

Probation in Ireland, Part 2: The Modern Age, 1960s to 2000

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Summary: This article, the second of a two-part history, traces the more recent years of probation in Ireland from the 1960s to the beginning of the 21st century. It examines the ‘paradigm shift’ at the end of the 1960s and consequent developments. In following the chronological development of the Service the article looks at four key themes – development of management, social work in practice, community engagement, and policy evolution in the changing Ireland – in setting the context for the next ‘paradigm shift’ at the beginning of the 21st century.

Keywords: Probation, Probation Service, probation practice, Probation of Offenders Act 1907, offenders, history, twentieth-century Ireland.

Introduction

As outlined in the first of these two articles (McNally, 2007), there has been a Probation Service and presence in Courts in Ireland since the passage of the Probation of Offenders Act 1907. That Service was limited in size, capacity and operations and was buffeted and often bruised by the economic, social and political tides in the period up to the 1960s.

For the purpose of integrating and completing the story I shall review here in additional detail developments in the 1960s that were to prove the cornerstone of changes on which the modern Probation Service in Ireland has been built. I will then outline salient events and features in the progress of the Service towards the beginning of the 21st century.

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Ireland and probation in the 1960s

For many in Ireland, the 1960s was a period of rapid economic and social development. This arose in significant part from the changed approach to economic planning by government and reflected a move away from economic and social isolationism. The new view was that the only way forward lay in modernisation and the development of an export-driven economy. Luckily the 1960s proved a boom period for the world economy and the new approach in Ireland benefited.

From 1960 onwards there was an evident 'changing of the guard' as many of the long-serving Probation Officers retired, with minimal entitlements despite a career of service and social commitment. That cohort coming from a voluntary service background with very little training, management and support had operated with limited resources and the support of some of the Judiciary to sustain their vision of a Probation Service in the Dublin Courts.

Probation Officers and their practice, in common with Irish society in general, were beginning to take greater cognisance, and exercise less distrust, of developments elsewhere. The Probation Officers' Institute of Professional Civil Servants (IPCS) Branch established links with the National Association of Probation Officers in Northern Ireland and in England and Wales. Increasingly the Department of Justice also began to take note of developments in criminal justice in the UK.

An Inter-Departmental Committee on the Treatment of Crime and Prevention of Delinquency was established by Charles Haughey, Minister for Justice, in 1962. The terms of reference of the Committee were to 'inquire into the present methods for the prevention of crime and the treatment of offenders, giving attention, in particular, to the following matters: (a) juvenile delinquency (b) the probation system (c) the institutional treatment of offenders and their after-care, and to recommend such changes in the law and practice as the Committee considers desirable and practicable' (Ryan, 2006, p. 27ff.)

Speaking on Penal Reform, Mr Haughey told a Dublin Lions Club luncheon on 6 June 1963 that the Inter-Departmental Committee had investigated the probation system and that a Chief Probation Officer was being recruited and a staff of six Probation Officers. It was also hoped to get results from the appointment of Prison Welfare Officers¹. The Prison

¹ *The Irish Times*, 7 June 1963, p. 6.

Welfare Officers in addition to their work in custody would address issues including aftercare for young men discharged from reformatories, industrial schools, St Patrick's Institution and prison with the assistance of the Probation Officers in the community.

The Prison Welfare Officers posts were advertised in October 1963 at the same time as the Minister made orders officially enabling voluntary workers of the Salvation Army and Legion of Mary to be appointed by Courts as Probation Officers for juveniles.²

These orders, the introduction of voluntary workers and Ministerial statements expressing support or preference for volunteers³ reignited for many years the distrust and concerns of the full-time Probation Officers, which had simmered since the introduction of church volunteers in probation work in 1940 (IPCS 1965, 1970).

In February 1964, at the Law Students Debating Society of Ireland, Mr Haughey announced the appointment of two Probation Officers as Prison Welfare Officers⁴ 'responsible for advising ordinary prisoners on personal and domestic problems, for helping them to secure employment and for giving of after-discharge counsel and guidance' (Mansergh, 1986, p. 40). The hosting in Dublin in May 1964 of the third conference of the European Ministers of Justice, under the auspices of the Council of Europe, on matters of penal reform and criminology may have contributed to the timing of this development, as did a new interest in penal reform generally.⁵

By the late 1960s it was clear that the appointment of a Probation Administration Officer in 1964 had proved unsuccessful in introducing effective structure or management among the small cohort of Probation staff clearly unhappy with a perceived lack of direction and drift in the Probation Service at that time and during the previous decades (IPCS, 1967; O'Brien, 1968). The level of frustration, upset and disquiet in the Probation Service in 1968 can be gauged from a highly critical column

² *The Irish Times*, 2 October 1963, p. 6.

³ Micheál Ó Móraín, Minister for Justice: 'In my view, the work done by the voluntary service is much more effective than can be done by the official service' (Dáil Éireann, Vol. 237, 19 November 1968).

⁴ The appointment of Probation Officers as Prison Welfare Officers reflected the influence of the 1953 Home Office Report of the Committee on Discharged Prisoners' Aid Societies, which recommended the appointment of Prison Welfare Officers employed by an outside body to local prisons on the same salaries as Probation Officers (Home Office, 1953). The posts were subsequently absorbed into the Probation Service in England and Wales.

⁵ *The Irish Times*, 7 February 1964.

in *The Irish Times* on 22 April 1968 titled 'Our Hopelessly Inadequate Probation Service' (O'Brien, 1968).

The article was based on the detailed commentary and experience of a recently resigned Probation Officer. It articulated many of the accumulated concerns, in her experience and that of some of her colleagues. The lack of a Probation Service outside Dublin, deficits in training of Probation Officers, gaps in social services generally and poverty in the community were cited as sources of frustration and disillusionment.

1969 investigation of the Probation and After-Care Service

The deficits and problems in Service administration that contributed to a management and strategic hiatus⁶ in the Service in the late 1960s had the benefit, in hindsight, of prompting the commissioning in January 1969 by Micheál Ó Móráin, Minister for Justice, of an investigation of the Probation and After-Care Service by an officer of the Department.⁷

The terms of reference of the investigation were (1) to investigate the Probation and After-Care Service at first hand, (2) to report on the improvements that might be feasible and necessary, (3) to implement those recommendations that might be approved and (4) for the duration of the assignment to carry out the duties of the Probation Administration Officer. The Investigation Report, with recommendations, was completed in July 1969 but has remained unpublished.⁸

The report has proved to be, without doubt, the pivotal and most critically important point in kick-starting the development of the Probation Service to what it has become. It acknowledged the commitment and work of the Probation Officers for the welfare of

⁶ Micheál Ó Móráin, Minister for Justice: 'From what I have seen, I am not satisfied with the service but the main weakness, as I see it, is the overall inspiration or organisation of what is there. That was the complaint made to me' (Dáil Éireann, Vol. 234, 30 April 1968).

⁷ Micheál Ó Móráin, Minister for Justice: 'I have arranged for a detailed investigation of the existing probation and after-care service with a view to any necessary improvement' (Dáil Éireann, Vol. 238, 18 February, 1969).

⁸ Desmond O'Malley, Minister for Justice: 'This report, which was an internal departmental report by an officer in my Department, was not intended for publication and was written on the assumption that it would not be published. It would be contrary to established practice to publish a report prepared in these circumstances' (Department of Justice, 1969a; Dáil Éireann, Vol. 247, 26 May 1970).

offenders as well as the shortcomings in their working conditions and administration/management.

The appointment of the officer of the Department carrying out the investigation to assume the duties of the Probation Administration Officer for the duration of the investigation, after the acknowledged failure of the previous appointment from within, was a matter of considerable internal controversy and difference among the small but divided Service. It facilitated direct Department of Justice access to and control of the work of the Service in a crucial period and had particular influence in future direction and appointments in the Service.

The investigation confirmed that the Service in the Courts was largely confined to the Dublin Juvenile Court in Dublin Castle, apart from one Officer assigned in the Dublin Metropolitan District Court. It found that most Justices did 'not seem to have adverted to the potentialities of probation' and that few Justices were 'probation minded'.

In the Children's Court the Officers had approximately 600 cases during 1968, but when in that year Justice Eileen Kennedy introduced a new procedure requesting the Probation Officers to carry out a social inquiry in the case of every juvenile coming for the first time before the Court or where committal to an institution was to be considered, the Probation Officers did not have the capacity to undertake the additional work.

