convicted of fraud/deception charges had been involved in money-laundering activity. This criminal activity was generally described as 'white-collar crime', involving members of professional occupations, including, for example, accountants and solicitors.

In working with these individuals in the UK and discussing the nature of their offending, it was clear from their presenting profiles and background that their motivation for offending was very different from that of the majority

² Europol.europa.eu

³ The GNECB is a specialist bureau that investigates fraud-related crime involving complex issues of criminal law or procedure.

of individuals on my caseload at that time. That experience, coupled with the information received through the #DontBeaMule campaign, ignited my interest in developing a better understanding of how this type of criminal activity had further evolved, and the role of the money mule as an essential cog in this illegal activity. Similarly, although I was familiar with collaborative state responses to criminal activities such as sex offending, domestic violence and juvenile offending, this area represented a first for me in terms of an increased understanding of the liaison and collaboration between the Departments of Finance and Justice, and central financial institutions.

Money-laundering legislation

In Ireland, those investigated as 'money mules' are charged with 'Money Laundering' under Section 7 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.

The Act was the first legislation introduced in Ireland which dealt specifically with money-laundering offences. Amendments to this legislation followed in 2013 and 2018, which brought Irish legislation in line with the requirements of the third and fourth EU Money Laundering Directives, transposing them into Irish Law.⁴

Specifically, Section 7(1) stipulates:

- (a) a person commits an offence if a person engages in the following acts in relation to property that is the proceeds of criminal conduct:
 - (i) Concealing the true nature, source, location, disposition, movement or ownership of the property or any rights relating to the property;
 - (ii) Converting, transferring, handling, acquiring, possessing or using the property;
 - (iii) Removing the property from, or bringing the property into the state,
- (b) The person knows or believes (or is reckless as to whether or not) the property is the proceeds of criminal conduct.

In relation to sanctions for people convicted under this legislation, Section 7(3) stipulates that a person who commits an offence under this section is liable:

⁴ Irishstatutebook.ie, Office of Attorney General, and Citizens Information — Money Laundering.

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- (a) on summary conviction, to a fine not exceeding 5,000 euro or imprisonment for a term not exceeding twelve months (or both), or
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 14 years (or both).

So, what is meant by money laundering, including that which relates to terrorist financing? Citizens Information⁵ describes money laundering as 'the processing of criminal proceeds (Cash and assets obtained from criminal activities) to disguise their illegal origin'. The objective of the process is to take money gained from criminal activity and make it appear to have come from a legitimate source. Money laundering is often referred to as 'smurfing', and a person who launders money as a 'Smurf'.

Three phases of money laundering can be identified:

1. Placement: This involves the placement of 'dirty money' into the legitimate financial system.
2. Layering: This is the concealing of the source of money through a series of transactions and or bookkeeping techniques/tricks.
3. Integration: This is when the now-laundered money is withdrawn from the legitimate account to be used for whatever purposes, separate from any connection to criminal activities.⁶

Terrorist financing

As defined by the Central Bank of Ireland:

The offence of terrorist financing involves the provision, collection or receipt of funds with the intent or knowledge that the funds will be used to carry out an act of terrorism or any act intended to cause death or serious bodily injury. It also includes collecting or receiving funds with the intention that they be used or knowing that they will be used for the benefit of a terrorist group. (Central Bank of Ireland)

Money laundering and terrorist financing are dealt with under the same 2010 legislation. Although there is evidence of collaboration between terrorist groups and non-terrorist criminal organisations, there are clear distinctions

⁵ The Citizens Information Board is the statutory body which supports the provision of information, advice and advocacy on a broad range of public and social services.

⁶ These phases were identified by Investopedia, a financial website headquartered in New York City.

between the definitions of the two illegal activities. The Central Bank of Ireland states:

- For money laundering to occur, the funds involved must be the proceeds of criminal conduct.
- For terrorist financing to occur, the source of funds is irrelevant, i.e. the funds can be from a legitimate or illegitimate source.

The key therefore is not the origin of the funds but the intended use or destination of these funds.

A surmising of money laundering

Money Laundering is generally depicted as an activity firmly fixed in the elevated domain of large-scale organised crime. Little if any detailed or forensic attention is given to those whom it ensnares and exploits in the outer ripples of its operations, which could possibly include some current Probation service-users.

However, money laundering is often referenced in bestselling novels and portrayed in fictional dramatisations loosely based on real organised-crime groups. The *Godfather* trilogy is a well-established example. More recent fictional depictions include *Peaky Blinders* and two Netflix dramas, *Narcos* and particularly *Ozark*, where money laundering is given prominence in relation to high-level financiers operating in collaboration with Mexican drug cartels. We often seem to have a fascination — what could even be regarded as a macabre interest — with such depictions/dramatisations of organised crime and its apparent operations.

In terms of international organised crime, and examples of money laundering, it is much harder to ascertain how things currently operate, as organisations and their activities continually adapt their techniques in the attempt to outmanoeuvre law-enforcement agencies. Organised crime is, by its nature and self-interest, a secret hidden activity, and there is no better depiction of this than examples of the Italian Mafia groups, including the Camorra, Stidda and the 'Ndrangheta. On 13 January 2021, the national broadcaster reported on a trial commencing in Calabria, Italy, with more than 350 defendants and 1,000 witnesses involved in frauds and money-laundering activity associated with one clan of the 'Ndrangheta, valued in billions of euro. It is estimated that this trial will last twelve months. The defendants are

state and local politicians, police, bank managers, businesspeople, and accountants. The *Guardian* newspaper, reporting the trial on the same date, described the 'Ndrangheta as the world's richest and biggest-known international crime syndicate, with a 'colonial expansionist policy', and active in criminal activity across the globe (Tondo, 2021). Yet how many people have heard of them, or could even pronounce their name?

