

Irish Probation Journal

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

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Irish Probation Journal

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

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

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Editorial

Welcome to the sixteenth edition of *Irish Probation Journal (IPJ)*: a unique cross-border collaboration between two Probation Services, North and South, working through an editorial committee that consists of experienced practitioners and academics. The contributions reflect policy and practice developments within probation and the wider criminal justice field. Our aim is to provide high-quality articles, practice pieces, research, evaluations and reviews that stimulate debate, share innovative and best practice and contribute to criminal justice policy development. We welcomed the opportunity to present a paper on the vision, development, themes and research initiatives that constitute *IPJ*, as part of a stimulating programme in the 11th North South Criminology Conference hosted by the Institute of Criminology at the School of Law in University College Dublin.

In a first this year, the journal was nominated under the research category of the Confederation of European Probation (CEP) 2019 probation awards. The editorial committee are delighted that the journal was 'highly commended' in this category. This recognition and validation further demonstrates *IPJ's* respected position in the wider criminology community, with a national and international readership.

This year's journal again has contributions from authors in academia and practice from both a local and an international perspective. Themes include: mental health; drug misuse; restorative justice and victims; mentoring; the challenges faced by the Travelling community in custody; and an examination of culture within criminal justice. While some of those themes have been the subject of discussion and debate within criminal justice for many years, emerging trends are introduced here – the purpose and ethics of data analytics in criminal justice; strategies on trauma-informed practice to respond to the impact of adverse childhood experiences; legislative development in relation to safer injecting facilities; and an exploration of human trafficking and its interface with the criminal justice system.

Both practitioners and academics will have an interest in the article, from the series of Martin Tansey memorial lectures, examining current culture in the Irish

criminal justice system. It considers four cross-cutting traits in the system: the use of discretion; a disjuncture between policy and practice; the primacy of agency; and humanitarianism. It argues that recent critical scrutiny of organisational cultures has led to a criminal justice system that is more self-aware and reflexive, leading to a new receptiveness to change and European influences.

In contrast to this very contemporary article we have a historical paper that describes the development of the management of 'convicts serving penal servitude sentences' in the 1850s in Ireland. This piece provides an overview of the political and social context of that period within which the Irish 'parole' system developed, and the contributions made by key players. *Irish Probation Journal* is committed to the inclusion of articles that deepen understanding of penal trajectories and that acknowledge and remind us of the effective and visionary work of pioneering colleagues from the past.

An article on the criminal justice system in Northern Ireland considers the impact of mental illness, learning difficulties, and speech and language difficulties on individuals subject to probation and within custodial environments. This commissioned study, the first of its kind in Northern Ireland, examines the salience of these issues and highlights the dangers of objectification and the need to adopt a person-centred perspective. Some of these themes are highlighted again in the 'practitioner's response' to the 2018 article on 'Resilience in the Face of Trauma: Implications for Service Delivery'. Drawing from experience from Northern Ireland, the author highlights the importance of a best-practice, holistic approach in working with trauma, mental ill health and related issues using an individualised approach in order to understand the needs of service users and to support them to desist from criminal behaviour.

Importantly, the area of victim services and restorative practice is explored in two articles. A piece from Northern Ireland describes the development of PBNI's approach to dealing with victims and ensuring that their voices are heard within the criminal justice system. The paper on restorative justice outlines the key features of the recently published Council of Europe recommendation on restorative justice and provides a thoughtful and optimistic assessment of the current prospects for the expansion of restorative justice in the Irish criminal justice system.

The international reach of the journal is critically important, and this year we are delighted to have a contribution from the United States on the evolving area of artificial intelligence (AI). The article highlights that AI technology offers unprecedented opportunities to learn from past cases, to make probation more efficient and to further several public interests. It also

sets out the limitations to the technology. It will be of interest to all criminal justice organisations that are considering piloting AI technologies to improve the effectiveness and efficiency of probation services.

Continuing the theme of new and evolving policy development, a paper on safer injecting facilities provides an interesting discussion of the policy and legislative developments in Ireland, drawing from the international experience and a small-scale research project.

Often described as being 'hidden in plain sight', trafficking victims are commonly exploited physically and sexually and are some of the most vulnerable people in society. Despite knowledge of the social, economic and individual harm caused, there is a lack of research into the prevalence of this crime and the needs of victims. We are pleased to include a paper on human trafficking, based on learning from an inter-agency secondment, to increase understanding and knowledge, particularly in the context of probation practice.

Two evaluations in this edition of the journal highlight the importance of mentoring in assisting people to stop reoffending. The *Aspire* article outlines how a combination of probation supervision and mentoring from the community and voluntary community is having extremely positive outcomes with young men. Similarly, an article that draws on a 2016 evaluation of *Le Chéile* mentoring services in the Republic of Ireland highlights the range of benefits mentoring provides, including reported reductions in offending behaviour.

An article on the experience of Irish Travellers in prison in England and Wales provides insights into the perceptions of the custodial experiences of Travellers, drawing from the author's research and wider literature on this subject.

Don't miss out on three very interesting book reviews that will stimulate further reading on these subject areas.

Our thanks to the Editorial Committee and the advisory panel for all their efforts over the past 12 months. Thanks also to both Probation Services for their continuing support. Without that combined commitment and support it would not be possible to provide a journal of such quality.

Finally, we want to thank all our contributors. We look forward to working with many of the authors again and, as always, are keen to hear from new authors who wish to submit an article for the next edition. We hope you enjoy this sixteenth *Irish Probation Journal*.

Criminal Justice Culture(s) in Ireland: Quo Vadis?*

Claire Hamilton†

Summary: Employing culture as a lens through which to examine the Irish criminal justice system, this paper reflects on recent developments within key criminal justice agencies with a view to where we may be headed in the near future. Four traits common to criminal justice in Ireland, perhaps paralleling cultural patterns in Irish society more broadly, are identified: the use of discretion; a disjuncture between policy and practice; the primacy of agency; and humanitarianism. Given the unprecedented level of scrutiny brought to bear on the key agencies of our criminal justice system in the past five to seven years, and a growing body of research in a post-colonial vein, the paper argues that we have become increasingly self-aware as a criminal justice system, as well as more reflexive as regards our relationship with other states. Indeed, recent critical scrutiny of organisational cultures in our police and prison services and the Department of Justice has perhaps resulted in a new receptiveness to change and to European influences. Despite this pressure towards convergence, we should not forget that local actors are always responsible for implementation of criminal justice 'on the ground', thus bringing national cultural traits back into focus. Paradoxically, one of the effects of these pressures towards convergence may be to force a deeper understanding of Irish criminal justice culture and the 'recovery', as Brangan (2019) has argued, of its core assumptions, values and fundamentals.

Keywords: Ireland, criminal justice culture, humanitarianism, Garland, penal state, police culture, prison culture, Department of Justice, legal culture.

Introduction

I am honoured to have been asked to deliver the Annual Martin Tansley Memorial Lecture this year. I didn't have the privilege of knowing Martin but my reading about him conveys a man of great energy, commitment, integrity and vision. Given the impressive range of areas of criminal justice in which he was involved, I am intending this evening to examine Irish criminal justice

* This paper comprises the revised text of the 12th Martin Tansley Memorial Lecture, sponsored by the Association for Criminal Justice, Research and Development (ACJRD) and delivered at the Criminal Courts of Justice, Dublin, 6 March 2019.

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culture from a broader, wide-lens perspective rather than focusing on one specific aspect of the system. The aim, perhaps fitting on this the 12th Memorial Martin Tansey lecture, is to deploy 'culture' as an analytical device to reflect on where we have come from since his death in 2007 and where we may be headed in the near future.

Irish criminal justice culture

I have chosen culture as a lens through which to examine Irish criminal justice because it is my strong view that no serious scholar of criminal justice can afford to ignore culture. The well-known criminologist and comparative legal scholar David Nelken (2010) has written that culture (less, it should be said, as a variable *per se* and more as a flow of meaning) is essential to understanding other systems, but also to knowing our own. One of the many examples he provides, which I relay to my students, is that while the USA is still sending people to death in the electric chair, in 2008 a fairground owner in Italy was convicted of an offence against public decency for exhibiting a pretend one! For a researcher seeking to grasp the meaning of punishment in these two jurisdictions such information is critical, moving understanding far beyond the standard criminal justice data and their correlates.

Culture, or more correctly institutional culture, has also been the focus of sustained attention in Ireland in the past decade and failings of the Irish public service have often been blamed on organisational culture, several of them in the very criminal justice agencies that are the focus of this paper (Molloy, 2011, cited in O'Riordan, 2015). In criminal justice, culture is of course significant because of its influence on the exercise of discretion, itself integral to the practice of law. In criminology, research shows that the constraints imposed by the working cultures of agencies are at least as important as legal constraints in shaping practice (Zedner, 2005).

So how can one demarcate culture from everything else that is going on? An enquiry into criminal justice culture, in my view, can do no better than adopt the definition of legal culture espoused by Nelken (2004: 1). He has described legal culture as comprising relatively stable patterns of legally oriented social behaviour and attitudes ranging from, at one end of the spectrum, the behaviour of institutions to, at the other end, the more nebulous aspects of 'ideas, values, aspirations and mentalities'. An immediate objection may be taken to the assumption that there is *one* criminal justice culture common to all the departments, agencies and bodies working within

the system. The reality is of course very different, with agencies not always sharing the same aims and objectives, or even a common understanding of the problem. What is clear, however, is that they share a level of interdependence, so that decisions made in one area have clear implications for others (Nelken, 2010; Zedner, 2005) and, as I will also argue, they share cross-cutting traits common to criminal justice in Ireland, paralleling perhaps cultural patterns in Irish society more broadly.

Moving on to look at Irish criminal justice culture, I should first of all acknowledge my own credentials, or perhaps lack thereof, as a blow-in from the North in 1994! Yet, having spent all of my adult life studying, working and researching in the Irish criminal justice system, I feel I have gained an appreciation of the culture of this jurisdiction and its critical role as a factor mediating the effects of criminal justice 'on the ground'. This is reflected in my research comparing Irish criminal justice culture with that of Scotland and New Zealand, where I was struck by the manner in which local culture and national psyche acted as an important filter in limiting the options available to politicians and other decision makers within the criminal justice system (Hamilton, 2013, 2014a; see also Melossi, 2001). So, for example, Scottish civic culture, with its values of fairness, welfare and community support, was seen by policymakers to militate against the adoption of more exclusionary criminal justice policies, whereas in New Zealand a cultural strain to conformity (as one former Minister for Justice described it, 'New Zealanders are to some degree the Prussians of the South Pacific') pushed criminal justice in a rather different direction (Hamilton, 2013, 2014a).

Returning to Ireland, I want to suggest four aspects of Irish criminal justice culture that I feel impact on the lived experience of Irish criminal justice or how it is 'done' in practice, namely: (i) the importance of discretion, (ii) the gap between policy and practice, (iii) the primacy of individuals (agency) and (iv) humanitarianism. The fourth cultural trait is perhaps the most speculative, but worth mentioning, I think, as will be elaborated below.

The importance of discretion

The Irish, and most likely post-colonial, preference for informal resolution is neatly summed up by William Duncan in a 1994 article on 'law and the Irish psyche': 'There is still in this country a certain pride attached to the exercise of personal discretion in the face of strict rules' (Duncan, 1994: 452). My own research found much evidence of this, with interviewees describing a 'less black and white' approach to criminal justice than in the UK (Hamilton, 2013,

2014a). In a quotation from a former policymaker that I particularly enjoyed, he described the use of Key Performance Indicators, which are common in law enforcement in the UK, as 'repugnant to the Irish psyche ... the Irish media would be horrified if they saw a circular saying you are to catch, you are to increase your detection rate for burglars by 18 per cent ... they'd say what kind of nut decided that?' (cited in Hamilton, 2013).

It's interesting to note that this approach has important real-world effects with Parsons (2016) speculating that disparities between the rate of victimisation in Ireland and the recorded crime rate (as highlighted by Irish participation in the International Crime Victimisation Survey) may be accounted for not only by lower reporting and recording rates, but also by a greater use of discretion by the police to avoid criminalising people.

Gap between policy and practice

A related point concerns the well-known disjuncture between 'law on the books' and the 'law in practice' in Ireland (O'Donnell, 2005; Hamilton, 2014a). While this exists in all jurisdictions, there is a tendency, observed by Fennell (1993), O'Donnell and O'Sullivan (2001) and others (O'Mahony, 1996; Hamilton, 2007), to legislate in response to a criminal justice 'crisis' in Ireland without a concomitant commitment to implementation. Kilcommins *et al.* (2004: 291) may well be correct in stating that this inertia has acted a bulwark against a punitive shift in Ireland (or, as one of my interviewees put it, the country's 'saving grace' (Hamilton, 2014a)), but the failure to act has had pernicious effects too, as the oftentimes glacial pace of progress we have witnessed in relation to, for example, youth justice, prison conditions and expungement laws will account.

Primacy of individuals

A third trait of our culture may be the considerable space that it affords to the personality of individual policymakers, namely Ministers of Justice, within the system. Mary Rogan (2011, 2016) has written in detail about the pragmatism of Irish criminal justice policy and the reversal of seemingly embedded policy directions as a result of decisions taken by Ministers Haughey, Shatter and McDowell. My own research suggests that this is perhaps a function of a smaller jurisdiction in which the role of key actors is amplified so that, while networks may be able to display greater coherence in the face of challenges to the *status quo*, change, when it comes, is wrought very quickly (Hamilton, 2014a, 2014b).

In 1990s Scotland, for example, the prominent role played by a number of elite policy networks in shielding penal policy from the radical change experienced south of the border was certainly facilitated by the smaller size of the jurisdiction (McAra, 2005). In New Zealand, on the other hand, dramatic reforms pioneered by victims' movements, but strongly courted by a hawkish Minister for Justice, Phil Goff, took hold very quickly, sending the country's imprisonment rates soaring in the late 1990s and early 2000s (Pratt and Clark, 2005).