The report went on to outline an expansive vision and detailed plan for a nationwide Service working with adult and juvenile offenders. It proposed a national service based on a regional structure, and outlined the tasks and duties of Officers in relation to Courts, prison releases and referrals from the UK. The report proposed a management structure including senior supervisory posts and a Head of Service, as well as administrative support that had previously been absent.

The post of Head of Service was proposed as equivalent, at the time, to a Higher Executive Officer. Probation Officers were seen, according to the report, as lacking a sense of integration with the Department of Justice. This was identified as a serious gap needing attention. The report viewed it as essential that the future Head of Service be seen by staff to be in good standing with the Department, to have its consistent support and to exercise strong, loyal leadership. Interestingly, the report also suggested that the title of the Service needed updating.

In 1968 the Scottish Probation Service had been disbanded as a national service and its duties absorbed into the local authority social

work services. There was, at the time, an international predilection for the expansion of social work and the rebranding of services with a touching relationship with social work as social work services.

The report advocated using the title of ‘social worker’ throughout the proposed Service posts while retaining the Service wholly and firmly within the Department of Justice. IPCS, on behalf of the staff, turned down the proposal at Conciliation Council in December 1971 (IPCS, 1971). The Service was to become, in due course, the Welfare Service of the Department of Justice.

The use of volunteers, which had caused considerable dispute with Probation Officers and their representatives and had withered over time, was endorsed, with clearer governance and task allocation proposed to ameliorate identified problems.

Visits as part of the investigation to the Probation Service in Sheffield, a city identified as similar in profile to Dublin, and to the prison welfare service at Wakefield Prison provided information on the administration and work of a successful service and particularly informed the recommendations of the investigation. So important and influential was the investigation visit to Sheffield that during the early 1970s small groups of Probation Officers were sent on three-week visits to the Probation Service in Sheffield as part of training and skills development.

Implementation of change: The Prisons Bill Debate 1970

In presenting a supplementary estimate for his Department to the Dáil Committee on Finance on 21 November 1969, Micheál Ó Móráin, Minister for Justice, said, in relation to the ‘probation and after-care service’, that:

I expect that the most significant development in the treatment of offenders over the next few years will take place in this field. There is a general trend nowadays to rely more and more on non-custodial forms of treatment coupled with a growing disenchantment with institutional treatment as an aid to rehabilitation.

For this reason I appointed an officer of my Department last January to investigate the probation and after-care service thoroughly. I have now received his report, which is a comprehensive one. I am not yet in a position to give decisions on the recommendations but I am confident that I will be able to bring about a substantial improvement

in the service. I am satisfied that the service is inadequate at present, in spite of the exemplary efforts of the individual officers concerned.⁹

The real impact and outcome of the 1969 investigation was revealed in the Dáil Éireann debate on the Prisons Bill 1970 which followed on the major prison disturbances at Mountjoy Prison in 1970.

The Prisons Bill 1970 had as a 'first and main object ... to authorise the establishment of places other than prisons to help in the rehabilitation of offenders'.¹⁰

On 26 May 1970, in opening the second stage debate on the Prisons Bill 1970¹¹ in Dáil Éireann, Desmond O'Malley, Minister for Justice, said that

Last year the existing probation and after-care service was thoroughly investigated. As a result of that investigation I am satisfied that the service is inadequate and that it needs to be expanded considerably and thoroughly re-organised.

The expansion will call for a big increase in the present staff in Dublin and for an extension of the official probation and after-care service to the country generally. New senior supervisory posts will be created and extra clerical assistance provided to improve the efficiency of the service.

A substantial increase in the number of welfare officers assigned to the prisons, St. Patrick's and Shanganagh [opened in 1968], is also necessary and I have already given details of the additional appointments being made in these establishments. I attach great importance to a recommendation in the report of the investigation that a central headquarters should be provided for the Dublin service which will be reasonably convenient to the courts and have proper equipment and amenities for interviewing clients in private ... I propose that by next year the existing staff of Dublin probation officers will be increased from six to 13, with eight additional officers doing probation and prison welfare work in the provinces. I have strengthened the headquarters staff in my Department to undertake the re-organisation and expansion of the service.

⁹ Dáil Éireann, Vol. 242, 21 November 1969.

¹⁰ Seanad Éireann, Vol. 68, 10 June 1970.

¹¹ Dáil Éireann, Vol. 247, 26 May 1970.

In the course of re-organising the probation and after-care service, I expect that every effort will be made to utilise voluntary workers to the fullest extent, subject to their being carefully selected and to their working under the supervision of the official welfare officers. I attach a great deal of importance to the involvement of volunteers in the work of rehabilitating offenders. Neither now nor in the foreseeable future can the community afford to put on a paid service to the extent that would be utilised if it were there ... The value of volunteers has been increasingly recognised by probation officers in Britain and there are now over 1,200 working actively in conjunction with the probation and after-care service ... As part of the re-organisation of the probation and after-care service, therefore, I look forward to a sustained effort to enlist all the resources of voluntary effort in the community in the work of rehabilitation and I propose, in particular, to develop a close liaison between all the various agencies involved. Already a number of voluntary bodies, but particularly two praesidia of the Legion of Mary in Dublin, are rendering valuable service on the probation side; and the Guild of St. Philip in Dublin and the Conference of St. Dominic in Cork, together with the Protestant Discharged Prisoners Aid Association, are doing equally valuable work in the field of after-care.

Voluntary and community engagement in working with offenders

While Minister O'Malley, in his announcement, voiced considerable emphasis on and appreciation for the work of voluntary workers and effort, over the following years the direct role and contribution of individual volunteers and denominational charitable organisations in supervising offenders continued to diminish in a rapidly developing Ireland where values and priorities were changing for individuals and for society as a whole.

The renewed Service, while continuing initially to work with volunteers, developed a new model of funding and working with community bodies supported by Department of Justice and Service funding to provide specific services for ex-offenders and persons under supervision. Previously limited funding had been provided to the St Vincent De Paul Guild of St Philip Neri (established in 1948), the St Patrick's Welfare Society and the Discharged Protestant Prisoners' Aid

Society for the direct assistance of needy inmates and their families and ex-prisoners (Department of Justice, 1969b).

At Mountjoy Prison in the late 1960s a need for accommodation for homeless prisoners leaving custody had been identified by the Welfare Officer, Martin Tansey. PACE (Prisoners Aid through Community Effort) was established by a voluntary committee working with the Welfare Officer. PACE was described in the report of the prison visiting committee at Mountjoy prison as 'an extension, through voluntary efforts, of the prison welfare service' (Department of Justice, 1970). Premises at Priorswood House were provided to PACE by Dublin Corporation.

With the assistance of selected prisoners on temporary release from the Corrective Training Unit, Mountjoy Prison, to work on the renovation and decoration of Priorswood House (Department of Justice, 1970), and funding from the Department of Justice and the Welfare Service of the Department, a dedicated halfway house for homeless prisoners leaving custody opened in 1969, managed by a voluntary PACE committee in partnership with the Welfare Service. In Dáil Éireann the Minister for Justice availed of the opportunity to laud and support the Welfare Service engagement with the community and volunteers:

An excellent example of voluntary initiative in the field of after-care was the establishment last year of prisoners' aid through community effort which is undertaking the running at Coolock, County Dublin, of what is usually described as a half-way house for prisoners who are homeless on discharge. An indication of the State's interest and support for this voluntary project is the provision of £4,000 in the current year's Vote towards the cost of reconstruction and adaptation.¹²

In the following decades the range of projects providing dedicated services such as training, education, addiction treatment, employment support and accommodation for offenders expanded in partnership with community-based groups using private not-for-profit companies with charitable status.

¹² Dáil Éireann, Vol. 247, 26 May 1970.

The development of a new approach to working with many voluntary bodies in the community through their advancement and operation of initiatives in the community intended to complement and add to the work of the Welfare Service brought an increased sense of constructive engagement with many communities, as well as the provision of opportunities often denied to offenders and their communities.

In many instances these voluntary projects were developed to meet gaps in services or overcome exclusion of offenders from existing services. The voluntary-funded projects were to develop widely over the years and to become a major resource and partner for the expanding Service.

Funding was also provided to mainstream voluntary organisations to support their work with offenders. By the year 2000 expenditure on over 55 projects nationwide represented almost 40% of the Service budget.