Money mules in Ireland: Who are they?

From my exploration, there would seem to be a dearth of literature or research in relation to money-mule activity and its integral role in the laundering of proceeds from criminal activity in Ireland and internationally. The term 'money mule' is not defined in current Irish legislation as such, and the term 'money muling' is not defined as a criminal activity.

The GNECB reports that this activity is on the increase and that money mules are an integral part of organised-crime groups. The proceeds of these crimes are transferred overseas to finance terrorist groups, human trafficking and the global trafficking of drugs. Tatiana Koffman (2020) describes money laundering as 'the tool that makes all other crimes possible' and argues that there is a lack of commitment by many major banks/financial institutions to investigate international suspicious transactions. According to the United Nations Office on Drugs and Crime (UNODC), 'the estimated amount of money laundered globally in one year is 2 to 5% of global GDP or 2 trillion in current US dollars.'

It seems clear that money laundering is dependent on the successful recruitment of money mules, who effectively serve as a shield against detection. It is reported that the more recent proliferation of money-mule activity has coincided with the rapid expansion of cryptocurrencies⁷ which, according to James Royal (2021), an author on the NerdWallet.com, continue to proliferate. CoinMarketCap.com on 5 July 2021 published the market details of 10,770 different cryptocurrencies.

As of March 2021, thousands of money-mule accounts have been identified, and it is reported that there are 700 individuals currently being investigated by the police in collaboration with Irish banking and financial institutions. The use of money mules was highlighted in a recent media

⁷ Cryptocurrency is a digital or virtual currency that is secured by cryptography, which makes it nearly impossible to counterfeit or double spend. A defining feature is that they are generally not issued by any central authority, rendering them theoretically immune to government intervention (Investopedia).

awareness campaign orchestrated by the GNECB, in collaboration with other financial bodies. This campaign has featured on an array of media outlets, including the majority of news media platforms, with features on television, radio and social media, and as an item on the national news station.⁸

Profile and recruitment of a money mule

Identity

Money mules in Ireland, convicted of money laundering, can in effect be anybody from any background or walk of life, and aged from as young as 14 upwards. On the basis of the information that I accessed, it is difficult to identify patterns amongst this group, but some distinct and sometimes recurring features emerge.

At the media launch in September 2020, it was reported that at that juncture there had been 30 arrests during 'Operation Ransom'. Of those arrested, 18 were males and 12 were females. The youngest was aged 15 and the oldest aged 38. The core age was 18–24. The average age range of those currently identified was 19–20 years. The vast majority were not known to the authorities and had no criminal convictions.

In 2018, the Banking and Payments Federation of Ireland (BPF⁹) identified more than 1,600 money-mule accounts connected to the main Irish retail banks. In March 2019, Gibney Communications on behalf of BPF⁹ carried out a survey as part of an awareness and education campaign against fraud, using a nationally representative omnibus sample of 1,000 adults.

According to this survey, '43% of 18–24-year-olds are likely or very likely to lodge or transfer money for someone, using their own bank account in exchange for keeping some of the money themselves'. The survey also revealed that 14 per cent of 18–24-year-olds said that they or somebody they know has been approached to store money for a third party. With regard to transferring money, the survey cites 19 per cent of those aged 18–24 reporting that they or someone they know has been approached by a third party for their bank details to carry out a transaction.

Recruitment

Those who target potential money mules are known as 'recruiters' or 'herders'. Little is known about who these people are or exactly who or what criminal

⁸ *News at One*, RTÉ, 12 March 2021.

⁹ The BPF⁹ is the main representative body for the banking and financial services sector in Ireland.

groups they represent. Recognised channels of recruitment include legitimate job advertisements, 'get rich quick' advertisements, dating scams promising romance, payment for online surveys, and contact by e-mail or social media. Direct approaches are also made in colleges and at music festivals.

A common denominator across recruitment techniques is the securing of bank details with the offer of a percentage of any money transferred. As referenced previously, the money mule is the 'shield', and the person most likely to be caught and face consequences. These approaches, in effect, are persuasive and targeted selling techniques, used with those already identified as vulnerable and likely to succumb to the proposition to become a mule. This vulnerability arises from a range of factors including financial difficulties, low self-esteem, loneliness, intellectual difficulties, isolation, and lack of family support. This process could be defined as 'grooming'.

The techniques used in recruiting money mules were evident in media reports in recent times. A case in *thejournal.ie*¹⁰ in December 2018 (MacNamee, 2018) described how a money mule was recruited via 'befriending' on Facebook. Having met the recruiter, she set up, as instructed, a number of accounts in different banks. She was given thousands of euro in cash to deposit in tranches to these accounts. When instructed, the money mule withdrew cash from ATMs and returned it in person to the recruiter. The money mule received a small percentage.

A further article in *thejournal.ie* (MacNamee, 2019) reported 'Freshers' at colleges being recruited as money mules. It also reported young women, particularly, being targeted by recruiters at music festivals across the country. Finally, the *Irish Examiner* (Kenny, 2020) referenced the 'coercion and physical violence' used by recruiters and the 'money mules being recruited or exploited via romance scams, get rich quick ads, money offered for surveys and through mediums like Snapchat'.