Humanitarianism?

The fourth and final trait that I think may be pertinent to Irish criminal justice is humanitarianism. As I mentioned earlier, this is perhaps more speculative than the other cultural features observed above, but it has been suggested by several authors. Ian O'Donnell (writing with Yvonne Jewkes (2011)) and Kilcommins *et al.* (2004), for example, have pointed to the release of prisoners at Christmas, or more particularly the 'routine and mundane' approach taken to this, as a potential illustration of 'the humanity that continues to characterize the Irish system, for all its flaws' (Kilcommins *et al.*, 2004: 265). Similarly, Louise Brangan (2019), as we will see, has suggested that humanitarianism formed an important plank of the Irish approach to imprisonment in the 1970s, one which sought to reduce the pains of imprisonment, motivated by empathy and a respect for prisoners as people.

Irish probation practice, moreover, continues to be strongly motivated by penal welfarist concerns (Healy and Kennefick, 2017), and, at least from what I have observed in my research with adult and youth probation services, retains a strong commitment to clinical judgement over risk assessment techniques (Hamilton *et al.*, 2016; Fitzgibbon *et al.*, 2010).

The penal state and control of the power to punish

As observed above, my definition of legal culture includes *institutions* and their behaviour, and indeed there is strong evidence that it would be dangerous to ignore infrastructural differences in seeking to understand a social field such as criminal justice (Blankenburg, 1997; Smulovitz, 2010). In this regard it is interesting that David Garland, one of the world's foremost criminologists, who previously has advanced a dystopian vision about a growing 'culture of control' or punitive turn in the UK, the US and other western societies (Garland, 2001), has now shifted his analytical lens towards

aspects of the 'penal state', defined as 'the governing institutions that direct and control the penal field' (Garland, 2013: 495). A dimension of the 'penal state' identified by Garland that is particularly relevant to our discussion is 'the control of the power to punish' and the significant consequences for the penal field that can result from changes in the balance of power between various agencies over time. The example given by Garland is the shift from judicial to prosecutorial power that occurred in the US in the 1970s and 1980s, largely as a result of the enactment of mandatory sentencing laws and determinate sentencing policies (shifting the focus from sentencing to charging decisions), which incidentally has been fiercely resisted by prosecutors in recent times as such laws have been gradually reversed (Tierney, 2013).

In an Irish context, this matters because of what I have described in my research as the 'front-end' orientation of the criminal justice system in Ireland (Hamilton, 2014a), or perhaps what may be argued to be the position of An Garda Síochána as the 'fulcrum' of the system. As previous research has suggested, the Gardaí were bigger (in relative terms), more powerful and more significant culturally than police forces in other jurisdictions (Conway, 2014; Hamilton, 2014a, 2017a). The organisation has always been one of Ireland's 'in-groups' (Mac Gréil, 1996), an embodiment of the cultural nationalism that underpinned the fight for independence, and has enjoyed, and continues to enjoy, high levels of legitimacy and public support (Mulcahy, 2016; PWC, 2018). This front-end orientation of the system may not be without important implications for criminal justice culture in this jurisdiction. Australian and US criminologists have observed how jurisdictions with higher levels of expenditure on the police tend to have lower imprisonment rates, something which it is interesting to consider from an Irish perspective given our low-moderate levels of incarceration (Hinds, 2005; Sherman, cited in Tierney, 2013). Relatedly, while of course much recent attention has rightly been focused on the negative effects of the overly deferential attitude to the Gardaí in the past, consideration might also usefully be given to positive effects of high levels of public and political trust in the Gardaí, such as the development and expansion of the Garda Diversion Programme in the 1960s and ensuing decades.

Policing, departmental, prison and legal subcultures

Policing subculture

Discussion about the front-end bias of the criminal justice system in Ireland leads me to the culture of An Garda Síochána itself. Much academic ink has been spilled on the subject of 'cop culture' in criminology since the 1950s and 1960s, when criminologists first started writing about the worldview or working personality of police officers as pivotal in shaping police practice. Characteristics such as machismo, racism, solidarity/isolation, thirst for action and conservatism, among others, have identified by policing scholars such as Robert Reiner (2010) and it is interesting that, despite major recent transformations in policing work, researchers have observed a remarkable durability of cultural themes (Loftus, 2010).

While little research has been conducted on police culture in an Irish context, the 'avalanche of scandal' (Mulcahy, 2016: 273) that has gripped the Gardaí in recent years has required us to face some uncomfortable facts about the culture of the organisation. The recent Garda Cultural Audit (PWC, 2018), which included a survey undertaken with 6500 members of the force, identified problems with speaking up (in line with the 'solidarity' theme in the policing literature) and with the promotion/competition process. Cultural insights included: 'Silence means survival: Generally we have the personal courage to speak up, but fear the consequences of doing so' and 'our promotion/competition process isn't based on meritocracy'.

As scholars such as Janet Chan (1997) observe, however, we shouldn't forget that policing culture is not a free-floating idea or concept. It connects with the postcolonial context which, as I have already said, exhibits a strong preference for informal resolution. Particularly relevant here, I think, is the 'weak rules/strong relationships' balance that authors such as Niamh Hourigan (2015) argue is a reflection of the Irish value system. Further, as with many other debates in contemporary criminal justice, there is the danger of the pendulum swinging too far in the other direction, and neglecting the important role played by discretion in effective policing. As Reiner (2017: 4) has recently warned, we should avoid at all costs a view of police culture, often present in managerial and political debates about police reform, that conceives of police officers as 'paranoid, insular, and intolerant' individuals who 'intransigently oppose change' and therefore 'must be rigidly controlled from the outside, or at least from the top' (citing Sklansky, 2007: 20).

Department of Justice subculture

Part of the fall-out from the McCabe scandal,¹ which has engulfed An Garda Síochána for some years now, was the commissioning of a report into the performance and management of the Department of Justice and Equality, published in 2014 (Toland, 2014). The report revealed 'a closed, secretive and silo driven culture', where 'secrecy was part of its DNA' together with an overly 'deferential relationship with An Garda Síochána' (Toland, 2014: 8, 10). The origins of this insular and defensive culture can be traced of course to the sensitive nature of its work in dealing with a terrorist threat that has dogged the state since its foundation and the 'Troubles' in Northern Ireland. From a criminological perspective, the opening up of this Department to closer scrutiny is important given the attention it draws to cultural constraints, not only on those at the coalface of criminal justice, but also on those operating in the hinterlands of criminal justice whose decisions hold great importance for criminal justice policy.

As Lucia Zedner (2005) has suggested, there is a need for greater research into these more hidden areas of criminal justice and the working cultures of civil servants such as prosecutors. In terms of changing this culture, it is heartening to see in the new Department Data and Research Strategy a commitment to 'developing a culture of research', with research and analysis rather than secrecy as the new 'DNA' of organisational culture (Department of Justice and Equality, 2018: 6).

Prison subculture

Like the Gardaí, the penal system has been the subject of sustained and unprecedented critique in recent years, with a string of reports into its operation dating from the Thornton Hall Review Group in 2011 to the sixth report of the Penal Policy Review Group (PPRG) Implementation Oversight Group (Thornton Hall Project Review Group, 2011; PPRG, 2014; Houses of the Oireachtas, 2013, 2018; PPRG Implementation Oversight Group, 2015–2018).

¹ Maurice McCabe was a Garda sergeant who came to national attention as a whistle-blower on corruption within An Garda Síochána. In 2012 Sergeant McCabe claimed that several well-known personalities had had their penalty points (for driving offences) wiped. This is supported by a Comptroller & Auditor General report one year later. In 2014, then Garda Commissioner Martin Callinan told the Public Accounts Committee that only two officers (McCabe and John Wilson) out of a force of 13,000 were making allegations, and that 'on a personal level' he thought it was 'quite disgusting'. An investigation was held into an alleged smear campaign, including false allegations of child sexual abuse, against Sergeant McCabe (Charleton/Disclosures Tribunal), which vindicated him and argued that 'A cultural shift requiring respect for the truth is needed'. To date, the scandal has resulted in the resignation of two Garda Commissioners, two Ministers for Justice and two Secretaries General of the Department of Justice.

In terms of implementation of these reports, as carefully detailed by the Irish Penal Reform Trust in its recent report on *Progress in the Penal System* (2018), this has been slow but perhaps we can take heart that, unlike with reports from the 1980s and 1990s such as the ill-fated Whitaker or Management of Offenders reports, there is here a commitment to monitoring and implementation which was not evident in the past.

Commensurate with these reports has been a detailed and excellent report on *Culture and Organisation in the Irish Prison Service* authored by the late Judge Michael O'Reilly, former Inspector of Prisons, and Professor Andrew Coyle in 2015 (Office of the Inspector of Prisons, 2015). It is interesting that many of the terms used to describe the Irish Prison Service, such as 'closed mindset' and 'silo driven culture', had been used one year previously by Toland to describe the parent department. Some of the problems highlighted in the report in relation to the unprofessional behaviour engaged in by some prison officers and problems with the management of prisons, including the role played by the Prison Officers' Association in the 'co-management' of some prisons, have again pointed up the need for further criminological research into these issues. As Alison Lieblich (2014: 399) has argued, 'Very few studies of the organizational behavior and influence of prison officers' associations exist—and yet ... they have been, and continue to be, a major inhibitor of reform in many jurisdictions.' In an Irish context, O'Donnell (2005) similarly identifies the strength of organised labour within the prison, police and probation services as an important factor contributing to inertia.

Legal subculture

The final subculture I will examine is the Irish legal subculture, an area I am currently researching. Shane Kilcommins in particular has done important research in this area, highlighting the liberal ideology of legalism and constitutionalism in Ireland (Kilcommins, 2015) and the liberal judicial habitus or 'assumptions, values and beliefs' that continues to afford important protections for those accused of crime (Vaughan and Kilcommins, 2008). This was confirmed in my own research into Irish legal culture, with a number of respondents suggesting that this due-process orientation could be extended to the legal community more broadly (Hamilton, 2014a). Its origins can of course be traced to the desire by the late Brian Walsh and other judges of the 1960s, 1970s and 1980s to forge a body of jurisprudence distinct from that of Britain and more aligned with our neighbours across the Atlantic (Mac Cormaic, 2016). Thus, Brian Walsh, one of the driving forces behind this project, wrote in

the foreword to a torts law book published in 1981 that ‘the man on the Crumlin omnibus was not the same as the man on the Clapham omnibus’ (McMahon and Binchy, 1981). This area too has witnessed change, albeit in two apparently contradictory directions. On the one hand, as pointed out by scholars such as Campbell (2008), the ‘culture of control’ in Ireland has not overlooked procedural rights and more recently we have seen decisions such as *JC v. DPP*,² overturning the previously highly protectionist approach taken to the exclusion of unconstitutionally obtained evidence in *Kenny*.³ On the other, we have experienced a ‘levelling-up’ of rights protection driven by EU Directives and European Court of Human Rights case law, as best illustrated in the *Gormley and White*⁴ decision on right of access to a solicitor before questioning.

Quo vadis?

So, what does all this tell us about the direction of travel of Irish criminal justice and its cultures? In order to contemplate where we are headed as a criminal justice system, it’s important to know where we are coming from. Mary Rogan (2011, 2016), Ian O’Donnell (2008) and others have, I think correctly, broadly characterised the historical trajectory of criminal justice policy-making in Ireland as one of ‘stagnation and change’: long periods of neglect punctuated by occasional ‘crime crises’ or periods of hyperactivity.

While at least some of the factors identified by O’Donnell (2005) as contributing to this stagnation remain in place (e.g. strength of organised labour within the prison, police and probation services), given the very significant corpus of critical reports on the Gardaí, Prison Service, and the Department of Justice itself that has accumulated in recent years, it seems as if we are living through a time of unprecedented change for the Irish criminal justice system. As someone who has worked in and researched that system for nearly 20 years now, I feel optimistic: if not about the circumstances that have triggered some of these investigations, then at least about the fact that these cultural traits – in my view so fundamental to the functioning of our criminal justice agencies – are finally being given the acknowledgement they deserve.

One aspect that I think it is useful to focus on in this concluding section is the pressure towards convergence, particularly the pressure flowing from European standards and norms. Recent critical scrutiny of the organisational cultures of our key agencies has perhaps resulted in a new receptiveness to

² [2017] 1 IR 417.

³ [1990] 2 IR 110.

⁴ *People (DPP) v. Gormley; People (DPP) v. White* [2014] IESC 17.

change and to European influences, with many of the reports cited above referencing European standards and norms as a roadmap for the future. I don't want to adopt here what can be described as a Pollyanna approach to the incorporation of human rights standards, and indeed I have written elsewhere (Hamilton, 2017b, 2018) about the highly inconsistent influence of European human rights norms on the penal field.⁵ However, it is at least certain that the standards promulgated by European institutions have provided and will continue to provide claims makers in Ireland with the conceptual resources to capitalise on the opportunities presented by emergent controversies (Hamilton, 2017b). At the more coercive end of the policy transfer spectrum (what lawyers would describe as 'hard law'), this pressure towards convergence is likely only to intensify once Britain leaves the EU, given our position as the only common law jurisdiction among the EU 27 and the potential for more rapid and deeper integration in areas where the UK has hitherto been a barrier to progress (Bond *et al.*, 2016).⁶ The impact may be that norms that are currently local, informal, subjective and relational are increasingly challenged by the turn towards more formality and objectivity.