The network of community based-organisations and projects working with the Service has played an important role in supporting the reintegration of offenders into their community, raising the Service profile in the community and adding a further dimension to what the Service can offer offenders and their communities in reducing reoffending and increasing public safety.

Early years of expansion post-1970

The Service, now known as the Welfare Service of the Department of Justice, had operated autonomously since the foundation of the State, on an *ad hoc* basis with little direct management, few changed practices or tasks, little developed policy or practice guidelines and an apparent disregard for, and lack of interest in, the operation or practice of probation elsewhere. This period therefore represented a major break with the past and the first evidence of a new planned and structured approach.

Expansion nationwide, staff visits to Sheffield and engagement with modern probation practices there, a new emphasis on management, training and innovative approaches to supervision brought change to all aspects of the Service as recommended in the 1969 investigation. The establishment of national Service headquarters in Dublin and the first vestiges of a management structure provided a focus for the Service as well as a point of engagement with the Department of Justice, the other criminal justice agencies and the wider community.

In November 1970 Mr O'Malley advised that

a competition, to be conducted by the Civil Service Commissioners, will be announced for appointments as welfare officer [the new title following reorganisation] in my Department. Seven appointments, at least, will be made from this competition and, next year, there will be further appointments, to bring the staff on this service to 40 in all which will be comprised of one administrative officer, three senior welfare officers, 26 welfare officers and ten clerical assistants.¹³

By 1972 Minister O'Malley could report to Dáil Éireann that in the Welfare Service of the Department of Justice

There are now 31 welfare officers as against eight two years ago. Thirteen of them are in Dublin. There are posts in Athlone, Cork, Dundalk, Kilkenny, Limerick, Sligo and Waterford ... There are now eight welfare posts in all the prisons and detention centres as against two for all the institutions before the expansion. Further appointments both in Dublin and the provinces are being considered.¹⁴

In June 1973 a reply to a question in Dáil Éireann on Welfare Officers advised that the total number of welfare officers employed, including those assigned to An Bord Uchtála (the Adoption Board), was 14 in 1970, 15 in 1971, 32 in 1962 and 47 in 1973, and that 'Present plans provide for an expansion of the services by the recruitment of additional welfare officers to bring the numbers up to about 90.'¹⁵

The expansion of the Service continued very rapidly through the late 1970s and until the mid-1980s despite the severe economic crisis experienced in Ireland over much of that period, during which there were severe restrictions in civil service recruitment in the early 1980s. Between 1981 and 1984 the Probation and Welfare Service staff numbers increased from 166 to 205, an increase of 23.5%.

The increase in Service numbers was attributed to the development of Community Service and increased prison population. The Probation

¹³ Dáil Éireann, Vol. 249, 5 November 1970.

¹⁴ Dáil Éireann, Vol. 260, 12 April 1972.

¹⁵ Dáil Éireann, Vol. 266, 14 June 1973.

Service and Garda Síochána were among the few areas of the public service permitted to increase staffing levels at the time.¹⁶

The number of offenders subject to Court-mandated supervision in the community rose. In 1980–1983 referrals from criminal Courts increased by 49.8% (from 1,212 to 1,816). A total of 2,109 new cases came under Service supervision in 1983, 23.2% more than 1980 when the first annual report was published (Department of Justice, 1984). By 1988 referral from the criminal Courts had risen to 3,691, over 100% growth since 1983. Requests for reports had also doubled in five years (Department of Justice, 1989).

At the end of 1990 there were 122 Probation and Welfare Officers, 29 Senior Probation and Welfare Officers, and 37 clerical and supervisory staff in addition to the senior management team of five Assistant Principal Probation and Welfare Officers and the Principal Probation and Welfare Officer (Department of Justice, 1993).

The 1996 Annual Report continued the trend of ever-increasing workload of the growing Service. It records 6,071 referrals from the criminal Courts, an increase from 5,775 in the previous year and a substantial growth since 1983 and 1988. The number on supervision in 1996 had increased to 4,475 from 4,219 in 1995 (Department of Justice, 1997b).

Through the later 1980s and 1990s, constraints on recruitment in the Public Service had an increasing impact on the capacity of the Service to cope with additional work demands in Courts, in communities and in prisons. Recruitment and expansion of the Service across the country continued in a reduced and delayed manner, resulting in additional work pressure on the existing staff cohort.

By 2000 the Probation and Welfare Service comprised 160 Probation and Welfare Officers, 38 Senior Probation and Welfare Officers, seven Assistant Principal Probation and Welfare Officers and the Principal Probation and Welfare Officers, with 25 Community Service Supervisors and 44 administrative staff (O'Donovan, 2000, p. 269).

Management in the Probation Service

Joseph McDonnell, Chief Probation Officer since 1938, died suddenly in September 1962. During his time as Chief Probation Officer Mr

¹⁶ *The Irish Times*, 17 January 1986.

McDonnell had performed duties similar to other Probation Officers, including reports to Courts and supervision of offenders. He had not exercised policy and management functions beyond basic administrative tasks.

Prior to Joseph McDonnell's appointment there had been no evident management structure in the Service and, as outlined above, there was minimal effective practice or administrative management during his time. The Service, in simple terms, focused on the work in hand rather than planning or management of the work.

Probation Officers in Ireland, as in England and Wales, had a high degree of autonomy in their practice and there was a distrust of any perceived management 'interference' in practice or professional matters (IPCS, 1969). On the introduction of Senior Probation Officers in England and Wales in the 1930s there was a tendency for some on promotion, without significant management training, to act as 'super' welfare officers, providing expert practice support, carrying caseloads and focusing on the familiar, rather than acting as managers (McWilliams, 1992). Management direction, policy setting and standardisation of practice, as in many self-governing professions, attracted resistance in a Probation system imbued with strong personal social work mission and practice (Le Mesurier, 1935).

In England and Wales, Probation Boards experienced challenges from the beginning in developing management structures in Probation Services. The 1910 Committee on the Probation of Offenders Act emphasised 'the unfortunate consequences which would arise from placing probation officers in positions of subordination under chiefs' and 'strongly opposed the establishment of supervisory grades' (Home Office, 1910; quoted in McWilliams, 1992, pp. 5–7). 'The probation service,' in McWilliams' (1992) view, 'managed for the greater part of its history without management.'

In Ireland, while Probation practice and organisation development were many years behind England and Wales, similar distrust of management direction or any challenge to practice autonomy was firmly embedded as change came upon the Service in the 1960s.

The Probation Service in Dublin Courts up to the 1970s was a solely demand-led service primarily under the direction of the presiding Justices in the Dublin Metropolitan District and the Dublin Juvenile Court. Work practices were largely self-determined by the Officers based on past practice and personal preferences. The main part of the workload

and priorities were determined by the preferences of the presiding Justices. This was consistent with the underlying principles of the 1907 Act, where Officers were engaged by and worked under the direction of the Justice.

In prisons after 1964 the work of the Prison Welfare Officers was determined by the needs of inmates, Welfare Officer identified resettlement priorities and prison management. The Inter-Departmental Committee on the Treatment of Crime and Prevention of Delinquency in its unpublished report in 1964 recommended the appointment of a Probation Administration Officer, who should be someone of high executive ability (McGowan, 1993, p. 46). This was the first specific reference to 'control and administration' or management in the Service's activities.

For the competition in 1963 for the post of Probation Administration Officer, a key requirement was 'to be capable of organising and administering the Probation Service throughout the state' (Civil Service Commission, 1963a).

The appointment and performance of the Probation Administration Officer in 1964 from within proved unsuccessful in introducing effective structure or management among the small cohort of Probation staff, clearly unhappy with a perceived lack of direction and drift in the Probation Service at that time and during the previous decades (IPCS, 1969a).

In January 1969, the officer of the Department carrying out the Investigation of the Probation and After-Care Service, assumed the duties of the Probation Administration Officer.¹⁷ This action contributed to considerable internal controversy and difference among the small but divided Service (IPCS, 1969b). The appointment facilitated direct Department of Justice access to and control of the work of the Service at a crucial period, and served to introduce a change in management approach. It also enabled particular influence in the developing management, future direction and appointments in the Service.