Consequences

When suspected of money laundering, a money mule can face significant consequences. In the first instance, their bank accounts could be frozen and closed and, as a target of any investigation, their home and that of their family are likely to be searched by the police.

If charged, a money mule will have to appear in court and, if aged 18 or over, could be subject to media exposure. If the case is proven, the money

¹⁰ *Journal.ie* is an Irish online publication.

mule faces conviction in the lower or upper court, and a possible prison sentence, with a sentencing tariff of up to 14 years' imprisonment. Those whose conviction is linked to 'terrorist financing' can be placed on the 'Terrorist Watch List'.¹¹

Living with a money-laundering conviction has similar consequences to living with other criminal convictions. However, there are specific potential consequences which particularly apply to a money-laundering conviction. There are problems opening a bank account, with many financial institutions blocking the opening of any new accounts for a six-year period. A person's credit rating can be seriously affected, with applications for acquiring loans, mortgages, etc. becoming problematic. A person convicted could have their employment opportunities limited and impacted upon through vetting procedures. Moreover, a person, can be subject to threats, violence or having their 'own' monies stolen by criminal elements.

A wider consequence of money mules laundering money is the financial assistance that organised criminal and terrorist groups are given to commit further crimes and finance terrorism. A consequence, therefore, is that a money mule's actions could significantly contribute to, and be responsible for, innocent people becoming victims of criminal activity and terrorism across international borders.

What implications for Probation practice?

Money laundering and money-mule activity represent a new potentially targeted category of offending and patterns of offending behaviour that have not previously been addressed by the Probation Service. Does the Irish Probation Service respond to this behaviour in terms of treating this offence type generically, or recognise it as an opportunity and a challenge to respond in a co-ordinated and informed manner? The dearth of available data and research indicates that the Probation Service needs to develop a knowledge base and invest in learning about the alleged proliferation of cybercrime and the laundering of money. As cases presenting to the Probation Service are likely to increase, it is important to stay abreast of developments as more data and knowledge becomes available. It will also be possible for the Probation Service to gather knowledge and understanding through our experience of clients referred to the Service for assessment and supervision. It is imperative for the Probation Service to reach out to those agencies who

¹¹ Terrorist Watch List — European Union is compiled by Europol in conjunction with the European Banking Federation and was initially set up in December 2011.

are investigating this offending behaviour but also to those services that will potentially engage with these clients.

The Irish Probation Service continues to update risk-assessments tools and offending programmes, and respective training for staff around specialised offender categories. New categories of offending emerge with the development of new legislation and changes in crime trends. Probation and other justice organisations have responded to the development of legislation in relation to working with Young Offenders (Children's Act 2001 — Young Persons Probation), Sex Offenders (Sex Offenders Act 2001 — Sex Offender Risk Assessment Management-SORAM, RM2000 and Stable Acute Assessment), Domestic Violence (Domestic Violence Act 2018, SARA Assessment).

In relation to clients convicted of money laundering, consideration should be given to how money mules are targeted, groomed and recruited. As referenced, the majority are targeted because they have no previous convictions, have good credit rating and because of other factors that allow them to fly under the criminal justice radar. These factors make them attractive targets for those recruiting money mules and those involved in the clandestine activity of laundering money. However, we need to challenge our notions of vulnerability and people's susceptibility to be ensnared by these recruiters. Although the majority of those being prosecuted are male, a disproportionate number of females are represented compared to other categories. I believe that existing risk-assessment tools cannot effectively capture the particular features and patterns of this offending behaviour and its impact on the lives of those caught up in its tentacles. In the absence of more specific screening tools, some adaptation/professional overrides would need to be applied to existing tools in order to achieve an adequate assessment of risk/need in these cases.

Money-mule activity and money laundering appear to be constantly evolving, facilitated in no small way by advances in technology, leading to the development of more sophisticated evasion strategies. In 2016, the Association for Criminal Research and Development (ACJRD)¹² chose 'Cybercrime' as the theme for its annual conference, a portent of what was to come. I recall speakers describing these crimes very simply as old crimes that are committed in new ways. Particular examples were child pornography, cyberstalking, hacking and malicious software. We are increasing our awareness and understanding of some of these areas, and it is likely that

¹² <https://www.acjrd.ie/>

money-mule activity, money laundering and other forms of white-collar crime will fall within our realm of practice. There is scope to explore learning opportunities with the Garda National Economic Crime Bureau and with financial institutions such as the Banking and Payments Federation of Ireland, and to look to our probation colleagues across Europe to share and exchange information. This could include the provision of information sessions/formal training, in collaboration with the agencies mentioned above, by the Learning and Development Unit.

Peer learning, based on shared on-the-job experiences and reflections from reading and research, is an important mechanism for professional development. The 'Journal Club'¹³ would provide an ideal learning forum to share experiences of these cases. That learning would not only assist people in assessment and report preparation but would also highlight the risks for existing service-users whose vulnerabilities could potentially lead to their recruitment and entrapment. This risk is all the greater in the case of adolescents and young adults.