Writing about the effects of forms of legal, political and indeed economic globalisation on legal cultures, Nelken (2007) has argued that with the publication of league tables etc. these cultures are becoming increasingly 'relational', by which he means the extent to which attitudes and behaviour in one legal culture are influenced by information about what is happening in legal cultures elsewhere. The result is that countries try to come into line, in terms of their imprisonment rates, for example, so as not to be too distant from the norm or average of other countries. Karstedt (2015) has made similar arguments about nation states becoming more relational, but in the narrower sense of being influenced by groups of 'cultural peers', including those from which they have borrowed policies before, which in Ireland's case has historically been Britain.⁷ And yet, as Loader and Sparks (2002: 94) correctly observe, 'It is precisely under globalising conditions that people's sense of place and of differences between here/there, inside/outside, us/them – takes on a renewed force as a structuring feature of social relations and culture.'

⁵ I describe Ireland as 'not quite' the Good European in my paper on the impact of European standards in Irish prisons (Hamilton, 2017b).

⁶ Though we will perhaps be more open to arguments by Germany and other countries on the importance of privacy and other human rights.

⁷ John M. Kelly TD commented in the Dáil in relation to the Criminal Justice (Community Service) Act 1983: 'this is simply one more example in the ignominious parade of legislation masquerading under an Irish title ... which is a British legislative idea taken over here and given a green outfit with silver buttons to make it look native' (Dáil Debates, 3 May 1983; cited in Kilcommins *et al.*, 2004).

Indeed, as the recent rise of global nationalism has taught us, this longing 'for a lost (if mythical) world of secure and settled identities' (Morley, 2000: 152), seems to be at the forefront of contemporary political debate. It is interesting to see some of these tensions playing out in an Irish context in the recent Supreme Court decision in *JC* referenced earlier. O'Donnell J., for the majority in favour of reforming the (protectionist) exclusionary rule, seems keen to identify Ireland as an outlier among common law jurisdictions: 'it seems clear that *Kenny* represents a near absolute exclusion which is the most extreme position adopted in the common law world'. McKechnie J. for the minority, on the other hand, appears unimpressed with the argument that we should follow in the footsteps of other common law jurisdictions, emphasising the distinctly Irish approach to the exclusion of unconstitutionally obtained evidence: 'This is what I have seen: as great as the show may be, it is not for me and I suspect not for a great number of others whose bedfellow is the 1937 Constitution of Ireland.'

On the subject of difference, a recent and important contribution to this debate has been made by Louise Brangan (2019) who, adopting a post-colonial critique, has argued that the 'recovery' of Ireland's penal culture, including revealing its aims and ambitions, may provide us with new, progressive ways to imagine our future. Arguing against the universalist assumption that all societies are knowable in the same terms, and basing her arguments on her research into Irish penal culture in the 1970s, Brangan points to a distinctively Irish approach whose aims are driven by compassion and community cohesion, not criminal correction as in the UK and US. In her view, this form of 'pastoral penality' saw experts in the system acting as shepherds seeking to strengthen prisoners' familial and social bonds and their moral connections to 'the flock', rather than treating their individual transgressions or recovering them from criminality. Notably, such 'pastoral penality' includes a commitment to humanitarianism and the liberal use of discretion, which I discussed earlier.

Similar sentiments have been expressed by Healy and Kennefick (2017) in their research into probation practice in Ireland across the same period (1960s/1970s). These authors also reject the contention that Ireland's 'discovery' of rehabilitation during this period was merely a 'catch up' exercise with England and Wales, arguing instead that it arose from deeply rooted local contextual factors. Their accounts reveal a 'practice philosophy embedded within Catholic social values and characterized by a deep sense of vocation' (Healy and Kennefick, 2017: 14).

To conclude, therefore: given the unprecedented level of scrutiny that has been brought to bear on the key agencies of our criminal justice system in the past five to seven years, and indeed a growing body of research in a post-colonial vein, it may be fair to say that we have become increasingly self-aware as a criminal justice system. I feel that this can only be to the good, for, as Socrates said, 'To know thyself is the beginning of wisdom.' As discussed earlier, we have become more reflexive also as regards our relationship with other states and our positionality among European states in particular. That this will result in convergence, at least in the sense of the elimination of difference, seems to me highly unlikely. Much more probable in my view is a form of cultural hybridity ('glocalisation') formed as a result of complex interaction between the global and local for, as persuasively argued by criminologists such as John Muncie (2011), it is always *local* actors who are responsible for activating and implementing the 'global' 'on the ground', thus bringing the national cultural traits identified at the beginning of this paper back into focus.

Paradoxically, as I have mentioned, one of the effects of these pressures towards convergence may be to force a deeper understanding of Irish criminal justice culture and the 'recovery', as Brangan has argued, of its own assumptions, values and fundamentals. In this, I do not claim to have any easy answers, but as a point of departure we may be well served by the values attributed to Martin Tansey himself: 'patience, humanity, courage, a ... capacity to balance ... rights ... [and] belief that the rehabilitation of offenders was a supremely rational social objective' (ACJRD, n.d.).

References

- ACJRD (n.d.), 'Martin Tansey Memorial Lectures: Remembering Martin', available at <https://www.acjrd.ie/research-2> (accessed 8 August 2019)
- Blankenburg E. (1997), 'Civil litigation rates as indicators for legal culture', in D. Nelken (ed.), *Comparing Legal Cultures*, Aldershot, UK: Dartmouth
- Bond, I., Besch, S. and Gotynska-Jakubowska, A. (2016), *Europe after Brexit: Unleashed or Undone?* London: Centre for European Reform
- Brangan, L. (2019), 'Pastoral penalty in 1970s Ireland: Addressing the pains of imprisonment', *Theoretical Criminology*, available at <https://doi.org/10.1177/1362480619843295> (accessed 8 August 2019)
- Campbell, L. (2008), 'The culture of control in Ireland: Theorising recent developments in criminal justice', *Web Journal of Current Legal Issues*, vol. 1, available at <https://www.bailii.org/uk/other/journals/WebJCLI/2008/issue1/campbell1.html> (accessed 8 August 2019)
- Chan, J. (1997), *Changing Police Culture*, Cambridge: Cambridge University Press

- Conway, V. (2014), 'Reforming an Garda Síochána', Presentation, 20 June, Farmleigh, available at www.justice.ie (accessed 8 August 2019)
- Department of Justice and Equality (2018), *Data and Research Strategy 2018–2020*, Dublin: Department of Justice and Equality
- Duncan, W. (1994), 'Law and the Irish psyche: the conflict between aspiration and experience', *Irish Journal of Psychology*, vol. 15, nos 2 & 3, 448–455
- Fennell, C. (1993), *Crime and Crisis in Ireland: Justice by Illusion?* Cork: Cork University Press
- Fitzgibbon, W., Hamilton, C. and Richardson, M. (2010), 'A risky business: an examination of Irish Probation Officers' attitudes and work practices regarding risk assessment', *Probation Journal*, vol. 57, no. 2, pp. 163–174
- Garland, D. (2001), *The Culture of Control: Crime and Social Order in Contemporary Society*, Oxford: Oxford University Press
- Garland, D. (2013), 'Penality and the penal state', *Criminology*, vol. 51, no. 3, pp. 475–517
- Hamilton, C. (2007), *The Presumption of Innocence and Irish Criminal Law: Whittling the Golden Thread*, Dublin: Irish Academic Press
- Hamilton, C. (2013), 'Punitiveness and political culture: Notes from some small countries', *European Journal of Criminology*, vol. 10, no. 2, pp. 154–167
- Hamilton, C. (2014a), *Reconceptualising Penality: A Comparative Perspective on Punitiveness in Ireland, Scotland and New Zealand*, London: Routledge
- Hamilton, C. (2014b), 'Crime policies of small countries', in M. Tonry (ed.), *Oxford Handbooks Online in Criminology and Criminal Justice*, New York: Oxford University Press
- Hamilton, C. (2017a), 'There's something peculiarly Irish about our approach to policing', RTÉ, 1 December, available at <https://www.rte.ie/eile/brainstorm/2017/1201/924205-theres-something-peculiarly-irish-about-our-approach-to-policing/> (accessed 8 August 2019)
- Hamilton, C. (2017b), 'Europe in Irish prisons: Not quite the "Good European"', in T. Daems and L. Robert (eds), *Europe in Prisons: Assessing the Impact of European Institutions on National Prison Systems*, London: Palgrave
- Hamilton, C. (2018), 'The European Union: Sword or shield? Comparing counterterrorism law in the EU and the USA after 9/11', *Theoretical Criminology*, vol. 22, no. 2, pp. 206–225
- Hamilton, C., Fitzgibbon, W. and Carr, N. (2016), 'Punishment, youth justice and cultural contingency: Towards a balanced approach', *Youth Justice*, vol. 16, no. 3, pp. 226–245
- Healy, D. and Kennefick, L. (2017), 'Hidden voices: Practitioner perspectives on the early histories of probation in Ireland', *Criminology & Criminal Justice*, available at <https://doi.org/10.1177/1748895817746713> (accessed 8 August 2019)
- Hinds, L. (2005), 'Crime control in Western countries, 1970–2000', in J. Pratt et al. (eds), *The New Punitiveness: Trends, Theories, Perspectives*, Cullompton, UK: Willan
- Hourigan, N. (2015), *Rule Breakers: Why Being There Trumps Being Fair in Ireland*, Dublin: Gill and Macmillan

- Houses of the Oireachtas (2013), *Joint Committee on Justice, Defence and Equality Report on Penal Reform*, Dublin: Houses of the Oireachtas
- Houses of the Oireachtas (2018), *Joint Committee on Justice, Defence and Equality Report on Penal Reform and Sentencing*, Dublin: Houses of the Oireachtas
- Irish Penal Reform Trust (2018), *Progress in the Penal System: 2018*, Dublin: Irish Penal Reform Trust
- Karstedt, S. (2015), 'Cultural peers and penal policies: a configurational approach toward mapping penal landscapes', *Punishment and Society*, vol. 17, no. 3, pp. 374–396
- Kilcommins, S. (2016), 'Crime control, the security state and constitutional justice in Ireland: Discounting liberal legalism and deontological principles', *International Journal of Evidence & Proof*, vol. 20, pp. 326–341
- 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
- Liebling, A. (2014), 'The toughest beat: Politics, punishment, and the Prison Officers' Union in California, by Joshua Page. New York, NY: Oxford University Press, 2013: Review', *Contemporary Sociology*, vol. 43, no. 3, pp. 398–400
- Loader, I. and Sparks, R. (2002), 'Contemporary landscapes of crime, order and control', in M. Maguire et al. (eds), *The Oxford Handbook of Criminology*, Oxford: Oxford University Press
- Loftus, B. (2010), 'Police occupational culture: Classic themes, altered times', *Policing and Society*, vol. 20, no. 1, pp. 1–20
- McAra, L. (2005), 'Modelling penal transformation', *Punishment & Society*, vol. 7, no. 3, pp. 277–302
- Mac Cormaic, R. (2016), *The Supreme Court*, Dublin: Penguin Ireland
- Mac Gréil, M. (1996), *Prejudice in Ireland Revisited: Based on a National Survey of Intergroup Attitudes in the Republic of Ireland*, Maynooth: Survey and Research Unit, St Patrick's College
- McMahon, B. and Binchy, W. (1981), 'Foreword', in *Irish Law of Torts*, Abingdon, UK: Professional Books
- Melossi, D. (2001), 'The cultural embeddedness of social control: Reflections on the comparison of Italian and North American cultures concerning punishment', *Theoretical Criminology*, vol. 5, no. 4, pp. 403–424
- Morley, D. (2000), *Home Territories: Media, Mobility and Identity*, London: Routledge
- Mulcahy, A. (2016), 'Trajectories of policing in Ireland: Similarities, differences, convergences', in D. Healy et al. (eds), *Routledge Handbook of Irish Criminology*, London: Routledge
- Muncie, J. (2011), 'On globalisation and exceptionalism', in D. Nelken (ed.), *Comparative Criminal Justice and Globalization*, Farnham, UK: Ashgate
- Nelken, D. (2004), 'Using the concept of legal culture', *Australian Journal of Legal Philosophy*, vol. 29, pp. 1–26
- Nelken, D. (2007), 'Defining and using the concept of legal culture', in E. Örüçü and D. Nelken (eds), *Comparative Law: A Handbook*, Oxford: Hart
- Nelken, D. (2010), *Comparative Criminal Justice*, London: Sage

- O'Donnell, I. (2005), 'Crime and justice in the Republic of Ireland', *European Journal of Criminology*, vol. 2, no. 1, pp. 99–131
- O'Donnell, I. (2008), 'Stagnation and change in Irish penal policy', *Howard Journal of Criminal Justice*, vol. 47, no. 2, pp. 121–133
- O'Donnell, I. and Jewkes, Y. (2011), 'Going home for Christmas: Prisoners, a taste of freedom and the press', *Howard Journal of Criminal Justice*, vol. 50, no. 1, pp. 75–91
- O'Donnell, I. and O'Sullivan, E. (2001), *Crime Control in Ireland: The Politics of Intolerance*, Cork: Cork University Press
- Office of the Inspector of Prisons (2015), *Culture and Organisation in the Irish Prison Service: A Road Map for the Future*, Dublin: Office of the Inspector of Prisons
- O'Mahony, P. (1996), *Criminal Chaos: Seven Crises in Irish Criminal Justice*, Dublin: Round Hall Sweet & Maxwell
- O'Riordan, J. (2015), *Organisational Culture and the Public Service*, Research Paper No. 16, Dublin: Institute of Public Administration
- Parsons, S. (2016), 'Crime trends' in D. Healy et al. (eds), *Routledge Handbook of Irish Criminology*, London: Routledge
- Penal Policy Review Group (2015–2018), *First to Sixth Reports*, Dublin: Department of Justice and Equality
- Pratt, J. and Clark, M. (2005), 'Penal populism in New Zealand'. *Punishment & Society*, vol. 7, no. 3, pp. 303–322
- PWC (2018), *Play Your Part: Cultural Audit of An Garda Síochána*, Dublin: PWC
- Reiner, R. (2010), *The Politics of the Police* (4th ed.), Oxford: Oxford University Press
- Reiner, R. (2017), 'Opinion: Is police culture cultural?', *Policing*, vol. 11, no. 3, pp. 236–241
- Rogan, M. (2011), *Prison Policy in Ireland: Politics, Penal-Welfarism and Political Imprisonment*, London: Routledge
- Rogan, M. (2016), 'The policymaking process and penal change', in D. Healy et al. (eds), *Routledge Handbook of Irish Criminology*, London: Routledge
- Sklansky, D.A. (2007), 'Seeing blue: Police reform, occupational culture, and cognitive burn-in', in M. Marks et al. (eds), *Police Occupational Culture: New Debates and Directions*, New York: Elsevier
- Smulovitz, C. (2010), 'Judicialization in Argentina: Legal culture or opportunities and support structures', in J. Couso et al. (eds.), *Cultures of Legality: Judicialization and Political Activism in Latin America*, Cambridge: Cambridge University Press
- Thornton Hall Project Review Group (2011), *Report of the Thornton Hall Project Review Group*, Dublin: Department of Justice and Equality
- Tierney, J. (2013), 'Prison population can shrink when police crowd streets', *New York Times*, 26 January
- Toland, K. (2014), *Report of the Independent Review Group on the Department of Justice and Equality*, Dublin: Department of Justice and Equality
- Vaughan, B. and Kilcommins, S. (2008), *Terrorism, Rights and the Rule of Law: Negotiating Justice in Ireland*, Cullompton, UK: Willan
- Zedner, L. (2005), *Criminal Justice*, Oxford: Clarendon Press