In 1971, following an internal competition (Department of Justice, 1971), three Senior Welfare Officers (Martin Tansey, Kay Kinsella and Noel Clear) were appointed with the intention of providing structure and guidance in probation work. The extension of their authority and management role beyond that of 'senior practitioners' emerged slowly in

¹⁷ The previous holder of the post of Probation Administration Officer was later appointed as 'Head of Welfare' in the Adoption Board in June 1969 (IPCS, 1969b).

the 1970s following the relaunch of the Service. Martin Tansey, one of the three Senior Welfare Officers in the Service, was appointed Principal Welfare Officer and head of the Welfare Service of the Department of Justice in August 1972, implementing one of the key proposals of the 1969 Investigation Report.

In keeping with the tone and tenor of the Investigation Report, the new management approach was cautious, increasingly exercising control and centralising decision-making and authority in the office of the Principal Welfare Officer. Contact with the Department was through the Principal Welfare Officer, and little was delegated apart from management of direct casework with offenders and liaison with local Courts and local prison management.

The absence of management training, comfort in a senior practitioner role and a local liaison role coupled with a centralising of decision-making meant that significant management development or systems were all but absent in practice for most in the newly appointed middle management of the Service through the 1970s and beyond. Probation Officers were organised in teams similar to practice in Sheffield.

In the short term a centralised style of management eased the process of rapid expansion, but in the longer view it did not equip the Service with management skills, business processes and results focus to cope with the accountability, value-for-money and management challenges that were still in the future.

Management survey 1979

Following a joint management survey by the Department of Justice and the Department of the Public Service in 1979, the management of the Service was reorganised on a regional basis and the Service was renamed the Probation and Welfare Service (Probation and Welfare Service, 1981, p. 10).

This review of management revised the shallow management structure by introducing the posts of Assistant Principal Probation and Welfare Officer, operating as regional management for the newly created regions and also acting as senior management support for the Principal Probation and Welfare Officer in the rapidly expanding Service, within which administrative systems remained limited.

In practice the Assistant Principal Probation and Welfare Officer post in the early years was largely a 'super' Senior Probation Officer,

responsible for service delivery, liaison and some limited governance in their regions. Though structures had changed, the underlying systems and management practice remained highly centralised.

While clerical officers had been assigned to the Service, primarily for reception, typing and filing duties, its administrative governance remained undeveloped and was largely retained by the Principal Probation and Welfare Officer and, through him alone, the Department of Justice. In effect all the key management and operational decision-making in the Service was retained in the hands of the Principal Probation and Welfare Officer until the turn of the 21st century when change became increasingly inevitable.¹⁸

The structures, role and understanding of management in the Probation Service were underdeveloped despite its size and nominal tasks. The work of the Service remained primarily demand-led, apart from occasional decisions necessitated by circumstances, such as in the matter of Family Law (discussed later), often acting in response to external prompts with limited strategic planning, data gathering or effectiveness evaluation.

The Strategic Management Initiative (SMI) was launched across the Public Service in 1994. SMI was intended to drive organisational improvement, modernisation, flexibility and enhanced management systems in public service bodies through the application of business management principles and practice. The objectives were to ensure that the public service would make a greater contribution to national development, be a provider of excellent services to the public and make more effective use of resources (SMI, 1994; O'Donovan, 2000, p. 282).

In the Probation Service this agenda for change was met with caution and its impact, tempered by a perception of separateness that had distanced the Service from Public Service developments, was minimal in its initial phase, though in time it came to take centre stage. Some small improvements were achieved piecemeal in developing management and business practices over the years, but the accumulating gaps and deficits were revealed in harsh light in the Value for Money Examination of the

¹⁸ The challenges of management in the profession-focused organisations have been examined in some detail in management literature. The complex and fluid relationships between professional and managerial identities, boundary positioning, role differences and governance requirements can be causes of friction, confusion or even obstacles in enclosed or self-governing organisations. I do not propose to examine the matter here in relation to the Probation Service, though it does merit consideration elsewhere.

Probation and Welfare Service by the Comptroller and Auditor General in 2004. While acknowledging the work and achievements of the Probation Service, it reported that

Performance reporting is not well developed in the Service. Performance measurement systems needed to allow it to report its performance or to evaluate its effectiveness are not in place. The Service has no system for producing routine management information. Information and communications systems in the Service have been poorly developed ... Neither the Department – which oversees the operation of the criminal justice system – nor the Service has carried out research into rates of re-offending and the relative effectiveness of custodial sentences and community-based sanctions in Ireland ... It should ... help to inform and provide assurance to the public that the work done by the Service is having the desired effect. (Comptroller and Auditor General, 2004, p. 10)

The actions taken to address the issues raised in the Value for Money Examination of the Probation and Welfare Service and the irresistible priorities of SMI have fuelled and driven the rapid radical restructuring and change process ongoing in the Service in recent years.

Probation practice

Understanding of Probation Officer practice in the earlier years is largely dependent on third-party details in papers and reports, as few records remain apart from some limited examples of papers, reports and other documentation from the 1940s onwards. Based on these sources and recollections of retired officers familiar with the work of their predecessors, Probation practice in Ireland had changed little, it appeared, in form and content from the earliest years of the Service until the 1960s.

Probation Officers provided reports to Courts and supervised those placed on orders in a largely *ad hoc* manner based on their individual experiences. In practice this involved encouraging education and employment, discouraging idleness, sourcing assistance for impoverished families and dealing severely and expeditiously with the recalcitrant.

The assignment of Probation Officers to the Adoption Board in the 1950s and afterwards was an interesting opportunity for different

practice and approach. The rationale for the assignment of Probation Officers, I understand from Officers working with the Board in the 1960s, was explained in the following manner. The Adoption Board fell under the aegis of the Department of Justice and functioned in law as a Court presided over by a Judge as Chairman of the Adoption Board.

The Department, in providing an authoritative social work assessment and reporting service to the Board, took the view that Probation Officers already working closely with and accepted in Courts could meet the requirements despite the difference in tasks. It has also been suggested that there was a belief that the knowledge and skills needed by Probation Officers were similar to those needed in working in the Adoption Board: ‘Officers in the Adoption Board do work of a very specialised field ... in assessing family relationships and suitability of potential adopters’ (IPCS, 1967). Elizabeth Carroll, Probation Officer, was transferred from duties at the Dublin Children’s Court to become the first Adoption Board Officer.

Until the 1980s social work staff for the Adoption Board were recruited by the Civil Service Commission in the same competition as Probation/Welfare Officers,¹⁹ and were represented by the Probation Officers’ Branch of IPCS and UPTCS. There was also ongoing personnel interchange between the Service and the Adoption Board until in recent years a separation was finally completed.

The appointment of two Probation Officers as Prison Welfare Officers at Mountjoy Prison and at St Patrick’s Institution in 1964–1965 introduced an additional and different strand of work for Probation Officers. Supervision of offenders nearing the end of their sentences on temporary release in the community to take up employment under the provision of the Criminal Justice (Temporary Release) Act 1960²⁰ became a new responsibility for the Service.

By the time of the Investigation of the Probation and After-Care Service in 1969 the Service comprised 13 Officers in total: six Officers assigned to the Dublin Courts, two assigned to Mountjoy Prison and St Patrick’s Institution as Prison Welfare Officers, and five assigned to the Adoption Board (IPCS, 1969b).

The Investigation did not concern itself with the work of the Officers with the Adoption Board. While Adoption Board staff continued to be

¹⁹ See e.g. *The Irish Times*, 3 May 1978, p. 15.

²⁰ *The Irish Times*, 7 February 1964.

recruited as part of the Service, they had no day-to-day engagement with the Service or its work and were considered supernumerary and apart. Moving to the Adoption Board was akin to leaving the Service and was understood by some, including members of Service management, as being seconded or departed to a different organisation.

From the 1970s onwards, however, the duties and responsibilities of the Probation and After-Care Service in Courts and prisons developed and increased through new legislation, policy, reports, and related developments and practice innovations sometimes evolving through championing and leadership by individuals, sometimes through lessons from abroad, and occasionally with the endorsement and support of Service management. Council of Europe recommendations on community sanctions and measures establishing important principles and norms were acknowledged (e.g. Council of Europe, 1992). In practice these influenced thinking for some but led to little difference in practice.

The Service did, in due course, develop and revise new practices and programmes informed by family therapy, systems theory, community development approaches, 'what works' theory and cognitive behaviour programmes, needs and risk assessment and the international restorative justice movement among others.