There seems no question but that the vast majority of those convicted know that they are involved in illicit illegal activity, but one can only speculate as to their level of knowledge and understanding and as to how complicit their involvement is. The enforcement agencies investigating this behaviour struggle to infiltrate the inner core of these criminal/terrorist organisations in an attempt to trace the origins of money laundered and its future destinations. Are those convicted of laundering money as 'mules' aware that they are entwined in international organised criminal/terrorist activity? Are they aware of the 'colonial expansionist policy' of the 'Ndrangheta (Tondo, 2021)? Unlikely. Currently, for many of those caught and identified as money mules, it is accepted that sophisticated grooming and exploitation techniques have been applied in their recruitment.

Are those convicted of laundering money (money mules) exploited victims or collaborators in organised crime? From the knowledge I have accrued and from opinions sourced during my enquiries, I believe the answer to be both. There is generally an awareness with money mules that all is not 'kosher' with their behaviour, and they are, of course, recompensed for their endeavour. However, it is also clear that these people have been targeted as they are considered vulnerable to being groomed and exploited, particularly when recruited online. These young people have not otherwise come to the

¹³ The Journal Club in the Probation Service is an online peer-learning forum, facilitated by practitioners on a regular basis to discuss evidence-based practice across a range of subject areas.

attention of the criminal justice system. As with categories such as sexual offending and domestic violence, we need to challenge our perceptions of who is more vulnerable or more likely to become involved in money laundering and the machinations of organised crime. As highlighted, in the Calabrian city of Lamezia Terme, in an ongoing trial involving hundreds of defendants, those on trial for money laundering and other related serious offences represent every layer and class of society and were investigated and arrested in various European countries. More research and information-sharing are required if the Probation Service is to engage effectively with the complexities of this form of offending; understand its connectivity with past criminal activity and future criminality, including terrorist acts; and respond to the harm done to, and the needs of, the potential myriad victims left in its wake or in its path.

References

- Central Bank of Ireland, 'Money Laundering and Terrorist Financing', Central Bank of Ireland website, available at <https://www.centralbank.ie/regulation/anti-money-laundering-and-countering-the-financing-of-terrorism> (accessed 14 July 2021)
- Kenny, A. (2020), 'Teenagers recruited as money mules via social media', *Irish Examiner*, 21 September, available at [Teenagers recruited as money mules via social media \(irishteen.com\)](https://www.irishteen.com/teenagers-recruited-as-money-mules-via-social-media/) (accessed 19 July 2021)
- Koffman, T. (2020), 'The hidden truth behind money laundering, banks and cryptocurrency', *Forbes* online magazine, 27 September, available at <https://www.forbes.com/sites/tatianakoffman/2020/09/27/the-hidden-truth-behind-money-laundering-banks-and-cryptocurrency/> (accessed 14 July 2021)
- MacNamee, G. (2018), 'Wicklow teen allegedly laundered money for criminal gang after being approached on social media', *thejournal.ie*, 24 December, available at <https://jrnl.ie/4385504> (accessed 19 July 2021)
- MacNamee, G. (2019), '"Money mule" recruiters tricking Irish third-level students into handing over bank details', *thejournal.ie*, 27 October, available at <https://jrnl.ie/4861834> (accessed 19 July 2021)
- Royal, J. (2021), 'What is cryptocurrency? Here's what you should know', *NerdWallet.com*, available at [What Is Cryptocurrency? Beginners Guide to Digital Cash - NerdWallet](https://www.nerdwallet.com/blog/cryptocurrency/) (accessed 19 July 2021)

Tondo, L. (2021), 'Italy's largest mafia trial in three decades begins against 'Ndrangheta', *The Guardian*, 13 January, available at <https://www.theguardian.com/world/2021/jan/13/italy-mafia-trial-ndragheta-calabria> (accessed 14 July 2021)

United Nations Office on Drugs and Crime (UNODC), 'Money Laundering', UNODC website, available at <https://www.unodc.org/unodc/en/money-laundering/overview.html> (accessed 14 July 2021)

J-ARC: An Interagency Initiative to Reduce Prolific Offending

Andrea Bourke*

Summary: The Probation Service has been a partner in the Joint Agency Response to Crime (J-ARC) programme since its establishment in 2014. This paper provides an overview of how the programme was introduced in Waterford city¹ in 2016 as an interagency initiative that aims to intervene with prolific offenders and, in particular, to reduce the incidence of burglary offences. It details how the programme works from an operational perspective and discusses its use of a formal structure to support agencies in working collaboratively. The focus on work that supports the social inclusion of participants is highlighted, and an analysis of the strengths and challenges of multi-agency working is set out. The article concludes with some general reflections on the impact of the programme on offending behaviour, and areas for consideration as part of the next phase of implementation.

Keywords: J-ARC, joint agency response to crime, burglary, interagency, collaboration, probation, prison, recidivism, integrated offender management.

The Rationale for J-ARC

The Joint Agency Response to Crime (J-ARC) is a strategic offender management initiative led by An Garda Síochána (Police Service), the Probation Service and the Irish Prison Service. The Department of Justice is also involved through oversight and policy functions. The programme provides a framework and strategic umbrella that brings together agencies in order to prioritise tailored interventions with the offenders who have been identified as causing the most crime within their locality.

Effective collaboration between justice agencies is recognised across various jurisdictions as a critical factor in working to reduce reoffending. The J-ARC programme is modelled on the Integrated Offender Management approach which 'seeks to reduce crime, reduce re-offending, improve public confidence in the criminal justice system, tackle the social exclusion of

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¹ Waterford is located in the southeast of Ireland and has a population of 116,176, with 82,963 residing in Waterford city (Census, 2016).

offenders and their families and drive organisational performance delivery improvement' (Annison *et. al*, 2015, p. 389).