‘More than Just a Number’: Meeting the Needs of Those with Mental Illness, Learning Difficulties and Speech and Language Difficulties in the Criminal Justice System

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Summary: In the criminal justice system in Northern Ireland, as elsewhere, there are recurrent concerns about the impact of mental illness, learning difficulties, and speech and language difficulties on individuals subject to probation and within custodial environments. This commissioned study, the first of its kind in Northern Ireland, examined the salience of these issues through an in-depth qualitative approach with 20 adult male respondents with experience of these issues in the criminal justice system. The findings highlighted the dangers of objectification and the respondents’ need to be treated as ‘more than just a number’ through the adoption of a person-centred perspective that recognised their inherent worth. Axel Honneth’s (1995) recognition theory was used to analyse this central recurring theme and to articulate a tentative conceptual framework to guide professionals working with vulnerable individuals in this field.

Keywords: Mental illness, learning difficulties, speech and language difficulties, criminal justice system, Northern Ireland.

Introduction

Individuals with mental illness, learning difficulties and speech and language difficulties are overrepresented in the criminal justice system (Quinn *et al.*, 2005; Zhang *et al.*, 2011; Barnett *et al.*, 2014; Mallet, 2014; Prison Reform Trust, 2017). These types of vulnerabilities are so common that they have been identified as potential risk factors for criminality and criminal justice involvement (Farrington, 2002; Farrington *et al.*, 2006; Barnett *et al.*, 2014; Mallet 2014). Individuals experiencing these issues can find it difficult to cope

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in the criminal justice system (Talbot, 2008; Mallet, 2014; Prison Reform Trust, 2017). Typically, they can experience problems with comprehension, communication and expression (Loucks, 2007; Talbot, 2008; Prison Reform Trust, 2017). Such experiences can contribute to episodes of self-harm, depression, victimisation, anger, prison misconduct and reoffending (Loucks, 2007; Talbot, 2008; Barnett *et al.*, 2014; HM Chief Inspector of Prisons 2017; Mallet, 2014; Prisons and Probation Ombudsman, 2016). Yet, despite the prevalence of these issues among the criminal justice population, there is a concern that not enough is being done to adequately address their needs and reduce their reoffending (Loucks, 2007; Talbot, 2008; Criminal Justice Joint Inspection, 2014, 2015; Prison Reform Trust, 2017).

This article seeks to enhance our understanding of the needs of individuals with mental illness, learning difficulties and speech and language difficulties in the criminal justice system. There are clear differences between those experiencing mental illness, learning difficulties and speech and language difficulties, and further research could examine each of these areas individually. However, this study looked at all three areas.

Drawing on the experiences of 20 adult men with these needs in the Northern Ireland criminal justice system, this article will outline what the men regard as the main strengths and weaknesses of existing criminal justice practices, the accessibility and helpfulness of available support services, and what changes they would implement to better meet their needs. The article begins by describing the challenges these groups can encounter in their interactions with the criminal justice system, before moving on to describe the aims of this research and its research method. Next, the findings are presented. Based on the findings, it is argued that Axel Honneth's (1995) recognition theory of optional identify-formation provides a useful framework within which to guide criminal justice professionals in their interactions with individuals with these particular needs. It is proposed that adopting this model will encourage criminal justice professionals to display the behaviours identified by these individuals as examples of best practice more consistently, while also addressing some of the shortcomings identified and changes recommended.

Experiences in the criminal justice system

It can often be difficult to obtain reliable statistics on the prevalence of mental illness, learning difficulties and speech and language difficulties in the

criminal justice system, as frequently such information is not routinely collected, individuals may not be diagnosed or individuals may be reluctant to disclose this information (Loucks, 2007; Browning and Caulfield, 2011; National Audit Office, 2017). Available statistics for the Northern Ireland Prison Service indicate that approximately 27% of those in prison have a mental illness and roughly 7% have speech and language difficulties (Northern Ireland Assembly, 2016; Butler *et al.*, 2019). Less is known about the prevalence of learning difficulties, but 21% of imprisoned young people in Northern Ireland have reported a learning difficulty, while statistics in England suggest that 7% of people in contact with the criminal justice system and 29% of the prison population have a learning difficulty (Criminal Justice Inspection Northern Ireland (CJINI), 2014; NHS England, 2016; Skills Funding Agency, 2017; Prison Reform Trust, 2017). Similarly, it is unclear how many individuals with mental illness, learning difficulties and speech and language difficulties are in contact with the Irish criminal justice system, but some provisional statistics indicate that between 16% and 27% of imprisoned males and between 41% and 60% of imprisoned women have a mental illness, depending on whether these individuals are on remand or sentenced (Kennedy *et al.*, 2005). A study by Murphy and colleagues (2000) found that roughly 29% of those in Irish prisons may have a learning disability. While patchy, these statistics nonetheless indicate that a number of people in contact with the criminal justice system in Ireland and Northern Ireland experience mental illness, learning difficulties and speech and language difficulties.

Studies indicate that these individuals have a range of needs that criminal justice systems can struggle to meet (Loucks, 2007; Talbot, 2008; McNamee and Staunton, 2017; Prison Reform Trust, 2017; Helverschou *et al.*, 2018). Often, mental health services available to individuals with mental illness within the criminal justice system are not sufficient to meet their needs, contributing to these individuals demonstrating a greater risk of self-harm, depression, victimisation, anger and reoffending (Prison Reform Trust, 2017; National Audit Office, 2017). Individuals with mental illness are twice as likely to violate their probation or parole and are at an increased risk of being rearrested and re-imprisoned (Prins and Draper, 2009; Kesten *et al.*, 2012; Barnett *et al.*, 2014). Individuals with a learning or speech and language difficulty can also struggle to comprehend, communicate and express themselves to criminal justice professionals and in criminal justice processes and procedures (Loucks, 2007; Prison Reform Trust, 2017; Helverschou *et al.*, 2018). Learning difficulties can negatively impact on an individual's ability to understand and engage with

police interviews, court processes and rehabilitation programmes, placing them at a disadvantage in their dealings with criminal justice professionals and institutions (Gudjonsson and Joyce, 2011; Criminal Justice Joint Inspection, 2014, 2015). They are also more likely to continue to engage in rule-breaking behaviour in prison, resulting in greater exposure to the use of segregation and control and restraint techniques (Talbot, 2008; Prison Reform Trust, 2017). Moreover, speech and language difficulties can hamper a person's ability to process language and express their thoughts, ideas and experiences (Bryan and Mackenzie, 2008; Snow and Powell, 2005). Snow and Powell (2008) argue that unidentified speech and language difficulties can lead criminal justice professionals to mistakenly view monosyllabic responses, shoulder shrugging and poor eye contact as a lack of cooperation. Bryan (2004) has also suggested that the frustration these individuals experience in attempting to express themselves and ensure they are understood in criminal justice processes can lead to displays of anger and aggression.

Moreover, experiencing mental illness, learning difficulties and speech and language difficulties can limit the rehabilitative opportunities available to individuals, as often the selection criteria for these programmes exclude individuals with these particular needs or there may be insufficient places available on programmes designed specifically for their needs (Bryan and Mackenzie, 2008; Criminal Justice Joint Inspection, 2014, 2015; Prison Reform Trust, 2017). In order to be effective, rehabilitative programmes need to match individuals to programmes based on their risks, needs and responsivity (Andrews *et al.*, 2011; Bonta and Andrews, 2007). There has been a concern that a lack of appropriate and/or sufficient rehabilitation programmes, services and supports for individuals with these needs has limited their exposure to effective rehabilitation programmes and represents a missed opportunity for reducing future involvement in crime and the criminal justice system (Criminal Justice Joint Inspection, 2014, 2015; Prison Reform Trust, 2017). Yet, while studies have highlighted a number of weaknesses in existing service provision, less is known about what aspects of existing provision are considered to be examples of best practice by individuals with these needs or what changes they would make in order to improve the ability of the criminal justice system to meet their needs.

In this article, the experiences of those with mental illness, learning difficulties and speech and language difficulties are investigated to identify what those who experience these issues consider to be examples of best practice and what changes they would wish to see implemented. Based on

the findings, a theoretical framework for sensitising criminal justice professionals to the needs of individuals with mental illness, learning difficulties and speech and language difficulties is offered. In this way, this paper seeks to increase our understanding of what behaviours are viewed as examples of best practice and why, as well as offering suggestions for changes that could be made to help ensure that the needs of these individuals are addressed.

Method

The study was commissioned by the Department of Justice in Northern Ireland, a government department established in 2010 within the Northern Ireland Executive. The Department seeks to promote a safe community through innovative and imaginative problem-solving initiatives tackling crime reduction and rehabilitation within community and custodial settings. Officials within the Department commissioned the study to ascertain how a selected cohort of offenders, with identified needs, experienced the criminal justice system in Northern Ireland and what improvements they wished to be made. It is acknowledged that the areas of mental health, learning difficulties and speech and language difficulties are three very distinct areas; however, for the purposes of this commissioned research the Department wished the research to encompass all three. It was particularly keen to determine the positive and negative experiences of participants and desired changes. In this study no distinction is made between those on probation and supervised in the community and those in custody, and it may be worthwhile to pursue individual studies in the future.

This research employed an in-depth qualitative approach, combining focus groups and semi-structured interviews. Whether a focus group or an interview was used depended on the needs, capabilities and preferences of the particular participant, and the advice of expert criminal justice professionals.

Twenty adult males with experience of the Northern Ireland criminal justice system took part. While the sample size was small, the focus was idiographic, allowing an in-depth exploration of the participants' experiences and beliefs about how the criminal justice system should respond to the challenges posed by mental illness, learning difficulties and speech and language difficulties. A purposive sampling strategy was chosen because of the need to target participants who were the most able to engage meaningfully with the research questions and could give their informed consent to voluntarily participate in the research. A small panel of Department-

appointed gatekeepers (including representatives of the civil service and relevant senior clinicians) identified the sample based on this overarching premise. To be eligible to participate, individuals had to be over 18, have the capacity to give informed consent, not be experiencing an acute episode of ill-health, speak English, and be able to understand, communicate and cope in an interview or focus group setting.

The final sample consisted of 10 individuals with mental illness, five with learning difficulties and five with speech and language difficulties. The attribution of these conditions was formally adduced through medical, para-medical and psychological clinicians in the prisons and community. For example, mental illness was diagnosed through the *Diagnostic and Statistical Manual of Mental Disorders* (DSM 5; American Psychiatric Association, 2013). Learning disability was recognised through medical or psychological testing aimed at determining an individual's intellectual capacity to comprehend new or complex information or learn new skills aimed at coping independently. Speech and language therapists categorised communication difficulties in terms of receptive or expressive challenges caused by primary impairments such as stammering or for secondary reasons relating to other disorders (such as learning disability). All of the participants had experience of key aspects of the criminal justice system, including imprisonment, remand and probation.

The participants were recruited through the Probation Board for Northern Ireland and Northern Ireland Prison Service psychology departments. Due to the nature of their work, these staff were well placed to identify potential participants and acted as gatekeepers for the research. The assistance of a speech and language specialist was sought to review the information sheet, consent form and interview schedule to ensure that this material was accessible to participants. This professional also spoke with the five participants with speech and language difficulties (before they were approached by the researchers), to assess the level of their difficulties, and advise the researchers on appropriate communicational strategies. Once a potential participant was identified, the nature of the study was explained and they were given a study information sheet. Each participant was made aware that participation was voluntary and that a refusal to take part would not affect their rights or dealings with any of the criminal justice agencies.

If they agreed to take part, participants were given the opportunity to decide if they would prefer to take part in an interview or a focus group. Eleven participants took part in focus groups, ranging from two to four participants. The interviews varied in length between 15 and 42 minutes, with

an average length of approximately 28 minutes. Focus groups ranged in length from 25 minutes to almost one hour, with an average length of roughly 36 minutes. Interviews and focus groups were held within prison or probation offices and were digitally recorded with the participants' permission. Consent was viewed as an active, continuing process rather than a one-off event.