Change and practice development was often piecemeal, driven by individual champions in the hope of subsequent adoption by the Service. Officers at Arbour Hill Prison, for example, in co-operation with other services, initiated a pilot sex offender treatment programme. Despite hiccups,²¹ the pilot programme was sustained to provide a foundation for the development of the custodial sex offender programme established by the Service with the Psychology Service of the Department of Justice in 1996. The pilot programme was also a precursor of the community-based sex offender programme later established in Dublin by the Service with the Granada Institute. There remained, however, an overall management caution and uncertainty about shared strategic purpose, appropriate activities and change in and beyond the Service's accumulated tasks, with the inevitable impact of increasing workloads from Courts and in custody without commensurate staffing to manage them.

By the 1990s it had become increasingly clear that the purpose and primary objectives had to be stated clearly. The Service was then moving

²¹ *The Irish Times*, 3 August 1991, p. 3; *Dáil Éireann*, Vol. 423, 15 October 1992, Q8.

towards being firmly focused on the management of community sanctions and working to reduce offending and harm in the community (Whitaker Report, 1985, para 7.36; Department of Justice, 1994, para 5.3–4; Geiran, 2005, p. 79). This was eventually endorsed in the first Service Strategy Statement, entitled *Advancing Our Aims: Probation & Welfare Service Strategy Statement 2001–2003*.

Family Law

Probation Officers had been involved in Family Law matters in District Courts in an *ad hoc* fashion for many decades. Officers were viewed by some Justices as ‘good’ with families and in resolving disputes such as came to light in cases involving domestic violence. As in England and Wales, ‘matrimonial work’ fitted easily with broader social work principles and aspirations of many Probation Officers.

As with the engagement of the Service with the Adoption Board, the Service and Officers were recognised and trusted in Court, acknowledged as having expertise and incrementally came to have an increasing involvement in civil cases, even though they did not have a statutory remit to do so. By 1975 two Officers were assigned to Family Law work in Dublin, and outside Dublin many officers dealt with Family Law matters as part of their mixed caseload.

With the development and modernising of Family Law legislation the Service was given increasing tasks in family law matters, despite the fact that these civil matters were at variance with the core criminal justice responsibilities of Probation Officers and the Service.

The Service was given a limited statutory role in Family Law cases through section 40 of the Judicial Separation and Family Law Reform Act, 1989. Section 40 amended the Guardianship of Infants Act, 1964 and provided for welfare reports in guardianship cases. Section 47 (1) of the Family Law Act, 1995 revised arrangements confining social reports to the Circuit and High Courts. It provided that Courts could seek a report in writing on any question affecting the welfare of a party in relevant Family Law proceedings provided by, among others, a Probation and Welfare Officer.

The ever-expanding workload of the Service and competing demands on limited resources highlighted the conflicting priorities between Criminal Justice offender related work for which the Service had a statutory remit and the expanding and often non-statutory Civil/Family

Law tasks undertaken (Comptroller and Auditor General 2004). The providing of reports in Family Law cases was withdrawn in 1996 as the Service refocused on its Criminal Justice priority.

In the years since then, persistent Court requests have led to creative initiatives to meet needs, including a pilot agreement between the Service and the Courts Service in 2003 and a new initiative in 2008 funded by the Courts Service for the provision of reports to Family Law Courts by a panel of external contractors managed, monitored and quality controlled by the Probation Service.²²

Social work and the Probation Service

While the work of Probation Officers was often described as a form of social work from the 1930s onwards (Le Mesurier, 1935), there was no shared understanding of what constituted social work in Ireland. The professionalisation of social work in general in Ireland had been delayed and very limited, despite the aspirations of some, such as the non-denominational Civics Institute of Ireland (Skehill, 2000).

State social services had been very limited as devoutly Catholic political leaders, sharing similar views on morality, spirituality and church teaching on subsidiarity to the views of their church leaders, adhered firmly to voluntarism and charitable and denominational provision. Where possible, most social work and related activity had remained voluntary within general social services, probation and the childcare field (Skehill, 2000, p. 695).

Probation Officers, through their staff association and personal contacts, began establishing links in the late 1950s with their counterparts in Northern Ireland and in England and Wales. The influence of social work in probation practice, already established there from the 1930s, began to contribute to a change in aspiration, confidence and self-image among Probation Officers.

In the 1963 competition for 'Welfare Officer' the requirement was to be 'well educated': a university degree or diploma in social science or equivalent qualification was described as essential, but exception could be made in the case of a candidate with exceptional personal qualities and experience in a relevant area of social work (Civil Service Commission, 1963b).

²² Dáil Éireann, Vol. 644, 13 December 2007, Q34816/07.

In 1971 candidates were required to have had training in or experience of social work (Civil Service Commission, 1971), and by 1975 a university degree or diploma in social science or equivalent qualification was required for the post of Welfare Officer. The introduction to the Probation and Welfare Service Annual Report in 1981 describes the Service as 'a social work agency serving the courts, the prisons and places of detention and some special schools on a country-wide basis' (Probation and Welfare Service, 1981, p. 9).

It is ironic that while the prevailing attachment to the social work model of practice in probation elsewhere was approaching its nadir in the 1970s (McWilliams, 1986), Ireland, coming late to the professional social work model, explicitly adopted that social work approach in the Service just as social work principles and practice in probation were increasingly being challenged in research and effectiveness-based management internationally.

Though the Service came, by the turn of the century, to be the second largest employer of social science graduates in the country (NSWQB, 2002), Irish universities for a considerable time took little cognisance of undergraduate and postgraduate courses on issues, practices, knowledge or skills specific to the Probation Service.

In England and Wales and in other jurisdictions, Probation Services revised entry qualifications or commissioned probation-specific training and qualifications to meet needs. Martin Tansey, Principal Probation and Welfare Officer, in the late 1990s speculated that the future training of Probation and Welfare Officers might not lie exclusively in social work education but in a training more geared to the needs of the Service (Geiran, 2005, p. 99). Such radical change has not yet come to pass and is considered anathema by many.

In-service training within the Service has been critically important in addressing priority practice knowledge and skills development gaps in college training and qualifications as well as in supporting a commitment to ongoing education and skills development.

With the influx of large numbers of well-qualified and professionally experienced staff, many with postgraduate qualifications, experience and practice knowledge, the *lingua franca* of the Service on the ground increasingly came to include discussion of diverse policy issues and practices. Although policy development had largely stagnated up to the 1970s, the Service was engaged with change and innovation through its new, energetic and confident staff.

Delayed development of the Service had benefit in terms of learning from the trials and experience of other jurisdictions so that, while remaining imbued by a social work ethos, the Service and staff were enabled to absorb rapidly the best, in the main, of international innovation and development in probation practice, and rapidly catch up on lost time (McGuire, 1995; McNally, 2000).

After 1981, when the pay and conditions of Probation Officers were linked to the common professional scales in the Civil Service (Civil Service Arbitration Board, 1981a, 1981b), policy and practice issues became the primary interest of IPCS, UPTCS and later IMPACT, as the Probation Officers' union. The union played an important role in developing policy documents and pamphlets, lobbying on penal policy issues and hosting conferences in the absence of other Probation-specific public discussion fora (e.g. UPTCS, 1988; IMPACT, 1994, 1996).

Reports, legislation and policy developments

From the time of the first Probation Officer in 1908 there had been few reports and little developed scrutiny or reference in reports or policy documents to the Probation Service. With the restructuring following the 1969 investigation and an increasing public and political interest in criminal justice and social policy issues, the role and work of the Service came more and more to attention in reports, new offender-related legislation and publications.

Media attention to the Probation Service had been scant for decades, apart from occasional mention in Court reports, until the 1960s when, on the tide of international interest in social issues, concerned journalists such as Michael Viney began to focus attention in articles on young offenders. In a very significant series of articles in April–May 1966, Viney drew attention to the neglect of marginalised youth and the paucity of services, including Probation, available for children at risk, offenders and their families.²³

In the 1970s the work of Nell McCafferty in her 'Eyes of the Law' column in *The Irish Times* again highlighted the shortcomings of social

²³ *The Irish Times*: 'The Young Offenders' 25 April 1966; 'The Trouble with Larry', 27 April 1966; 'Patterns of Crime', 28 April 1966; 'The Caution Man', 29 April 1966; 'What Price Probation?', 2 May 1966; 'The Hidden Motives', 3 May 1966; 'The Dismal World of Daingean', 4 May 1966; 'Children at Risk', 5 May 1966; 'The Young Offenders', 6 May 1966.

services, care services, prisons, and agencies such as the Welfare Service of the Department of Justice in addressing the circumstances of impoverished and delinquent individuals coming before the Dublin Courts.²⁴ McCafferty's frank and highly critical reports put Courts and the Criminal Justice to the forefront of the agenda of social reform activists then playing an increasing role in prompting social policy development in Ireland.