Recidivism studies completed by both the Probation Service and the Irish Prison Service highlight that burglary has the highest rate of recidivism of all offence types. The Probation Service report found that offenders who had committed burglary offences, although a relatively small group within the population of this study, had the highest recidivism (for any offence) at 41.4% after two years and 49% after three years. Of those who did reoffend, one-third were reconvicted for a public order offence and 10.7% were reconvicted for a further burglary offence (Probation Service, 2013).

Equally, the Irish Prison Service report noted that burglary offenders, while a relatively small group within their study, had the highest rate of reconviction at 79.5% (Irish Prison Service and CSO, 2013).

Background

On 21 November 2014, a joint protocol was signed by An Garda Síochána, the Irish Prison Service and the Probation Service, establishing the J-ARC programme. The J-ARC strategy reflects a joint agency commitment to targeting nominated prolific offenders who are responsible for high levels of community harm, in order to reduce crime and enhance public safety.

It seeks to do so by strengthening the co-ordination and integration of policy, practice and research between the three criminal justice organisations. The overall strategic objectives are:

- To develop and strengthen a multi-agency approach to the management of crime,
- To prioritise prolific² offenders
- To reduce crime and increase public safety in local communities.

Introduction to Waterford

J-ARC was launched in Waterford in 2016 with the aim of managing identified prolific offenders through a multi-agency approach. It is one of eight operational initiatives, with similar projects launched in Dublin in 2015 and extended to Dundalk and Limerick in 2016. There are also two Youth J-ARC initiatives operating in Dublin and Cork.

² J-ARC targets prolific offenders, which is different from recidivist offenders who are likely to reoffend, but it is unknown to what extent prolific offenders typically have a large number of charges against them.

The project began in Waterford with the selection of a list of potential clients who met the criteria of 'prolific offenders'. Selection criteria targeted offenders aged 18 or over residing in the city and with a history and pattern of burglary-related offending. These included individuals in the community, either before the courts or subject to probation; those in prison but who might be eligible for temporary release;³ and those with a history of offending and in contact with the criminal justice system, as identified by An Garda Síochána. Each organisation nominated clients for inclusion at a preliminary referral and selection meeting, which resulted in 22 individuals being considered. Initially, ten participants were selected, comprising eight men and two women. Waterford is the first of the projects identified above to include female participants. All selected participants were known to all three agencies, had significant patterns of offending behaviour, and all had experienced periods of imprisonment. At time of writing, 13 individuals in total have participated.

While J-ARC is supported by an overarching structure nationally that includes multi-agency working both at strategic level and operational level, this paper focuses solely on the operational level in Waterford.

Core elements of the J-ARC project include:

- Intensive oversight by An Garda Síochána,
- Intensive supervision and support by the Probation Service,
- Use of rewards and sanctions to motivate and affirm behavioural change,
- Improved information-sharing between agencies,
- Additional service support located in funded projects.

In Waterford, the local multi-agency operations team comprises a Garda Case Manager, a representative from the Irish Prison Service (IPS) and the dedicated J-ARC Probation Officer. Each participant is assigned a Garda Case Manager and a Probation Officer. Participants are met by the operations team and invited and encouraged to sign up to the programme. A case management plan is developed, which is tailored to individual risk and need, providing the opportunity to tackle underlying issues such as addiction,

³ Temporary release plays a very important role in the gradual and supervised re-entry of an offender to the community. Under the Criminal Justice (Temporary Release of Prisoners) Act, 2003, 'a person who is serving a sentence of imprisonment ... shall be released from prison for [a] temporary period, and subject to ... conditions' (available at <http://www.irishstatutebook.ie/eli/2003/act/34/section/1/enacted/en/html>).

mental health problems, alcohol and drug misuse. All participants are offered enhanced support to help address their offending behaviour and to encourage them to desist from crime.

An Operations Meeting is scheduled regularly, which includes the operations team and senior representatives from An Garda Síochána, the IPS and Probation. A report is produced for each meeting, co-ordinating information from the three justice agencies. The meeting provides a formal structure for pooling information, which means that a more comprehensive assessment of participants and their progress is available. This team reports to a Steering Committee, which is the regional multi-agency management team charged with oversight.

Central to integrated offender management design is a 'carrot and stick' approach, whereby offenders who engage with the scheme are provided with interventions and support, while those who fail to engage with the scheme should expect:

robust policing with regards to their offending – to prevent further offending through police monitoring and speedy apprehension. Implicitly a further carrot is that compliant offenders will be treated less robustly by police officers whom they may encounter, and indeed can expect to be intercepted by officers on a less frequent basis. (Annison *et al.*, 2015, p. 391)

Participants remain subject to J-ARC until they have reached a point where they are offence-free over a two-year period; they are then deselected from the programme.

The role of social inclusion

The role of social inclusion in working with offenders is well documented in the literature. In 1999, Martin Tansey⁴ described how 'Crime is best reduced through adherence to the principles of social inclusion, this is the best way to provide protection for communities from the harm and distress caused by crime' (Senior, 2014, p. 8). Similarly, Forde (2015, p. 198) states: 'if the route into crime involves complex processes at individual, family community and societal levels surely effective supporting desistance from offending also requires intervention at those levels.'