Based on their understandings of the criminal justice system, participants were asked about: (i) positive experiences and areas of good practice; (ii) negative experiences and areas for improvement; (iii) the accessibility and helpfulness of information about current services and supports; and (iv) what changes they would like to see implemented to improve the experience of the criminal justice system for those with similar needs to themselves. Participants were encouraged to 'tell their stories' so that important contextual information was generated. This orientation was premised on the notion that we live in a storied world and that we interpret the actions of ourselves and others through the stories we exchange. The recordings of the interviews and focus groups were then transcribed and analysed thematically. This procedure involved a number of steps including data familiarisation, initial coding generation, searching for themes, attaching definitions and labels to themes, and presenting a report. Ethical approval was obtained from Queen's University Belfast, Northern Ireland Prison Service and the Probation Board for Northern Ireland.

Results

Because the participants' perspectives were strikingly similar across each of the three sub-groups, the findings are presented under the categories of good practice, poor practice, accessibility of information regarding current service provision, and desired changes.

Positive experiences and examples of best practice

The participants greatly appreciated a person-centred response from professionals. Incidents where participants felt that their voices were heard and considered – where staff appreciated the challenges they faced, and saw beyond their 'offender' label – were highlighted as examples of best practice. The adoption of a person-centred ethos helped to generate a more positive experience of the criminal justice system among participants and reinforced a belief that criminal justice staff were committed to rehabilitation. More specifically, participants valued staff who demonstrated important relational

qualities, such as being approachable, showing sensitivity to their needs, providing practical support, and seeing beyond their criminal label. The telling statement 'I'm more than just a number' was repeated with a notable frequency:

Did you ever see that film *I'm Not a Number, I'm a Person*? It's like that there.

Participants put emphasis on the significance of interpersonal interactions and the extent to which others took notice of, and acted on, requests for support. Those who behaved in a professional, polite manner, listened to what the individual had to say, recognised when they were struggling and took action to assist them were held up as examples of best practice and role-models. Participants recounted examples of best practice and these role-models from across the criminal justice agencies in Northern Ireland:

I want ... people obviously to try to understand me. Try to, if they have never experienced it, it doesn't really matter, they can still sort of try to understand what I am saying and ... just really try to understand it. They are not just trying to say, yes, yes, yes and blah, blah, blah. Just trying to tell you what you want to hear.

The demonstration of empathic, relational skills showed the professional's willingness to understand the participant's state of mind and helped to ameliorate their fears and anxieties. For instance, when reflecting on his experiences in prison, one of the participants was very grateful that his need for space and privacy was recognised and met by prison staff:

They had never doubled me up [i.e. put in a shared cell] and in view of my mental health problems, because ... I would be very uncomfortable with that.

The notion of 'looking out for you', empathising with fears and anxieties, emphasising personhood, and the importance of validating subjective experience were underscored across the sample as examples of best practice that criminal justice staff should embody. Such acts signalled care for the participants, and their interactions and relationships with criminal justice professionals were viewed as vital in helping them to cope with their difficulties:

If I have a good strong relationship in the beginning then I can understand more things that the people are saying to me, than I do if I don't have a good relationship with them [staff] ... if I don't have that, then I don't have anything.

A second theme to emerge indicated how the participants valued the humanitarian and progressive aspects of criminal justice institutions and processes, including available rehabilitative services and supports. Participants with mental illness appreciated a focus on enabling reform and rehabilitation rather than solely on punishment. The former stance enabled self-reflection and, in doing so, helped further personal maturation, the development of coping skills and resilience, and psychological growth. Through engaging in structured activities, participants stated that they had an opportunity to gain recognised achievements, leading to increases in self-esteem and confidence. These findings reflect the value of adopting a strengths-based approach when working with individuals with these needs:

I have learned a lot in institutions ... education wise as well ... I became a lot smarter through education ... You pick up a lot, you start to experience life more. That's the good side to it ... A lot of bad stuff has happened to me, but I am standing here now, I am standing with my head held high at the moment [due to achievements while in prison].

Those with learning, speech and language difficulties also underlined the importance of structure, routine and purposeful engagement in helping them to feel safe and cope with their situation. Such activities kept them pre-occupied so that they did not have time to dwell on their worries, fears, anxieties or frustrations. In this way, activities such as education, training, employment or exercise were seen as beneficial not just because they led to qualifications, but also because they provided a distraction from fears, worries, anxieties and frustrations:

When I went into prison I got an orderly job ... so I did, straight away. ... [It was helpful] because it got my head going and it kept me doing things.

Examples of poor practice and areas for improvement

Examples of poor practice identified by the participants involved a lack of empathy and a tendency to objectify the participant by adopting a demeanour

of official distance and/or retreating into proceduralism. As before, examples of poor practice were given from across the various criminal justice agencies in Northern Ireland:

never lifted her head once to have eye contact. She kept her head down and she kept writing whatever it was she was writing ... I was expressing myself and I wasn't getting any feedback.

The word 'insensitive' was used on a number of occasions to describe the impact of such practices. Insensitive responses that negated inner emotions – a person's sense of vulnerability – were frequently highlighted by participants as examples of poor practice. Often, they were compounded by a failure to listen and a tendency to favour adopting procedural responses over the formation of meaningful relationships.

The sense of being not listened to, and being disrespected, prejudged, belittled and not helped, was recalled as a particular negative experience. This could lead to feelings of frustration when participants did not fully understand events, or found it difficult to express themselves. Participants also felt that their difficulties contributed to others viewing them as 'easy targets', potentially leading to victimisation by their peers. How criminal justice professionals responded during these incidents was particularly important and could escalate negative emotions and behaviours:

If you feel like you are down a bit that day or something, if you say something to a prison officer ... they more or less lock you down. You know, they take everything off you, they take everything away from you, you know. Your TV or anything ... For instance, 'I feel like putting a rope up in here' ... They look at that 'Oh you are a danger now, we have to put you in a safer cell' ... That there really, really affects me, you know. It makes it worse.

At times, it seemed that the participants and staff could struggle to escape from negative spirals of communication and interaction with each other. Participants recounted stories of lashing out at themselves and others as they struggled to cope with their emotions and restricted ability to understand and express themselves, while staff were described as adopting a more distant and procedural response, increasing participants' sense of frustration and anger:

It makes you want to go fucking ballistic ... I said 'Right, enough is enough. I am going to fucking hang myself.' Just a figure of speech ... and the Senior Officer goes 'Right, you are on observations again' ... And I says ... 'If you are going to do that, I am going to fucking hit you'. ... A negative cycle.

Another theme to emerge was that particular places and events could induce feelings of fear or lower mood or precipitate self-harm. In particular, participants described places with poor staff visibility, a lack of amenities or when people were being moved to a new cell as exacerbating mental illness and adding to fears and anxieties about unknown others, bullying and victimisation. They explained that such feelings could hinder their ability to cope and engage in rehabilitative programmes:

I was on the computer typing up stuff, and two guys were just saying stuff to me and I was really shaking ... there was nothing I could do. I couldn't say something to the person who ran [the rehabilitative programme] at the time.

A final theme to emerge was delays experienced in the criminal justice system. Often this was put down to problems with inter-agency communication and information sharing. It was felt that opportunities for desistance and to lessen future involvement in the criminal justice system were being missed as a result of these delays. For example, one concern related to delays experienced in obtaining approval for requests to change their address, which could lead to opportunities to obtain suitable accommodation being lost. For others, delays in accessing health care in the community undermined progress made during rehabilitative programmes in prison and hindered efforts to reduce reoffending.

The accessibility and helpfulness of information about current service provision

When criminal justice professionals took time to adopt a person-centred approach, and ensured that individuals understood what was happening to them, levels of satisfaction with current service provision rose. However, the extent to which professionals engaged in this practice across the criminal justice agencies was patchy. Even though examples of positive, accessible communication were evident, communicational breakdowns and confusion also occurred. Some argued that the criminal justice system tended to

respond more positively and personally at the start of the process (when dealing with individuals as suspects), by providing requisite facts and details, but then became more distant and bureaucratic during court proceedings and imprisonment.

The work of Appropriate Adults and Registered Intermediaries was viewed as especially beneficial by those with communication and learning difficulties. Appropriate Adults support vulnerable people during police interviews, when no parent, partner, carer or key worker is available (Department of Justice Northern Ireland, 2016). Registered Intermediaries assist people with significant communication difficulties during the investigative stage of the criminal justice system by assessing communication ability and needs, providing reports to investigating police officers and the court and attending the interview and trial to facilitate communication and comprehension (Department of Justice Northern Ireland, 2016). Participants felt that Appropriate Adults and Registered Intermediaries were there to help them understand the process, make it accessible and transparent and ensure that they were not placed at a disadvantage due to their particular needs. Likewise, some of the legal profession were described as being very good at explaining information.

Nevertheless, there were some caveats. Participants' experiences of the legal profession varied substantially and were influenced by whether they received legal aid. Those who were not in receipt of this resource were unable to seek legal advice as and when required, due to the associated financial costs, prompting them to instead attempt to navigate their own way through the criminal justice system. Moreover, the Appropriate Adult and Registered Intermediaries schemes had limited availability and tended not to operate in prisons. Participants stated that this sometimes led them to plead guilty to prison misconduct charges as they felt that they did not properly understand the process or it was not worth the cost of consulting with their legal representative:

I have to pay him [solicitor] ... about two or three hundred pound [for legal advice] ... for just a stupid cell being wrecked like. And I didn't understand it [adjudication process] ... I sat down with a Governor and ... I just took the blame for it.

The tendency to assume that individuals understood criminal justice jargon and the details of licensing requirements was a repeated theme across

the sample. Such experiences left individuals feeling anxious, frustrated and embarrassed:

They tell you what it is, but they don't tell you how to do it.

While information booklets were available, participants often viewed them as an insufficient resource if verbal clarification was not also offered:

No one helps you know the system. People in here do not explain. You get a booklet when you come in. That's all.

This lack of information and confusion could contribute to reoffending, as demonstrated by one participant who had been rearrested for failing to comply with the conditions of his licence:

If I knew what I had to do, then I wouldn't go straight back in [to prison] ... I had an order to do, but I didn't know what I was doing, how to do it.

Proposed changes to the criminal justice system

The participants unanimously endorsed the need for a person-centred approach within the criminal justice system. Person-centredness was synonymous with simple acts of courtesy, feeling listened to, and recognition of how personal difficulties may impact on one's understanding, engagement, mood and behaviour. Participants also emphasised the importance of seeing beyond the criminal label to the person beneath:

If I was to change anything in the justice system it would be ... the way you are treated.

Participants wanted to have their voices heard. While it was acknowledged that there were mechanisms in place for this to happen, they often reported feeling not heard. They also explained that existing systems tended to assume a certain level of comprehension and literacy which should not be taken for granted among those with learning, speech and language difficulties.

This call for person-centredness fed into the participants' second main recommendation. Simply put, professionals were asked to take more time to ensure that individuals properly understood criminal justice jargon, processes and requirements in order to avoid confusion, frustration and reoffending.

Participants felt that individuals should be informed of their rights in an accessible format, reducing reliance on the legal profession, and ensuring that they did not risk being disadvantaged in their dealings with the criminal justice system. They contended that schemes such as the Appropriate Adult and Registered Intermediaries should be expanded and extended into the later stages of the criminal justice system, including prison. They felt that such developments would help those with mental illness, learning, speech and language difficulties to better cope with, understand and participate in criminal justice processes.

Finally, it was recommended that more emphasis be placed on the provision of rehabilitative services, inter-agency co-ordination and co-operation, and the resourcing of existing services. Participants felt that greater availability of rehabilitative opportunities designed to meet their particular needs would be beneficial. In addition, it was felt that there needed to be greater co-operation and co-ordination between government departments and criminal justice agencies if their needs were to be met in a way that improved their responsiveness to rehabilitative programmes, encouraged desistance and reduced reoffending:

I actually think that the ... systems should be joined up. I think that the police service should be talking to probation; probation should be talking to the courts. And then the courts, they hand you over to the prison service.

Discussion and conclusion

Within the participants' accounts, there was a prevailing sense of wanting to be treated as 'more than just a number' and when criminal justice professionals had engaged with the participants in this manner, it was highly valued. The consistent adoption of a more person-centred approach by all criminal justice professionals was the cornerstone of what participants wanted to see changed in the criminal justice system. Adopting this approach was believed to facilitate the ability of those with mental illness, learning, speech and language difficulties to comprehend, communicate and express themselves, as well as promoting the construction of identities that encourage inner congruence, self-worth and desistance from crime.

Based on these findings, it is proposed that Axel Honneth's (1995) recognition theory of optimal identity formation can offer a useful framework to guide the work of criminal justice professionals and institutions in their

interactions with individuals with these particular needs. According to Honneth (1995), recognition involves acknowledging that an individual is worthy of respect and requires positive feedback from others in order to develop a healthy sense of identity. Often, what is meant by the term 'respect' can be confusing for criminal justice professionals, as there are two different types of respect: one that is earned or bestowed due to a person's position/actions and one that is more basic and involves polite, considerate treatment of others (Butler and Drake, 2007). While both can occur in the criminal justice system, it is argued that the second is more consistently achievable in interpersonal relationships within the criminal justice system (Butler and Drake, 2007). Using Honneth's (1995) theory, criminal justice professionals should be encouraged to adopt the following four principles in their interactions with individuals with mental illness, learning, speech and language difficulties:

- (i) *personalisation* – responding to the individual as a person with a unique psychological history, needs and emotions
- (ii) *recognition* – responding to the person with a basic level of respect, recognising their strengths and providing care and positive feedback to encourage the development of a healthy identity
- (iii) *relationships* – developing meaningful relationships that will assist comprehension, communication and expression, as well as promoting desistance and reduced reoffending
- (iv) *optimising positive identity formation* – separating behaviour from personhood to facilitate the development of identities whereby individuals can still feel valued and worthwhile, despite past behaviours.