In the 1960s, 1970s and into the 1980s the focus in penal reform was the pursuit of alternatives to custody, reflecting the centrality of imprisonment and prisons in sentencing. It was to be some years before community sanctions would earn acknowledgement and positive recognition as preferred first options in penalty, and before custody was, in principle at least, to be considered only as a last resort.

Since 1970 there has been a series of important reports highlighting the central role probation should play in the criminal justice system by providing alternatives to custody (e.g. NESC, 1984), as well as new legislation providing new community sanctions. Reports strongly supported the work of the Service with offenders in the community and recommended development, expansion and resources.

The reports and recommendations had mixed reception; applauded in their intentions and proposals but more often delayed in implementation or overcome in the tide of competing demands on legislative change, policy priorities or funding options.

Kennedy Report

The wide-reaching and comprehensive Reformatory and Industrial Schools Systems Report published in 1970, better known as The Kennedy Report (1970), has been described as 'one of the most damning indictments of the operation of any State system ever produced in this country'.²⁵ It was extremely critical of practices and systems and recommended that the entire industrial and reformatory school system be closed down or substantially reformed. The Report confirmed many of the concerns and complaints voiced by Probation Officers, residents and others over many years about conditions in the industrial and reformatory schools systems.

²⁴ e.g. *The Irish Times*: 'Children in Court: Notes on Reality', 9 December 1970; *The Irish Times*, 'In the Eyes of the Law', 2 March 1976.

²⁵ Mary Raftery, quoted at the Joint Committee on Education and Science, 2005.

Concerns had been reported by individual Officers to the Departments of Education and Justice and to Courts about the conduct of centres and mistreatment of children in their care (IPCS, 1967; Raftery & O'Sullivan, 2000; Ryan, 2006). The Kennedy Report highlighted the need for alternatives to custody and institutions for children in conflict with the law, making particular reference to the work of the limited Probation Service in providing such alternatives as were available (Kennedy Report, 1970).

The author of the Report was the presiding Justice in the Children's Court at the time and, familiar with the work of the Service and the Officers in her Court, strongly supported and encouraged their work.

ESRI Report 1974

In 1974 Ian Hart, of the Economic and Social Research Institute, published the first research on probation in Ireland in his report titled *Factors Relating to Reconviction among Young Dublin Probationers* (Hart, 1974).

The report in its findings concluded that 58% of probationers relapsed into crime, and that two-thirds of the sample came from inadequate homes. It advocated that the aim of delinquency-prevention programmes should be to give children and their families a stake in the community. The findings and recommendations were consistent, in the main, with research findings in other jurisdictions and served as another part of a process in engaging the Service in Ireland with international thinking in probation practice and developments that were to follow.

The conclusions of Ian Hart's research provided a challenge to the newly expanding Service in developing its practice, working with offenders to reduce reoffending and addressing the identified pattern of relapse to crime. The early death of Dr Hart meant there was no follow-up to the study, and there followed disappointingly little academic research on probation in Ireland in the following years.

Drug misuse and the Service

By the late 1970s drug addiction had become a very serious and challenging issue in the Courts and criminal justice system. The Misuse of Drugs Act 1977 introduced a new approach to how drug offenders were to be dealt with in Courts in Ireland and was quite innovative at the

time. The intention was, where possible and appropriate, to focus on rehabilitation and treatment rather than punishment in dealing with people with addictions. The Court, before imposing penalty, was required by this legislation to request and consider reports, including a report on the vocational, educational and social circumstances of the defendant. This report, in practice, was provided by a Probation Officer who could be asked to make recommendations.

Based on the reports, the Court could decide to place the defendant under the supervision of the Probation Service or of a named person or body for a specified period of time, or require the defendant to get treatment (medical or otherwise) as recommended. The Court was also authorised to order that the defendant complete a course of education, instruction or training to improve employment prospects or social circumstances, facilitate rehabilitation or reduce the likelihood of committing further drugs offences.

The 1977 Act was amended in 1984 to remove the mandatory requirement to consider reports in all drugs cases. The sheer volume of cases and requests for reports had become a burden for the still small Service and also for the Courts. Reports were not viewed as necessary in certain cases. Courts did continue to request many reports and also to place many drug misusing offenders on Probation supervision to support and direct their engagement with treatment services, even though specific mechanisms provided in the 1977 legislation fell into disuse.

The Service was well placed to meet the needs of this legislation through its increasingly trained and skilled staff, its positioning and role in the Courts and in communities and also through its close relationship with hospitals, health and social services and community organisations.

The Service was a supporter and funder of Coolmine Therapeutic Community from its inception in the early 1970s in working with people and families with addiction problems. Much of the early funding by the Service to voluntary addiction treatment services was to overcome blockages and difficulties encountered by offenders in accessing alcohol and drug addiction treatment at the time.

A 1998 study on drug misuse among offenders in contact with the Service in Dublin indicated that 46.6% of the sample had abused drugs since the beginning of the year (Geiran, 1998). This finding was consistent with a Garda finding in 1997 that drug users were responsible for 66% of indictable crime, cited in a 2006 overview of the relationship between drugs and crime (Connolly, 2006, p. 15). The same overview

noted a 2003 study finding that alcohol had been consumed in 97% of public order cases recorded in a 5 month period (Connolly, 2006, p. 14).

Drug abusers in prison

The Probation and Welfare Service through its teams in Dublin Prisons contributed to a survey entitled *Drug Users in Dublin Committal Prisons: A Survey* published by the Department of Justice in 1982 (O'Mahony and Gilmore, 1982). One of the authors, Tom Gilmore, was the Senior Welfare Officer at Mountjoy Prison at the time. It was a first venture by the Service in direct research on a developing problem facing the Service in its work.

The survey revealed the increasing addiction, treatment and repeated relapse problems and patterns among prisoners, though the numbers at the time were small. Virtually every inmate in the prison with a drug addiction problem was personally known to the Welfare Officers. The final sentence of the report was prescient in its understatement: 'The figures denote a considerable upward trend in the number of drug abusers being committed to prison.'

The supervision of offenders with addictions, partnership with the treatment services and engagement with communities have proved to be a major area of work for the Probation Service. Prior to the 1960s serious alcohol abuse as well as related behaviour and impoverishment were acknowledged and persistent social problems in Ireland. They were everyday challenges for the Probation Officers in Courts, communities and families.

Reflecting this growing challenge and expanding demands on the Service, growth continued. The Minister for Justice in 1980 was able to announce that 'In the last 10 years the number of Officers in this service has increased from six to one hundred and eight and a further forty are being recruited ... There are now twenty-three Probation and Welfare Officers full time in our Prisons and Places of Detention' (Minister for Justice, 1980).

The explosive development of wider drug misuse, previously confined to a very small coterie, from the 1970s onwards and its impact on offending, offenders and the criminal justice system proved a significant catalyst and challenge for change and development for the newly growing Probation Service as well as for the Garda, Prisons, health services and communities.

Supervision of higher tariff offenders and intensive supervision

An indication of the developing expertise and confidence in the growing Service can be seen in the increased range of approaches and planned focus on working with higher tariff and challenging offenders, such as in the intensive supervision scheme in the late 1970s and early 1980s.

In 1979 the Probation and Welfare Service developed and introduced an intensive supervision scheme operating in Dublin, Cork and Limerick for selected offenders released from custody. The scheme was designed to reduce numbers in custody. Groups of offenders participated on the programme as a condition of temporary release under the supervision of a Probation and Welfare Officer. Through planned and programmed intensive contact it was planned to initiate and support positive behaviour change and enable participants to establish a law-abiding career in their communities.

The scheme involved group counselling, organised leisure activities and skills training for employment. Participants selected were expected to show a positive commitment to the scheme, remain out of trouble with the law and co-operate with supervision and the scheme.

During 1981, 260 offenders were released to the scheme and 45 were carried over from 1980. Of these, 156 completed supervision successfully, 55 were returned to custody for breaching conditions of release and 94 were still under supervision at the end of the year.²⁶

In 1983 there were 596 participants on the scheme, of whom 283 completed the scheme successfully and 228 were carried forward under supervision (Department of Justice, 1984).