One of the themes in desistance theory is that interventions based only on

⁴ Martin Tansey (now deceased) was Chief Probation Officer until his retirement in 2002. He was also a founding member of the Association for Criminal Justice Research and Development (ACJRD).

the development of the skills and capacity of people who have offended (human capital) are not sufficiently impactful. There is also a need to work on developing social capital in providing opportunities to apply these skills and to practise newly formed identities like 'worker' or 'father' (McNeill et al., 2012).

A core element of J-ARC Waterford is the access that participants have to training and education programmes that support a more structured and pro-social lifestyle. That service is provided by two projects, U-Casadh and Treo. These community-based organisations, funded by the Probation Service, provide a suite of services that facilitate more positive lifestyle choices and support progression to education and training programmes. The projects work in collaboration with the local J-ARC operational team. Project staff mentor and support the participants to make changes in their lives, and a learning environment is promoted, encouraging clients to try new and more mainstream activities. Communication and engagement strive to recognise and validate individual strengths and potential, and avoid identifying people with negative behaviour patterns that should no longer be part of a new narrative.

The projects also have a role in delivering structured interventions to help challenge the thinking, attitudes and behaviours underpinning criminal behaviour. The Probation Service 'Choice and Challenge' programme is a 12-session offending-behaviour programme, based on Cognitive Behavioural Therapy (CBT); it has been delivered jointly by a project staff member and the J-ARC Probation Officer to participants in a group setting. Choice and Challenge includes a victim-awareness input as part of its sessional content, which helps raise awareness for participants of the harm caused to victims and the wider society.

Strengths and challenges of multi-agency collaboration

For service-providers

From a practitioner perspective, increased communication and information-sharing are key strengths of the J-ARC programme. A formal structure for information-sharing between the justice agencies, underpinned by agreed protocols, is of enormous benefit. Prior to the introduction of J-ARC, agencies often worked independently of each other with the same service-users. Information-sharing, when it happened, often occurred in a more piecemeal fashion. The evident benefit of information-sharing through a formal process is seen in the context of a shared understanding of the participant's situation

that enables a more holistic and integrated approach to problem-solving and the provision of support. The rapid and timely exchange of information means that support is available to respond to crises or can sometimes even lead to the crisis being averted. It also provides a more transparent and pro-social model of engagement that reduces the opportunity for offenders to manipulate or 'play' agencies off against each other. Participants are aware that information-sharing is now part of the process when they are subject to J-ARC, which can in itself be a deterrent to anti-social activity.

Another benefit of multi-agency collaboration is that the three agencies are working from a common case-management plan. Traditionally, each agency focused solely on its own separate priorities; however, a common plan reduces duplication of work and brings clarity to roles and responsibilities. Improved co-ordination of efforts appears to be more effective and it is seen generally in the literature on human services that 'The synergistic quality which emerges from the relationship is greater than what each of the stakeholders could have accomplished individually' (Longoria, 2005, p. 126).

For participants

A key benefit is that J-ARC provides participants with an opportunity to engage in a different way with criminal justice service-providers. Each of the participants had prior experience of working with the justice agencies individually. However, the difference with J-ARC is that the contact they now have with any single agency contributes to the joint plan. By engaging in a programme with one tailored plan specific to their criminogenic needs, the focus of intervention becomes more targeted and consistent.

Support is provided as a preventative measure and is both dynamic and responsive. When plans do not succeed, a problem-solving approach is used to see how the plan can change and adapt to emerging needs and risks. Persistence in offending is matched with persistence from services, and a high level of support is provided through the joint endeavours of all agencies.

This programme is also more focused on relationship-building with each individual. While this is an integral part of Probation practice, it does involve something of a shift of emphasis for the Garda Síochána. Traditionally, police contact with offenders would in the main revolve around the investigation of a crime and possibly the arrest of an individual. On this programme, individual Garda officers meet participants to offer support with the programme and to provide positive feedback. This allows people to see the police in a different

light, and shifts the emphasis from a criminal in the system to a participant on a rehabilitation scheme.

For communities

A multi-agency approach to crime can increase public confidence by ensuring that high-risk offenders are placed under intensive supervision and monitoring. Ensuring that participants are attending projects on a daily basis, in compliance with mandated conditions, helps increase public confidence in the management of prolific offenders.

Working collaboratively can also lead to increased public safety, due to prompt response to transgressions. For those who continue to offend, information is gathered and reported at the operations meeting, with the multi-agency team agreeing next steps and providing a swift response to non-compliance.

Challenges in implementation

A challenge that arises in the programme is the management of non-statutory orders. The experience from Waterford is that the mandated nature of orders such as Temporary Release or court-ordered supervision, which place clear parameters around attendance at onsite activities, does contribute to higher levels of co-operation and compliance. However, once these orders had expired and voluntary participation was introduced, there was a noticeable drop-off in attendance. Concern is raised in the literature that targeting those who have completed their sentence or who are no longer subject to orders as a preventive measure can be seen as an infringement of human rights (Senior, 2014, p. 14). The shift in approach towards identifying potential participants who are not subject to probation or statutory orders is a new departure, possibly more aligned with a newer culture of crime control as opposed to penal welfarism (Garland, 2002). The ethics and implications of this need to be carefully considered from a Probation Service perspective.