The adoption of this theory is compatible with the existing literature on desistance, as these studies have demonstrated the importance of positive self-identities and developing meaningful relationships between criminal justice professionals and those in the criminal justice system as being key to facilitating desistance (e.g. Maruna, 2001; McNeill, 2006; Barry, 2007). Similarly, the use of a strengths-based approach in the criminal justice setting has been argued to encourage the development of positive self-identities and avoid an emphasis on deficits (e.g. Maruna and LeBel, 2003; Ward and Maruna, 2007). Consequently, using this theory to guide criminal justice interactions should also help to facilitate desistance. However, a failure to adopt the four principles outlined above may undermine the development of a positive self-identity and lead to the use of self-protective strategies,

whereby people's ability to respond to programmes, interventions and criminal justice professionals is lessened because they are focused on using defensive measures to protect themselves and their identity in an environment that they do not understand, struggle to cope with, or fear.

A number of limitations must be borne in mind when interpreting the findings. In particular, the small sample size and selection criteria limited the generalisability of the findings. Moreover, purposive sampling by the gatekeepers, regardless of its form, can contain bias affecting the results and conclusions drawn. That said, the gatekeepers were reflexively aware of the dangers of confirmation bias. The governing aim was to identify a heterogeneous sample with the apposite experience to address the study's formative questions. Hence, selection was based on a knowledge of the subject's attributes rather than their perceived compliance. In addition, a more in-depth longitudinal study would have been useful for gaining a more detailed understanding of the temporal ordering of events and the direction of their impact and developing the researcher-participant relationship. Future research should seek to incorporate the views of criminal justice staff to provide a more comprehensive analysis. Despite these weaknesses, this study addresses a gap in our understanding by highlighting the behaviours deemed to be best practice by those with mental illness and learning, speech and language difficulties, and offering a theoretical framework that can be used to guide criminal justice interactions with these individuals, which is also compatible with desistance research.

Within the criminal justice organisations in Northern Ireland, there is growing recognition of the importance of adopting a more person-centred approach, as evidenced through initiatives such as the Prisoner Development Model and the adoption of problem-solving justice.

The implementation of the Prisoner Development Model ensures that a Prisoner Needs Profile is completed on all sentenced prisoners within 30 days. This aligns with the Resettlement Pathways and is used to establish the individual's Personal Development Plan (PDP). The PDP focuses on the development work required during the individual's time in custody and is undertaken by staff in the Prisoner Development Units – prison officers and Probation Officers as well as psychologists – and by a wide range of partners in the voluntary and community sector.

Likewise, the development of a problem-solving approach to justice seeks to look at the individual causes linked to a person's offending. The problem-solving approach to justice led by the Department of Justice and delivered by

Probation and other criminal justice agencies is firmly embedded in the Northern Ireland Executive's draft Programme for Government (2018). This programme aims to maximise interagency co-operation and communication and address the needs of individuals (Northern Ireland Executive, 2016).

These developments are to be welcomed and encouraged. They reflect an increasing movement towards recognising the importance of treating people more humanely across the criminal justice system, challenging binary notions of 'victims' and 'offenders', encouraging a more holistic and strengths-based approach to rehabilitation and engagement, and recognising basic human needs for communication and positive interaction (e.g. Burke *et al.*, 2018; Craissati, 2019; McAlinden, 2018). In criminal justice systems, system reform must start at the axiological level: eliciting the first principles of values, norms and axioms on which technocratic changes emerge.

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References

- American Psychiatric Association (2013), *Diagnostic and Statistical Manual of Mental Disorders* (5th ed.), Washington, DC: American Psychiatric Association
- Andrews, D.A., Bonta, J. and Wormith, J.S. (2011), 'The risk–need–responsivity (RNR) model: Does adding the good lives model contribute to effective crime prevention?', *Criminal Justice and Behavior*, vol. 38, no. 7, pp. 735–755
- Barnett, D.E., Katsiyannis, A., Zhang, D. and Zhang, D. (2014), 'Delinquency and recidivism: a multicohort, matched-control study of the role of early adverse experiences, mental health problems, and disabilities', *Journal of Emotional and Behavioral Disorders*, vol. 22, no. 1, pp. 3–15
- Barry, M. (2007), 'Listening and learning: the reciprocal relationship between worker and client', *Probation Journal*, vol. 54, no. 4, pp. 407–422
- Bonta, J. and Andrews, D.A. (2007), *Risk–Need–Responsivity Model for Offender Assessment and Treatment* (User Report no. 2007-06), Ottawa: Public Safety Canada
- Browning, A. and Caulfield, L. (2011) 'The prevalence and treatment of people with Asperger's syndrome in the criminal justice system', *Criminology and Criminal Justice*, vol. 11, no. 2, pp. 165–180
- Bryan, K. (2004), 'Preliminary study of the prevalence of speech and language difficulties in young offenders', *International Journal of Language and Communication Disorders*, vol. 39, no. 3, pp. 391–400

- Bryan, K. and Mackenzie, J. (2008), *Meeting the Speech, Language and Communication Needs of Vulnerable Young Children*, London: Royal College of Speech and Language Therapists
- Burke, L., Collett, S. and McNeill, F. (2018), *Reimagining Rehabilitation: Beyond the Individual*, London: Routledge
- Butler, M. and Drake, D. (2007), 'Reconsidering respect: its role in Her Majesty's Prison Service', *Howard Journal*, vol. 46, no. 2, pp. 115–127
- Butler, M., Kelly, D. and McNamee, C. (2019), *Explaining Disparities in Prisoner Outcomes*, Belfast: Queen's University Belfast
- CJINI (2014), *The Safety of Prisoners Held by the Northern Ireland Prison Service*, Belfast: CJINI
- CJINI (2018), *Resettlement: An Inspection of Resettlement in the Northern Ireland Prison Service*, Belfast: CJINI
- Craissati, J. (2019), *The Rehabilitation of Sexual Offenders: Complexity, Risk and Desistance*, Abingdon, UK: Routledge
- Criminal Justice Joint Inspection (2014), *A Joint Inspection of the Treatment of Offenders with Learning Disabilities within the Criminal Justice System – Phase 1 from Arrest to Sentence*, Manchester: HM Inspectorate of Probation
- Criminal Justice Joint Inspection (2015), *A Joint Inspection of the Treatment of Offenders with Learning Disabilities within the Criminal Justice System – Phase Two in Custody and the Community*, Manchester: HM Inspectorate of Probation
- Department of Justice Northern Ireland (2016), *Mental Health and Wellbeing and Personality Disorders: A Guide for Criminal Justice Professionals*, Belfast: Department of Justice Northern Ireland
- Farrington, D. (2002), 'Developmental criminology and risk-focused prevention', in M. Maguire, R. Morgan and R. Reiner (eds), *The Oxford Handbook of Criminology* (pp. 657–201), Oxford: Oxford University Press
- Farrington, D. Coid, J., Harnett, L., Jolliffe, D., Soteriou, N, Turner, R. and West, D. (2006), *Criminal Careers up to Age 50 and Life Success up to Age 48: New Findings in the Cambridge Delinquent Study*, London: Home Office Research, Development and Statistics Directorate
- Gudjonsson, G. and Joyce, T. (2011), 'Interviewing adults with intellectual disabilities', *Advances in Mental Health and Intellectual Disabilities*, vol. 5, no. 2, pp. 16–21
- Helverschou, S.B., Steindal, K., Nøttestad, J.A. and Howlin, P. (2018), 'Personal experiences of the criminal justice system by individuals with autism spectrum disorders', *Autism*, vol. 22, no. 4, pp. 460–468
- HM Chief Inspector of Prisons (2017), *Annual Report 2016–17*, London: The Stationery Office
- Honneth, A. (1995), *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, Cambridge: Polity Press
- Kennedy, H.G., Monks, S., Curtin, K., Wright, B., Linehan, S., Duffy, D., Teljeur, C. and Kelly, A. (2005), *Mental Illness in Irish Prisoners: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners*, Dublin: National Forensic Mental Health Service

- Kesten, K.L., Leavitt-Smith, E., Rau, D.R., Shelton, D., Zhang, W., Wagner, J. and Trestman, R.L. (2012), 'Recidivism rates among mentally ill inmates: Impact of the Connecticut Offender Reentry Program', *Journal of Correctional Health Care*, vol. 18, pp. 20–28
- Loucks, N. (2007), *The Prevalence and Associated Needs of Offenders with Learning Difficulties and Learning Disabilities*, London: Prison Reform Trust
- McAlinden, A. (2018), *Children as 'Risk': Sexual Exploitation and Abuse by Children and Young People*, Oxford: Oxford University Press
- McNamee, G. and Staunton, C.T. (2017), 'Supports for offenders with learning disabilities in the Irish judicial system: a critical review', *Irish Journal of Applied Social Studies*, vol. 17, no. 1, pp. 94–105
- McNeill, F. (2006), 'A desistance paradigm for offender management', *Criminology and Criminal Justice*, vol. 6, no. 1, pp. 39–62
- Mallett, C.A. (2014), 'The "learning disabilities to juvenile detention" pipeline: a case study', *Children and Schools*, vol. 36, no. 3, pp. 147–154
- Maruna, S. (2001), *Making Good: How Ex-convicts Reform and Rebuild their Lives*, Washington, DC: American Psychological Association
- Maruna, S. and LeBel, T.P. (2003), 'Welcome home? Examining the re-entry court concept from a strengths-based perspective', *Western Criminology Review*, vol. 4, no. 2, pp. 91–107
- Murphy, M., Harrold, M., Carey, S. and Mulrooney, M. (2000), *A Survey of the Level of Learning Disability among the Prison Population in Ireland*, Dublin: Department of Justice, Equality and Law Reform
- National Audit Office (2017), *Mental Health in Prisons*, London: National Audit Office
- NHS England (2016), *Strategic Direction for Health Services in the Justice System: 2016–2020*, London: NHS England
- Northern Ireland Assembly (2016), *Official Report: Monday 21 November 2016*, available at <http://aims.niassembly.gov.uk/officialreport/report.aspx?andeveDate=2016/11/21anddocID=281881> (accessed 21 May 2017)
- Northern Ireland Executive (2018), *Draft Programme for Government Framework 2016–2021*, Belfast: Northern Ireland Executive
- Prins, S. and Draper, L. (2009), *Improving Outcomes for People with Mental Illness under Community Corrections Supervision: A Guide to Research-Informed Policy and Practice*, New York: Council of State Governments Justice Center
- Prison Reform Trust (2017), *Bromley Briefings Factfile (Autumn 2017)*, London: Penal Reform Trust
- Prisons and Probation Ombudsman (2016), *Annual Report 2016–17*, London: Prisons and Probation Ombudsman
- Quinn, M.M., Rutherford, R.B. and Lorene, P.E. (2005), 'Youth with disabilities in juvenile corrections: a national survey', *Exceptional Children*, vol. 71, no. 3, pp. 339–345
- Skills Funding Agency (2017), *OLASS English and Maths Assessments by Ethnicity and Learners with Learning Difficulties or Disabilities: Participation 2014/15 to 2015/16*, London: Skills Funding Agency

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- Snow, P.C. and Powell, M.B. (2005), 'What's the story? An exploration of narrative language abilities in male juvenile offenders', *Psychology, Crime and Law*, vol. 11, no. 3, pp. 239–253
- Snow, P.C. and Powell, M.B. (2008), 'Oral language competence, social skills and high-risk boys: What are juvenile offenders trying to tell us?', *Children and Society*, vol. 22, no. 1, pp. 16–28
- Talbot, J. (2008), *Prisoners' Voices: Experiences of the Criminal Justice System by Prisoners with Learning Disabilities and Difficulties*, London: Prison Reform Trust
- Ward, T. and Maruna, S. (2007) *Rehabilitation: Beyond the Risk Paradigm*, London: Routledge
- Zhang, D., Hsu, H.Y., Katsiyannis, A., Barret, D.E. and Ju, S. (2011), 'Adolescents with disabilities in the juvenile justice system: patterns of recidivism', *Exceptional Children*, vol. 77, no. 3, pp. 283–298

James P. Organ, the ‘Irish System’ and the Origins of Parole

Gerry McNally*

Summary: In 1854, Walter Crofton introduced what became known as the Irish system in the governance of Convict Prisons in Ireland and management of convicts serving penal servitude sentences. In the later stages of their sentences, convicts who had met the requisite standards of behaviour were transferred to ‘Intermediate’ prisons. These institutions provided pre-release education and training, tested the prisoners by way of temporary, task-centred release and provided supervision when inmates were granted full release to take up employment. James Patrick Organ, a Dublin adult education teacher, was appointed as lecturer and Inspector of Released Convicts in 1855 at Smithfield and Lusk Prisons. He devised the new Intermediate system, and championed new ways of providing training and work placements as well as individual support and supervision in the community. The Irish system, especially the Intermediate Prisons, preparation for release and post-custody supervision elements, was extremely successful and lauded internationally. This paper provides an overview of the political and social context within which the Irish system developed and the contributions made by key players. It is timely that on the 150th anniversary of James Organ’s death, we look back at the innovation of the 1850s, remember the learning and practice still relevant today and acknowledge Organ’s remarkable legacy.

Keywords: Prison, punishment, reform, parole, criminal justice, resettlement, post-release supervision, rehabilitation, individualisation, criminology, Ireland, Irish system.

Background

From the early 19th century in Great Britain there was a drive for prison reform, informed by the work of John Howard, Jeremy Bentham and others as well as the persistent horrors and injustice of the prisons and the failure of the transportation system (Henriques, 1972). Beccaria’s argument that the ‘end of punishment is no other, than to prevent the criminal from doing further injury to society, and to prevent others committing the like offence’

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(cited in McConville, 1981: 81) was influential, as were the moral reclamation aspirations of the religious evangelists (Rogers, 2016).

In England, the 1830s proved to be a time of significant change in penal policy and approach. William Crawford, an Inspector of Prisons, was commissioned to visit and report on new penitentiary systems in America: the separate system in Philadelphia and the silent system in Auburn, New York in particular (Crawford, 1839). Both systems implemented a process described as 'moral punishment' wherein the individual would reflect on the error of their ways under moral and religious instruction. The separate system isolated prisoners in individual cells, while the silent system in Auburn maintained isolation by rules and punishment. Crawford advocated and championed the use of the separate system in English prisons (Henriques, 1972).