As a high-cost and resource-intensive initiative working towards long-term change and reduction in reoffending with 'hardened' offenders, intensive supervision proved difficult to sustain in the face of changing release policy in prisons as well as increasing workloads and demand for Service resources (O'Donoghue, 1994, p. 45). It was, in due course, absorbed into Service work with the increasing number of higher tariff offenders referred by the Circuit and Central Criminal Courts and planned temporary release supervision of prisoners on early release from custody.

From 1985 onwards the Probation and Welfare Service assigned dedicated staff to work in the Circuit and Central Criminal Courts

²⁶ Dáil Éireann, Vol. 336, 18 June 1982, Estimates, Vote 22.

providing pre-sentence reports and supervision in cases of higher tariff and higher risk offenders. The work with this challenging population and in these Courts confirmed the growing confidence in the capacity of the Service and its ability to deliver the required effective and accountable reports and supervision.

The learning and experience gained in the first intensive supervision scheme, working in the prisons and also in the higher Courts, laid foundations for the later development of structured cognitive-behaviour and 'what works' based programmes with higher tariff and higher risk offenders, as in the Bridge Project. Its impact, as well as the growing professional confidence of officers, could also be seen in Service-initiated addiction and sex offender programmes in prisons in the late 1980s and during the 1990s.²⁷

Under the 1991 Programme for Economic and Social Progress (PESP), Government approved recruitment of 31 additional Probation and Welfare staff for the implementation of a renewed Intensive Probation Scheme.

In 1991 the Bridge Project was established to provide an intensive probation programme for high-risk persistent offenders in the greater Dublin area. Grattan House Project was established in Cork for the same purpose. Bridge operated a multi-agency approach and included representatives of the Probation Service, CDVEC, FÁS, Garda Síochána, Youth Service, business, community and judiciary on its board of management.

Bridge grew to be an important proving ground for the development of new practices in offender management. Work at the Bridge Project was informed by international research and developments, particularly the 'What Works?' agenda in probation practice, and played an important role in their application in Ireland (Andrews and Bonta, 1994; McGuire, 1995, 2001; McNally, 2000).

The Service had, by this point, established a role and expertise in the community-based management of higher tariff offenders and increasingly, over the following years, focused resources and priority in this area of work.

²⁷ Probation Service staff initiated a pilot multidisciplinary sex offender programme at Arbour Hill Prison in 1988 and the multidisciplinary drugs programme at Mountjoy Prison in 1996.

CEP (Conférence Permanente Européenne de la Probation)

Founded in 1981, CEP was established to bring together statutory and voluntary organizations and experts working in probation across Europe. CEP organised seminars, conferences and events to share knowledge, information and best practice.

The Probation and Welfare Service was a founder member and took a prominent part in CEP, participating in the exchange of ideas at conferences and workshops and garnering recognition in Europe for the Service. Martin Tansey, as Principal Probation and Welfare Officer, played a particularly prominent and active role and served two periods as President of CEP.

The CEP continues today as an important forum, resource and opportunity for participation for the Probation Service in the innovation, evaluation and development of best practice in the management of community sanctions.

Reports and further developments in the 1980s and after

During the 1980s legislation, reports and research increasingly highlighted the opportunities for the Probation and Welfare Service to play an increased role in the criminal justice system through the provision and management of community sanctions and alternatives to custody.

Community Service

Community Service emerged at a time when there was an acknowledged disillusionment with imprisonment as a sanction, rehabilitation was being questioned internationally (Martinson, Brody) and the role and effectiveness of probation and community sanctions were under increasing scrutiny and doubt. Community Service was presented as direct unpaid work by the offender for the community in reparation for the offence and also as punishment through the deprivation of leisure time.

Community Service had been introduced in England and Wales in 1972 under the management of the Probation Service and had proven to be a sanction popular with the public, the media and the judiciary. Following this perceived success there and in other jurisdictions, the Government published a White Paper in 1981 entitled *Community*

Service Orders. Unlike in England and Wales, it proposed that Community Service would be available only as a direct alternative to a custodial sentence, thereby avoiding confusion as to where it stood in the range of penalties. It was also hoped that Community Service would provide work for the benefit of the community and contribute to a reduction in the number of offenders sentenced to imprisonment.

The Criminal Justice (Community Service) Act, 1983 provided for the performance of between 40 and 240 hours of unpaid work in the community by a person who is 16 years or over, who has been convicted of an offence, for which the appropriate penalty would be an immediate custodial sentence and who has given his/her consent to the Court.

The stated aim of a Community Service Order was to enable an offender to make meaningful reparation to the community for his or her crime in lieu of a sentence in custody. The Probation Service has had responsibility for the assessment of suitability of offenders for Community Service and for the supervision and management of the Community Service scheme since its inception and the first Community Service Order in February 1985.

The introduction of Community Service greatly expanded Service operations at the time without significantly decreasing Probation Orders. However, despite the terms of the legislation, Community Service does not appear to have led to any significant reduction in the numbers being committed to custody. This is consistent with the experience in other jurisdictions.

Community Service work was supervised initially by voluntary bodies, as proposed in the White Paper, and later by individuals engaged on a casual temporary basis for the purpose. In due course the Probation Service came to recruit Community Service Supervisors engaged specifically for the management of Community Service work.

The Law Reform Commission on Sentencing in 1996 acknowledged operational problems in Community Service (Law Reform Commission, 1996, para. 9.10ff.) but recommended 'the most extensive use possible of CSOs' (Law Reform Commission, 1996, para. 9.19) and that Community Service 'always be available on conviction for any offence (para. 9.20).

An Empirical Study of Community Service Orders in Ireland was completed and published in 1999 (Walsh and Sexton, 1999). The terms of reference of the study sought a critical evaluation of the operation of Community Service and included the provision of comprehensive data

on Community Service Orders including benefits and costs and assessment of the scope for an enhanced role for Community Service in the criminal justice system in Ireland.

The study described the typical person on a CSO as a young, single unemployed (or underemployed) male with poor educational qualifications and vocational skills. Just over half of those on Community Service had a previous criminal record, suggesting that CSOs were made in over a third of cases where a custodial sentence might not otherwise have been imposed as, for example, is often the case with first offences.

According to the study, Community Service was a much more economical sanction than prison. However, it also cautioned that on the basis of the statistics available it would be unsafe to assert that Community Service was any more successful than prison in steering offenders away from crime.

Potential and actions for increased use of Community Service were identified, including legislative changes and guidance to Courts on appropriate use of the sanction.

McBride Report on the Penal System

The *Inquiry into the Irish Penal System*, better known, after its chairman, as the McBride Report, in 1983 reflected the growing public and political interest and concern regarding social issues and the penal system in particular in the rapidly developing Ireland. Social issues increasingly attracted political headlines and attention in confrontational and challenging views expressed. The McBride Report took issue with official and other reports, adopting a highly political and critical stance.

In the submissions the Prisoners Rights Organisation drew attention to the fact that one third of all crimes in the State were committed by people under the age of 17 and highlighted, in its view, the paucity of alternatives to custody for young offenders. It adverted, in particular, to the limited development of the Probation and Welfare Service.

The McBride Report went on to ask :

Is this vast expenditure [on prisons] serving any useful purpose or is it merely perpetuating a system which breeds recidivism? ... Is custodial incarceration the most effective form of treatment? Would community service not be more effective and less wasteful?

The laws of society are for the most part the expression of the dominant group. This inevitably leads to the existence of subcultures

i.e. groups whose values or norms are at variance with the dominant group. A high proportion of offenders are likely to come from such subcultures.

Therefore the existence of a normally high crime rate amongst the members of a particular group may be due more to a failure in education and learning than to an innate propensity for crime or even behaviour in the group. This failure is often due to social, cultural, and familiarised economic deprivation; such deprivation is ultimately the responsibility of society as a whole. (McBride, 1983)

The perceived political agenda and challenge to the establishment presented by the McBride Report contributed to its hostile reception in many quarters at the time. However, the Report had a say in putting matters of penal reform in the forefront among public issues at the time.

The Whitaker Report and other reports

A Committee of Inquiry in the Penal System, chaired by T.K. Whitaker, was set up by the Minister for Justice in 1983, in part, it has been suggested, as a response to the McBride Report. The Probation and Welfare Service made written and oral submissions to the Committee.