In the literature, criticisms of multi-agency working reveal that it is frequently a challenge for professionals to remain clear about their role when working within these structures. Nash (1999) introduces the concept of the 'polibation officer' to denote the perceived fusion of police and probation roles and to reflect the concerns that Probation Officers could become increasingly focused on control and surveillance, to the detriment of their welfare-oriented objectives. The idea suggests that increasing collaboration

between police and probation services, under the umbrella of public protection, takes individual practitioners away from their roots in terms of professional practice and culture. Does the blurring of the roles and sharing of information undermine social-work values, and how easy is it to maintain professional identities and keep Probation Service ethos and objectives to the fore? In Waterford, one of the ways that professional identity is maintained is by continuing to work in our respective agencies. While the operations team meets regularly, staff remain within their agency, which helps to reinforce professional identities and shared values and to keep agency objectives central to practice. This is in contrast to the offender-management model in the UK where staff of the programmes are located together under one roof and operating under a brand. The role of 'the brand' in criminal justice contexts has remained largely underexplored and it is clear that further research is required on this subject.

A further concern in the literature surrounding multi-agency working is that while there is an appeal to the notion of multi-agency working with a common goal, ideological conflicts and power struggles can arise (Cram, 2020). Similarly, Mawby and Worrall (2011) noted that increased collaboration and communication can lead to conflict between agencies.

An additional focus relates to levels of cost and resources. The intensive nature of the programme brings with it a far greater resource implication, in terms of both the monitoring level and the intensive support provided. It can be time-consuming to build a relationship of trust and to engage at a measured pace consistent with the participant's capacity. However, in Waterford, while there was a significant initial investment of time to build the structures and develop agency relationships, once the structures were established, the demands of the programme became less resource-intensive. The organisational structures in place from the outset of the initiative have remained robust, despite changes of personnel, with consistency in the ongoing delivery of the programme.

A particular challenge in the Waterford context arises in relation to intervening effectively with those who have a lengthy history of addiction. Chronic drug misuse and gambling issues have meant that, for some, engagement with the programme has been really difficult. Limited availability of access to rehabilitation treatment facilities further compounded this. In considering improvements and recommendations for the future, there needs to be a greater focus on ensuring a priority/fast-tracking mechanism for participants to access community and residential treatment facilities.

A final consideration in terms of implementation is the need to raise the profile of the J-ARC programme. While those involved in the project are aware of its development, further work could be done to raise the profile of J-ARC within each agency, but also externally — for example, in the courts. While judges locally appear to have a keen interest in the approach and in those who are participating in J-ARC and have recognised their positive engagement in the context of further court appearances, additional formal engagement could increase understanding of the aims, the strengths and the challenges of the programme.

Conclusion

While formalised collaboration and co-ordination between agencies has many advantages, the real question has to be whether it works; what is the overall impact on crime, specifically burglary, and on public safety?

Figures available from the Central Statistics Office (CSO) indicate that burglary has reduced since the programme commenced. Incidence of burglary has been falling steadily in Waterford since 2016, to roughly about 50%, coinciding with the early stages of J-ARC. This is illustrated in Table 1.

Table 1: *Recorded incidents of burglary in Waterford city, 2015–2020*

Year	Recorded incidents of burglary
2015	544
2016	345
2017	361
2018	263
2019	236
2020	123

However, it is difficult to link the change in offending behaviour patterns directly to the impact of the J-ARC interventions, particularly in the absence of any randomised control trials. While there is no doubt that J-ARC had a positive influence on participant behaviour, there are many other potential reasons for this reduction, including high-visibility police checkpoints, the role of intelligence-led policing and, more recently, the impact of COVID-19.

Nevertheless, J-ARC does appear to have had some success in curtailing the criminal activities of participants and preventing the occurrence of crimes such as burglary. In some instances, participants have discontinued their life of crime, while others have reduced their level of activity. Of the thirteen participants who 'signed up' to J-ARC since its inception, seven remain in the community, four have been returned to prison for ongoing offending, one is currently in a residential treatment programme as part of his integrated case-management plan, and one has been deselected, having successfully completed the programme.

While further evaluation is clearly required, the overall response from participants has been promising, particularly when considered in the context of entrenched patterns of criminal activity. While desistance was not achieved with all participants, those who did reoffend committed offences that were less serious. An evaluative study would need to measure the level of desistance as well as the seriousness of reoffending.

The *Critical Review of Initial Evaluations on the Three J-ARC Pilot Projects*⁵ undertaken in 2018 focused on the commonalities and the lessons learned, and it provided an interim assessment of the progress of J-ARC. Overall, the findings indicate that the multi-agency approach of J-ARC is worthwhile. Specific recommendations from this report include a continuation and potential expansion of the programme, improved evaluation, monitoring and data collection, an analysis of the costs of the J-ARC project and an increased effort to raise awareness of J-ARC through training and communication. The progression of some of those recommendations would serve to support and inform the further development of J-ARC Waterford.