With the support of Whitworth Russell and Joshua Jebb, Pentonville was opened as a model prison in 1842 with one cell for each prisoner. Convicts bound for transportation were to be subjected to 18 months' isolated 'reformatory treatment', which, in the words of Crawford on the American system, 'induces habitual submission' (Irish University Press (IUP), 1970: 17–18). It was intended that, the prisoners, on arrival in Australia, would be more subservient to authority and discipline (Carroll-Burke, 2000: 54). In his role as Commissioner at Pentonville, and Director of Convict Prisons from 1850, Joshua Jebb was pragmatic and politically sensitive (McConville, 1981: 217). He evolved his own version of the separate system based on a mark and classification scheme¹ to reward compliance with privileges. The separate system and the Pentonville model became the new standard for Convict Prisons in the United Kingdom. Mountjoy Prison in Dublin, based on the design of Pentonville, opened in 1850 as the second model Convict Prison.

Just as Mountjoy Prison was opening, however, a major change was under way in sentencing, punishment and prisons. Transportation had been a favoured form of sentencing for criminals from the early 17th century onwards (Maxwell-Stewart, 2010). Rapidly expanding after the Transportation Act 1718, transportation for seven years or more was an alternative to hanging and used increasingly as capital punishment declined. Convicts were transported to the colonies in the Americas and the Caribbean, and from 1787 to Australia, to serve their sentences (Shaw, 1966). It was, initially, a relatively cheap way of removing undesirables from society and providing labour in the colonies.

¹ The mark system was developed by Alexander Maconochie in the 1840s at the notorious Norfolk Island penal Colony in Australia. Marks were earned for good conduct, hard work and study, and could be denied or lost for indolence or misbehaviour (Clay, 2001).

However, there were concerns during the 1830s that transportation was corrupting the colonies and no longer a deterrent to crime at home. As result of the graphic and persuasive Molesworth Report in 1838 describing maltreatment of the convicts, moral corruption of the Australian colonies and the high costs involved in the use of transportation, public opinion began to shift in favour of halting it. In addition, the presence of convicts was making it difficult to promote the government's policy of assisted free working-class immigration (Maxwell-Stewart, 2010). With the beginning of the Australian gold rush in 1851, gold-seekers from around the world poured in, changing the course of Australian history. By 1853, only Western Australia continued to receive a small number of convicts (McConville, 1981: 197).

As transportation options reduced in the late 1840s, Joshua Jebb, using his experience in the Royal Engineers, promoted the use of convict labour on public works such as fortifications and harbours in his English Convict Prison system after the initial period of separate confinement. Marks achieved for good conduct merited reduced work and better conditions. Mitigation of sentence, or early release, was permitted only in exceptional circumstances.

In the absence of transportation as an outlet for convict population and growing numbers, the government was obliged to act. The Penal Servitude Act 1853 (16 & 17 Vict, c.99) substituted sentences of penal servitude in home (UK) prisons for terms of transportation to Australia, and enabled convicts to be released part way through their sentence on a 'conditional licence' similar to the 'ticket of leave' system in Australia (Newman, 2005). The conditional licence was not officially applied in Ireland until 1856. The Penal Servitude Act 1857² (20 & 21 Vict c.3) effectively ended transportation to Australia.

The Irish convict system

The work of John Howard (1772: 203–7) and Jeremiah Fitzpatrick (MacDonagh, 1981) documented the corrupt and abject state of Irish prisons in the late 18th century. There were fitful attempts at reform in response. The first major change came with the Prisons Act 1826 (7 Geo IV, c.74), which consolidated the laws on prisons in Ireland, incorporated the results of investigations and introduced a board of superintendence to oversee the conduct of prisons. It introduced a 'prison system', although almost all prisons remained under local management.

Through the 1840s, Irish prisons' problems echoed many of those in the English system but they also had their own unique crises. The Great Famine of

² <http://www.legislation.gov.uk/ukpga/Vict/20-21/3/enacted>

1845–50 resulted in social chaos and Convict Prison overcrowding due to rapid increase in the number of prisoners sentenced to transportation. In addition, Australian colonies complained that Irish prisoners received were unfit for work and 'rebellious' (Carroll-Burke, 2000: 59–60). The need for a new, well-ordered convict depot in Ireland led to the construction of Mountjoy Prison in Dublin, the second model prison based on the design of Pentonville Prison. However, the early years of Mountjoy Prison did not go well.

In 1853, the Irish government, in response to an application for additional prison accommodation, was advised to conduct an inquiry on future needs. The Lord Lieutenant appointed Captain Walter Crofton, with C.R. Knight, H.R. Harness and J. Corry Connellan, as Commissioners to conduct it. Their first brief report was completed in December 1853, with follow-up reports during 1854 (Commissioners' Reports, 1854).

The Convict Prisons (Ireland) Act³ quickly followed in August 1854. It was the most important prison reform in Ireland since the ill-fated 1826 Act. It established Convict Prisons for prisoners sentenced to penal servitude, created Directors of the Convict Prisons for Ireland and assigned them wide-ranging authority and powers (Von Holtzendorff, 1860: 24–34). In his commentary, Franz Von Holtzendorff, an eminent German and international jurist, highlighted the independence of the Irish convict system from the English system and applauded the centralisation of the executive administration (p. 24). Walter Crofton was appointed chairman, with John Lentaigne and Captain E.S. Whitty as directors, of the Convict Prisons for Ireland.

Captain Walter Crofton was a scion of a notable English military family with significant land interests in Ireland. After retiring from his military career, he had returned to Wiltshire as a county magistrate. He was chairman of the Board of Directors of Convict Prisons for Ireland between 1854 and 1862. There is little doubt that his innovations in Ireland were influenced by developments in Europe. Bavaria had introduced supervision of released convicts as early as 1812. Obermaier and Mittermaier in Germany, Ducpétiaux in Belgium and Montesinos in Spain had been seeking to humanise and liberalise prison regimes on reformatory principles from the 1830s (Hoefer, 1938; Lithner, 1968; Vanhulle, 2010). The first International Penitentiary Congress was held in Frankfurt am Main in 1846, attended by leading experts from Belgium, England, France and Germany. It was an opportunity to exchange ideas and views, and established the Congress series that followed.

³ <http://www.irishstatutebook.ie/eli/1854/act/76/enacted/en/print.html>

As chairman of the Directors of Convict Prisons, Walter Crofton came to the post with a vision (ARDCPI, 1854: 8–22) and quickly set to work on his ‘Irish system’ (Von Holtzendorff, 1860; Carpenter, 1872; Dooley, 1981), building on the English experience and his own considerations. In Jebb’s English system, convicts spent up to 18 months in the first penal stage in separate confinement. This was followed by a second stage in public works labour. There, progress and reward for compliance earned a better regime, increase in gratuity and easier work through a mark system.

Crofton, in his Irish system, reduced the first penal stage of separate confinement to no more than nine months (ARDCPI, 1854). High rates of mental distress and breakdown among prisoners in the more consistently enforced separate system in Pentonville and Mountjoy Prisons had become a matter of serious concern (Cox and Marland, 2018).

The key differences between the Irish and the English Convict Prisons systems were the introduction in Ireland of an intermediate stage preparing convicts for release and post-release supervision in employment.

Crofton and Jebb, following Maconochie’s work on Norfolk Island (Clay, 2001), both used a mark system to visibly incentivise and reward good behaviour during the second stage of prison. The system was transparent and, in most cases, focused the convicts’ attention on progression and compliance.

During the public works labour, Crofton permitted convicts to achieve promotion to Intermediate Prisons in preparation for release. His second stage was said to be more demanding and severe than that implemented by Jebb in England.

To achieve the new intermediate stage in Ireland, convicts had to work hard to achieve sufficient marks to move up through a series of classifications to merit promotion (Carpenter, 1872: 6ff.). In Jebb’s model, marks were rewarded by an easier regime alone.

In the third, intermediate, stage, convicts were no longer subject to the rigid mark system. They were held in small groups with minimal supervision, and expected to co-operate in their own amendment. The officers worked with the convicts and were not solely custodians. They were expected to engage with their charges (Carpenter, 1872: 10ff.). Convicts were given additional training along with tests of their readiness, including unsupervised errands in the community.

Two Intermediate Prisons were established, at Smithfield and Lusk (ARDCPI, 1856). Smithfield had been an old prison opened in 1801 and was in a poor state. Lusk was set up by enclosing a part of the Lusk Commons and

installing two large temporary iron huts with capacity for 50 prisoners each. Smithfield held tradesmen and older and less able prisoners, while Lusk held prisoners capable of agricultural work. Two other proposed centres in Cork were not continued (Carpenter, 1864; Von Holtzendorff, 1860).

From the beginning, Crofton emphasised the importance of education in reformation of the criminal and ensured the engagement of capable head schoolmasters (Carroll-Burke, 2000: 161ff.) in the Convict Prisons. He particularly advocated the value of employment on release (ARDCPI, 1854: 20–1). In the final stage, from 1856, convicts with employment were permitted 'ticket-of-leave' early release, supervised in Dublin by James Organ, the lecturer at Smithfield Prison. Outside of Dublin, local police supervised the conditional release (Dooley, 1981).

Crofton and Jebb differed aggressively on the value of supervised conditional release. Jebb, as Director of the English Convict Prisons, had viewed himself and his new English Convict System as the model for others, and did not easily accept question or challenge. He viewed Crofton and the public lauding of his Irish system with great disdain, saying there was no such thing as an Irish system, but a bowdlerising of his system (Chichester, 1863; IUP, 1970).

In Jebb's opinion, supervision stigmatised the released convict and made him a second-class citizen. He strongly disapproved of the practice. As the Irish system received praise and recognition at home and internationally, Jebb's criticism became both personal and unrelenting in official reports, papers and publications (IUP, 1970; Dooley, 1981: 91–3). He attributed the perceived success in Ireland to a lenient Irish attitude to criminals, the ease of finding work, a high level of emigration, miscalculation and the personal and charismatic influence of James Organ. The criticisms were challenged and disputed by the Irish authorities and others (IUP, 1970; Chichester, 1863; Carpenter, 1864: 71–80; Von Holtzendorff, 1860). Despite Jebb's virulent opposition, there is no doubt that the Irish system's influence on penal philosophy was long-lasting (Dooley, 1981: 93).

Education and training for release

In their first annual report, Crofton and his fellow Directors cited 'ignorance and destitution' as the principal causes of crime in Ireland and recommended that, in view of the 'inefficient state of the educational departments of the Convict Depots', the prison schools should be placed under the inspection of the National Board of Education (ARDCPI, 1854: 5). In addition, they

appointed head schoolmasters with 'great experience in *training* as well as *teaching* amongst the class of persons from which the criminals may be expected to emanate' (ARDCPI, 1854: 6; emphasis in original).

In detailed planning outlined in the first report, the Directors highlighted measures in operation in Convict Prisons in England for 'the establishment of habits of steady industry, and in most cases, a determination to lead an honest life, and a desire to obtain a respectable position in society' (ARDCPI, 1854: 19). They did not see difficulty in attaining those objectives in Ireland, where 'the character of the Irish convict is in very many cases, less seriously depraved, their crimes having been produced, in some measure, by extreme distress and the want of industrial employment' (ARDCPI, 1854: 20).

In their second annual report, the Directors elaborated on the purpose and activities in the Intermediate Prisons at Smithfield and Lusk, and reported early results from their overall regime changes. 'A difference in their [convicts attending school] conduct is already apparent; they are more orderly and obedient to the rules, and make efforts to exercise that self-command, the want of which has so often led them into crime' (ARDCPI, 1855: 6). In addition, the Directors emphasised that '[the] subject that on which we have felt great anxiety and to which we alluded as of the utmost importance in our last report, is the employment of the well-disposed convict on discharge'.

To address and support that objective, the Directors decided that 'tickets of licence' would be issued to prisoners of eligible character and length of imprisonment (ARDCPI, 1855: 13). Smithfield prison was designated for 'prisoners who, from length of service and good conduct, are considered worthy of consideration for discharge on tickets of licence'. Their 'reformation and eligibility will be here further tested, and an accurate register kept of those who are offered employment, where they go, and every particular that it is possible to obtain; thus enabling us, as we consider, not only to weigh our recommendations, but also to trace the career of the prisoner after he has left'. In a further development, they announced the engagement of 'Mr. Organ, a gentleman highly recommended by the National Board' to 'give such lectures and lessons as shall be practically useful to the prisoners' (ARDCPI, 1855: 17).

James Organ

James Patrick Organ was born about 1823 to a poor Catholic family at 3 Walls Lane (now part of Carman's Hall) in the Liberties area of Dublin. At the time, Walls Lane was already an impoverished tenement area with some

limited, small-scale businesses. Little is known of Organ's early years, though he was clearly an assiduous student in the Model School and had become well known in adult education in Dublin by the 1850s (Organ, 1855).

In 1855, *A Plea for the Education of the Working Classes through the Medium of Evening Schools and Educational Mechanics' Institutes* was published anonymously by 'a late pupil of the model schools' (Organ, 1855). James Organ later acknowledged himself as the author (Organ, 1865). In the book, Organ expounds many of the principles that were to underpin his later work as lecturer in the Intermediate Prisons:

by educating the adult, and inculcating in his breast the principles of morality and industry, you save him from the wretched misery and disgrace of the felon's dungeon and the pauper's home. (Organ, 1855: 9)

teachers appointed to the management of Evening Schools, should divest themselves of that imperative tone of voice and set aside the airs that so frequently mark the man of petty authority ... It behoves every teacher to gain ... on the affections of his pupils by his kindness and affability. (16)

No teacher but one ignorant of human character will attempt to exact obedience from adults by force. (17)

Prior to his appointment in February 1856 as lecturer in Smithfield Prison, he had been 'superintendent of the adult evening schools in Dublin' (House of Lords, 1863: 372). In the introduction to his book of lectures (Organ, 1858: v) he said that 'During the twelve years before the date of my appointment ... I had been constantly engaged as a teacher of adults.'