The *Report of the Committee of Inquiry into the Penal System*, published in 1985 and commonly known as the Whitaker Report, provided the most comprehensive review of the penal system and established a wide-ranging outline of principles and recommendations that should direct and govern penal policy and practice. It recommended that imprisonment should be employed only as a last resort and that a range of non-custodial penalties should be used for less serious offences.

The Report said that 'A progressive strengthening of the Probation and Welfare Service is essential for more effective and extensive use of alternatives to custody' (Whitaker Report, 1985, para. 5.12) and proposed increased use of 'social enquiry reports' in Courts 'compiled under the auspices of the Probation and Welfare Service' (para. 5.24).

The Probation of Offenders Act 1907 requires revision not only to reflect current court practices and the present range of non-custodial alternatives but also the recommendations of the Committee. (Whitaker Report, 1985, para. 5.10)

Early releases [from custody] should always be on the understanding that they must be subject to supervision by staff of the Probation and Welfare Service until normal expiration of sentence ... The Probation and Welfare Service should have responsibility for final preparation of prisoners for early release. (para. 7.36)

Despite the acknowledged value and importance of the Whitaker Report, implementation of many of its recommendations in large measure were delayed (Thomas, 2000, p. 263). The Report was published in a time of severe economic and social crisis in Ireland and struggled thereafter to command priority attention amid other competing demands.

The Management of Offenders: A Five-Year Plan

This plan, published by the Department of Justice in 1994, proposed an expanded role for the Probation and Welfare Service in managing offenders in the community. In particular, the Plan acknowledged the development of the Intensive Probation Scheme for the management of higher tariff offenders by the Probation Service in the community and other supervised sanctions (Department of Justice, 1994, paras 5.3–5.4) as an extremely valuable measure in place.

The scope for extending community-based sanctions and measures is considerable given the professional expertise available in the Probation and Welfare Service and the willingness of the Courts to resort to them. This potential will be examined in conjunction with the planning for the implementation of the European Rules on Community Sanctions and Measures. (Department of Justice, 1994, para. 5.5)

It is essential ... to provide ... the development of a system by which suitable offenders at an appropriate stage of their sentences may be released back into the community, under the supervision of the Probation and Welfare Service (para. 5.6).

Tackling Crime

Tackling Crime, a Department of Justice discussion paper in 1997 on criminal justice operations and management, suggested that the Probation and Welfare Service should be a prime target for additional resources in its management of supervised custody alternatives, and cited

again the recommendations of the Whitaker Report and *The Management of Offenders: A Five-Year Plan* (Department of Justice, 1997a, para. 14.5ff.).

The paper went on to outline that over a decade the number of reports prepared by the Probation and Welfare Service had increased by 107% and the number of supervision orders by 68% without a commensurate rise in staff numbers (Department of Justice, 1997a, para. 14.11).

Offenders at high risk of reoffending because of lifestyle or 'compulsive behaviour' were identified as priority targets for Probation and Welfare Service intervention and programmes (Department of Justice, 1997a, paras 14.17ff.).

There was agreement in this and other reports that more action was needed to make time in custody more productive, and that re-entry to the community and resettlement is a key element in reducing reoffending (Department of Justice, 1994, 1997a; National Economic and Social Forum, 2002; National Crime Council, 2003). Progress towards these objectives has, however, been dependent on resources in the criminal justice system and government priorities.

In summary, the consensus in the many official reports has been that prison should be used as a last resort and for serious crimes only, and that more resources should be directed to the development of community sanctions and measures. The Probation and Welfare Service, as the primary manager of community sanctions, is repeatedly recommended for development and strengthening. The role and importance of the Service has been firmly established in the Criminal Justice System.

The Probation and Welfare Service in the Criminal Justice System

The *Tackling Crime* discussion paper, at the end of the chapter on Community Sanctions (Department of Justice, 1997b), adverted to the unusual positioning of the Probation and Welfare Service within the management structure of the Department of Justice. At the time there was a trend in Government for operational services to be managed and delivered separate from Departments, which would function as policy and priority directors primarily (Department of Justice, 1997a, para. 14.20).

In budget allocation arrangements the Service was originally part of the Courts vote and moved to the Prisons vote in the 1970s. This arrangement remained in place until 2007 though the Service, in

practice, operated separately and independent of the prisons under its own management.

Whether the Probation and Welfare Service might more appropriately operate in a different structure was considered by the Expert Group on Prison Management which was set up to examine the arguments for the establishment of an independent Prisons Agency. Its report in 1997, entitled *Towards an Independent Prisons Agency* (Department of Justice, 1997b), recommended that the Probation and Welfare Service retain its separate status until consideration be given to its establishment as a separate agency.

This was a matter of particular concern and high tension for management and staff of the Probation Service. The risk in being a small part of a larger operational body with separate and distinct targets and priorities was in contrast to a shared preference in the Service to retain and reform its own priorities, governance and accountability separate from the monolithic custodial system.

McCarthy Reports

In 1997 John O'Donoghue, Minister for Justice, appointed Brian McCarthy, a prominent businessman, to chair an expert group 'to examine the role of the Probation and Welfare Service having regard to recent and current developments, the needs of the Service, in the context of its proper role, to deliver an effective service, and the organisational status of the service and to make recommendations' (McCarthy Report, 1999, para. 1.1, p. 16). The Minister's decision was 'a clear signal that there is a need for change' (McCarthy Report, 1998). There was concern over the public and political attitudes about the use of community sanctions or 'probation' (McCarthy Report, 1998, p. 5) and the role of the Probation Service in the Criminal Justice System.

The terms of reference of the expert group were:

To examine – (a) the role of the Probation and Welfare Service having regard to recent and current developments (b) the needs of the service, in the context of its proper role, to deliver an effective and efficient service (c) the organisational status of the service, and to make recommendations.

The *Expert Group on the Probation and Welfare Service First Report* (McCarthy Report, 1998), published in 1998, acknowledged resource shortcomings in the Service at the time and recommended as immediate

priorities staff increases, a comprehensive public information and awareness programme and a dedicated IT system with training in the Probation Service.

The Final Report, published in 1999, made 30 recommendations relating to the policy and legislative framework, structures and staffing and on the role of the Service. It proposed the repeal of the Probation of Offenders Act 1907 and its replacement by legislation creating a new structural framework for probation and a range of new sanctions in the community managed by the Probation and Welfare Service (McCarthy Report, 1999; Thomas, 2000, p. 265).

The Reports (McCarthy Report, 1998, 1999) recommended a shift in penal policy to support an increased use of alternatives to custody, additional resources for the Probation and Welfare Service, and the establishment of the Service on a separate statutory basis. The last of these recommendations was not acted on. The previous impetus in Government circles to establish service providers in separate agencies or bodies had dissipated by 2000.

Many of the other recommendations in the McCarthy Reports were to arise again in the *Report on Value for Money Examination of the Probation and Welfare Service* by the Comptroller and Auditor General, published in 2004, and have been drivers in the radical change and development in the Service since the publication of that examination.

To the end of the 20th century

By 2000 the Probation and Welfare Service had developed far beyond the most ambitious expectations of Officers working in the Dublin Courts in the 1960s. It had grown from a handful of Officers in the Dublin Metropolitan Courts to a large, complex and professional organisation with a multiplicity of tasks, a workforce of several hundred and a presence in every Court, prison and community across Ireland. Ireland had also changed, from a conservative and inward-looking polity to an increasingly modern society internationally engaged in the rapidly changing world.

Inevitably the exponential growth of the Service in those 40 years led to 'growing pains', particularly as Ireland was changing dramatically in the same period. Like any 'new' organisation (or young person) a lot of the learning and establishment was done 'on the job' with occasional cul-de-sacs and frustrations.

The Service shared the challenging experiences of other Probation Services in the development and effective implementation of organisation management. The 2004 Value for Money Examination showed that management and the Service still had work to do.

The 40-year period brought about a clarification and broadening of the purpose and role of the Service in the criminal justice system. Reports and Government policy and legislation firmly established the key role of the Probation and Welfare Service in delivery of community sanctions and the management of offenders in the community.

The inherited separation from international experience and development in probation practice was overcome through the knowledge and expertise of the Service staff and their determination to develop. The Service became a very active contributor in the development and work of CEP as well as at international conferences and discussions on probation issues.

The 21st century, bringing new responsibilities for the Service in the Children Act 2001 and the Sex Offenders Act 2001 as well as the radical change agenda presaged in the 2004 Value for Money Examination, has shown that change and development are now an integral part of the Service. To stand still is not an option. A future of new challenges awaits.

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