Over the past four years, J-ARC Waterford has been an interesting, challenging and thought-provoking project in which to be involved. It is hoped that this paper provides some insight into how the project has operated, and highlights the benefits of multi-agency working. In conclusion, and in reflecting on the experiences over the last four years, I suggest that further evaluation/research might look at the following areas:

- Measurement of attrition on the programme to identify patterns of 'those who disengaged'. As described in the 'review' undertaken in 2018, another aspect of this might be to evaluate pre-programme

⁵ The evaluation is available at http://www.justice.ie/en/JELR/Final%20Desktop%20Evaluation%20of%20JARC%20Pilot%20Projects_18.9.18.pdf/Files/Final%20Desktop%20Evaluation%20of%20JARC%20Pilot%20Projects_18.9.18.pdf (accessed 29 July 2021).

differences between those who completed and those who opted out. This would help to tailor the programmes to meet an individual's needs, rather than the individual fitting the needs of the programme;

- Further consideration of the use of electronic monitoring. A small proportion of the participants leaving prison to engage with J-ARC in Waterford were subject to electronic monitoring for a set period. This proved to be a useful tool in enforcement and appeared to encourage compliance. Studies in Sweden and the US indicate that 'Electronic Monitoring can produce a positive effect increase if it is employed within the framework of a programme that also includes other measures such as an individual treatment plan' (Best, 2009, pp 91–6);
- An exploration of the potential for wider engagement with family members and significant others to support the desistance journey;
- Consideration of the specific needs of women and how these might best be met within the J-ARC model, with due regard to the Probation Service commitment to further enhancing a gender-informed approach in responding to the needs of women in the criminal justice system.

References

- Annisson, H., Bradford, B. and Grant, E. (2015), 'Theorizing the role of "the brand" in criminal justice: The case of integrated offender management', *Criminology and Criminal Justice*, vol. 15, no. 4, pp 387–406
- Best, P. (2009), 'Curfew/Electronic Monitoring: The Northern Ireland experience', *Irish Probation Journal*, vol. 6, September
- Central Statistics Office (CSO) (2019), *Central Statistics Office – Statistical Publication*, 24 September, Dublin: CSO
- Cram, F. (2020), 'The "carrot" and "stick" of integrated offender management: Implications for police culture', *Policing and Society*, vol. 30, no. 4, pp 378–95
- Forde, R.A. (2015), 'Bad psychology: How forensic psychology left science behind', *Irish Probation Journal*, vol. 15, October, pp 196–8
- Garland, D. (2002), *The Culture of Control: Crime and Social Order in Contemporary Society*, Chicago, IL: University of Chicago Press
- Irish Prison Service and Central Statistics Office (CSO) (2013), *Irish Prison Service Recidivism Study*, May, Longford: Irish Prison Service
- Irish Statue Book, available at <http://www.irishstatutebook.ie> (accessed 4 June 2021)

-
- Longoria, R. (2005), 'Is Inter-organisational collaboration always a good thing?' *Journal of Sociology and Social Welfare*, vol. 32, no. 3, pp 123–35
- McNeill, F., Farrall, S., Lightowler, C. and Maruna, S. (2012), *How and Why People Stop Offending: Discovering Desistance*, Glasgow: Institute for Research and Innovation in Social Services, available at <http://eprints.gla.ac.uk/79860/1/79860.pdf> (accessed 29 July 2021)
- Mawby, R. and Worrall, A., 2011 "'They were very threatening about do-gooding bastards": Probation's changing relationship with the police and Probation Services in England and Wales', *European Journal of Probation*, vol. 3, pp 78–94
- Nash, M. (1999), 'Enter the Polibation Officer', *International Journal of Political Science and Management*, vol. 1, pp 252–61
- Probation Service (2013), *Probation Service Recidivism Study 2008–2013*, Probation Service research report no. 4, December, Dublin: The Probation Service
- Senior, P. (2014), 'Integrated offender management: Pooling resources and expertise and creating effective working partnerships', *Irish Probation Journal*, vol. 11, p. 177
- Sleath, E. and Brown, S. (2019), 'Staff and offender perspectives of integrated management and the impact of its introduction on arrests and risk of reoffending in one police force region', *Policing and Society*, vol. 29, no. 5, pp 511–29

General Information & Guidelines for Contributors

IPJ, a joint initiative of the PS and the PBNI, aims to:

- Provide a forum for sharing good theory and practice, increasing co-operation and learning between the two jurisdictions, developing debate about work with people who have offended;
- Reflect the views of all those interested in criminal justice in an effort to protect the public and to manage offenders in a humane and constructive manner;
- Publish high-quality material that is accessible to a wide readership.

IPJ is committed to encouraging a diversity of perspectives and welcomes submissions which genuinely attempt to enhance the reader's appreciation of difference and to promote anti-discriminatory values and practice.

Preliminary Consultation: If you have a draft submission or are considering basing an article on an existing report or dissertation, one of the co-editors or a member of the Editorial Committee will be pleased to read the text and give an opinion prior to the full assessment process.

Submissions: Contributions are invited from practitioners, academics, policymakers and representatives of the voluntary and community sectors.

IPJ is not limited to probation issues and welcomes submissions from the wider justice arena, e.g. prisons, police, victim support, juvenile justice, community projects and voluntary organisations.

Articles which inform the realities of practice, evaluate effectiveness and enhance understanding of difference and anti-oppressive values are particularly welcome.

Submissions (in MS Word attachment) should be sent to either of the co-editors.

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Originality: Submissions will be considered on the understanding that they are original papers that have not been published or accepted for publication elsewhere. This does not exclude submissions that have had limited or private circulation, e.g. in the writer's local area, or as a conference paper or presentation.

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Full-Length Articles: Normally around 3,500–5,000 words, though all contributions up to a maximum of 7,500 words including references will be considered.

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All *full-length articles* submitted to the journal are anonymised and then subjected to rigorous peer review by members of the editorial committee and/or advisory panel and/or by appointed specialist assessors. The final decision to publish or reject is taken by the editors in the light of the recommendations received.

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