Already by their third annual report, and after only his first year in Smithfield, the Directors were praising his work. 'We cannot express our sense of the value of Mr. Organ's services too highly, his untiring energy and devotion to his duties, fully entitle him to the highest commendation' (ARDCPI, 1856: 14). In that same report, Organ provided his own 43-page Lecturer's Report from 'Smithfield Institution for Exemplary Prisoners' (ARDCPI, 1856: 79-121). In it, he described his task as 'the development of their [convicts'] minds, and to give them matter for thought, through the medium of useful and interesting lectures suited to their capacities' (ARDCPI, 1856: 80).

In his 1857 report, Organ outlines how, in his view, 'the prison teacher should act as the parent and the friend as well as the teacher' (ARDCPI, 1857: 121).

'The prison teacher must not only teach – he must convince ... Advice, accompanied by sympathy, has a great effect even on the incorrigible prisoner, if prudently and wisely given ... We should not expect the effect all at once, but continue the medicine at proper intervals, and in proper doses, and the results will soon manifest themselves' (ARDCPI, 1857: 122).

From the beginning, James Organ emphasised that his evening lectures to the prisoners were the most important 'phases in the system of educational and moral training pursued in Smithfield' (ARDCPI, 1857: 124ff.). In his reports, he listed the diverse range of themes and topics including temperance, conduct towards superiors, Canada, disease and longevity of plants, emigration, air and water. There were daily lectures in Smithfield and Lusk Prisons followed by a competitive examination each Friday (Von Holtzendorff, 1860)

His advice to lecturers addressing prisoners was that they should 'talk to them, rather than at them' and that he had 'found when once we had got to understand each other, my audience and myself never differed in our appreciation of the subject, or in a community of interest and feeling' (Organ, 1858: viii; emphasis in original).

James Organ's lectures were 'to explain common things in plain and simple language'. He sought 'not to speak down to the level of intellect of my audience, but to draw on them day by day, until they came up to the level of ordinary capacity'. His chief aim was, 'to arrive at the mind, by exciting the curiosity; to arrive at the heart, by showing the men that we all feel a desire in common to receive those who have erred from the path of rectitude; and, having thus identified myself with my audience, I have been enabled to individualize them; and thus ... I have been successful in measuring the reliance which could be placed upon the appearances of reformation evinced' (ARDCPI, 1856: 87).

Speaking on 'moral subjects' or morality, he was careful not to 'infringe upon the duties of their respective chaplains' (ARDCPI, 1856: 82). Organ particularly acknowledged, in keeping with mainstream Victorian views, that religion 'should form the basis of reformation' and was an 'all-powerful agent' when brought to bear on the heart of a ticket-of-leave/licence man.

Individualisation

James Organ stressed that 'the importance of individualisation of prisoners cannot be overrated'. In his view, 'To deal with them in the mass would be to commit a grievous error, and to act unjustly both towards the prisoner and the

public.' He was sufficiently realistic to understand that he could be deceived but believed that, in most cases, he could 'arrive at the natural character of the prisoner'. Without individualisation, 'all efforts at reformation ... must of necessity, lose half their effects' (ARDCPI, 1857: 129). Day after day, in the workshop or in the field, in the prison and in the outside world, James Organ sought, in his own words, to 'observe the ways of the prisoners, hear their tales, listen to their grievances and become acquainted with their hopes and fears', to obtain an intimate knowledge of them and to use that to assist and support them (ARDCPI, 1857: 130). In this, he highlighted the value of obedience and self-reliance inculcated by training in the intermediate stage (ARDCPI, 1857: 131).

James Organ's approach and practice anticipated Saleilles's *The Individualization of Punishment* over 50 years before its English-language publication in 1911, and is a remarkable landmark particularly worthy of note in penal history (Finnane, 2002).

Employment and supervision

James Organ, from his commencement in the Intermediate Prisons at Smithfield and at Lusk, undertook a 'self-imposed duty' to 'endeavour to secure employment for the men before they were permitted to leave the institution' (ARDCPI, 1856: 87). He was concerned, however, that because they were not 'first-class tradesmen', earnings were low, and labourers unaccustomed – having been in prison – to hard labour could not readily compete with more competent men. He advocated they not be released until they were as 'acquainted with their trades' as 'ordinary' men (ARDCPI, 1856: 84).

Obtaining work for released convicts was 'a labour of great difficulty' for Organ (ARDCPI, 1856). On his appointment, he compiled a list of possible employers in the county of Dublin and set out to see them, persevering in the face of many early refusals. On securing employment for a prisoner, he visited both prisoner and employer fortnightly, preferring to visit prisoners at their own home. Slowly, he built up a body of employers who supported him and encouraged others. He reported that 'in many cases they [prisoners] take a greater interest in their employment than ordinary workmen do, because they know that the employers have taken them out of prison, and thrown ... a cloak of protection over them' (Carpenter, 1864: 108). In his view, 'employers invariably prefer the ticket-of-leave men to convicts who are unconditionally discharged because they are under more control' (Carpenter, 1864: 110). In

his 1856 report, Organ was already able to quote employers pleased and satisfied with men recommended by him (ARDCPI, 1856: 85).

During 1856, 112 men were released on tickets of licence, 41 in Dublin. James Organ, from his home at Mespil Cottages, 'carried out a system of weekly visitation of every man employed from the institution in Dublin, and within a circuit of twenty miles' (ARDCPI, 1856: 83). In addition, he established a loan fund that featured 'ticket-of-leave men becoming security for each other'. The fund was flourishing and approved by the government registrar (p. 84) in December 1856 (ARDCPI, 1856: 83).

In the following years, Organ provided copious and detailed annual reports. In 1857, he described the process of how 159 men were released on tickets of licence. In the Dublin area, he personally supervised 61 of these men in employment, on whom he provided twice-monthly reports. Local constabulary reported monthly on men outside the Dublin area (ARDCPI, 1857: 120ff.).

Emigration

Baron Von Hotzendorff, in his review of the Irish system (Von Holtzendorff, 1860), noted how in James Organ's lectures, emigration featured prominently in reference to the future life of the convict. Voluntary emigration to a colony was a desirable termination of imprisonment, saving the convict from a hard struggle at home for a livelihood. The lectures on emigration must have been expected to assist in that choice, as would the lectures on geography and the English colonies in Canada, Australia, and the Cape of Good Hope – each presenting prospects of success to the convict-emigrant (Von Hotzendorff, 1860: 127).

The Directors in their 1857 Report (ARDCPI, 1857: 19ff.) unambiguously stated that 'we cannot too highly prize, as an important element of reformation, the voluntary emigration of the well-disposed criminals when free, to lands where labour is scarce, or advocate too strongly its beneficial effects'. Nevertheless, they appreciated that many remained in Ireland and that the numbers under supervision 'induce the most satisfactory conclusions ... employers of high respectability after long experience, retaining those in their situations, and still offering work to others of the same class, is the strongest and perhaps the most satisfactory testimony we can adduce for the system' (ARDCPI, 1857: 19).

Compliance

Convicts who had passed through the testing Intermediate Prisons system were, as described, supervised in the Dublin area by James Organ as the Inspector of Discharged Convicts. Outside Dublin released convicts were supervised by local police. In their 1859 report, the Directors said that between March 1856 and March 1860, 1250 convicts were conditionally released. Only 77 of these had their licences revoked and of those, 28 were for cases of irregularity, not criminal reasons. 828 convicts were released unconditionally during the same period, and only 20 been recommitted to government prisons (ARDCPI, 1859: 7–8).

James Organ believed that the state had saved £30,000 over those early years by the intermediate system, society had been protected, and visitation and supervision had shown the criminally minded that it was impossible to follow crime as a profession (ARDCPI, 1859: 90). In 1862, 12 convicts had their licences revoked, nine for non-observance of supervision regulations (ARDCPI, 1862: 7).

Recognition and acknowledgement

Walter Crofton was the Director of the Irish convict system and attracted praise and appreciation, despite trenchant opposition, for his radical restructuring of the system and the attendant positive results. James Organ, through his practical work and concrete results, was also hailed for his achievements. Such was the success of the Irish system in practice and his personal commitment that Organ had the respect and patronage of the Lord Lieutenant of Ireland, Lord George Howard, 7th Earl of Carlisle, who visited Smithfield Prison many times. In 1861 Prince Albert, consort of Queen Victoria, visited, endorsing the work of the Irish Intermediate Prison System and James Organ (Davenport-Hill and Davenport-Hill, 1878, 414–15). Many jurists and reformers followed in his footsteps. Following the death of Lord Carlisle in 1864, James Organ published an address delivered at the prison eulogising his patron, 'to whom the success of the Irish Convict System owes much' (Organ, 1865: 36).

In 1856, Matthew Davenport Hill, a noted jurist and penologist, visited the Irish Convict Prisons to learn more of the reported success of the innovations in Ireland. He was so impressed that he regarded his paper for the 1857 Social Science Congress as 'by the far the most important' he had written (Davenport-Hill and Davenport-Hill, 1878: 199): 'in my humble judgement,

the Board of Directors of the Irish Convict Prisons have practically solved the problem which has so long perplexed our Government and our Legislature – *What shall we do with our Convicts?*’ (quoted in Carpenter, 1864: 23).

The 1850s and 1860s was a time of particular enquiry and innovation by social reformers in Victorian England. The National Association for the Promotion of Social Science (NAPSS), often known as the Social Science Association, was founded in 1857 by Lord Brougham to pursue and promote issues in public health, industrial relations, penal reform and female education. The annual meeting of the association featured presentations on jurisprudence, punishment and reformation.

Sir Walter Crofton and James Organ were active members and contributors. They outlined the objectives and achievements of the Irish convict system on many occasions and addressed the challenges and critiques. In 1861, for example, Crofton explained that a convict’s liberty in England and Ireland under the 1857 Act was conditional but ‘in Ireland the conditions indorsed [sic] on the licence mean something. They are in all cases strictly enforced’ (*Transactions of The National Association for the Promotion of Social Science* (TNAPSS), 1862: 422). He was strongly convinced of the effectiveness of post-custody supervision of convicts and firmly defended its purposefulness and implementation by James Organ and the police.

James Organ also stated his case. In 1864 he presented a paper at the York Meeting on ‘Convicts without the Prison’ in which he described the detail of his supervision and his personal conviction that ‘the great majority of convicts can be amended and reformed’ (TNAPSS, 1865: 315).

In addition to their own presentations at meetings, Crofton and Organ’s work was repeatedly championed and supported by social reformers and jurists including Matthew Davenport Hill, Mary Carpenter and Baron Von Holtzendorff (TNAPSS, 1857–1870).

International recognition

In 1863, Gaylord Hubbell, Warden of New York’s Sing Sing Prison, visited to examine the Irish system and, on his return to America, recommended its adoption (Champion, 2005: 204). Franklin Sanborn, in 1865, published his special report to the Massachusetts Board of Charities on Prisons and Prison Discipline. Sanborn was most impressed by the efficacy and success of the Irish system and praised James Organ as a man ‘full of zeal, benevolence and intelligence’ for his ‘discourses on subjects calculated to make the prisoners

thinking beings' and for his 'judiciously and praiseworthy exercised supervision' of discharged convicts (Sanborn, 1865: 24–30).

Sanborn championed the work of Crofton and Organ to the American penal reformers of the time, including E.C. Wines and Zebulon Brockway, founder of Elmira Reformatory based on the Irish system. E.C. Wines convened the first American Prison Congress in 1870 in Cincinnati, where the declaration of principles advocated a reformatory approach, classification of prisoners after the Irish system, individualisation and social training of prisoners (Wines, 1871). 'The most valuable parts of the Irish Prison system – the more strictly penal stage of separate imprisonment, the reformatory stage of progressive classification, and the probationary stage of natural training – are believed to be as applicable to one country as to another – to the United States as to Ireland' (quoted in Dooley, 1981: 94). While cautious of the ticket-of-leave system, Sanborn saw no difference between it and the new United States probation system as, in both, prisoners could be returned for breaking laws or keeping bad company (Dooley, 1981: 95). Developments thereafter included supervised parole, also based on the Irish system.

James Organ's work at Smithfield and Lusk was the forerunner of the American parole system and is widely acknowledged as such in American penal history (e.g. Barnes and Teeters, 1951: 780–1).

Demise of the Irish system

It is ironic that as the Irish system gained recognition in America and internationally, it was coming to a close at home. During the 1850s, it had been subject to a barrage of political and other criticism led by Joshua Jebb (Chichester, 1863; IUP, 1970), as cited earlier. In 1862, Walter Crofton retired, due to ill-health, as a Director of the Convict Prisons for Ireland. The prison population had fallen. In 1854 there were 4278 convicts in the Irish prisons; in 1862, only 1314. There was no longer pressure on prison places.

In addition, the ticket-of-leave system in England and Wales had been targeted for attack in the 'garrotting crises' of the mid-1850s and early 1860s by newspapers blaming an increased fear of crime and assaults in England and Wales on released ticket-of-leave men (Sindall, 1990). Public opinion increasingly believed that prisoners should be broken by a tough regime and punished (Sindall, 1990).

The Earl of Carnarvon chaired a House of Lords Select Committee in 1863. Its report stressed the importance of punishment over reformation. Many of

its recommendations were included in the Penal Servitude Act 1864 and the Prisons Act 1865 (Report 1863). Sir Edmund du Cane, appointed Assistant Director of Prisons in 1863 and Director in 1870, single-mindedly championed this severe and punitive approach, hastening the discontinuation of the Irish system in Ireland over the following years.

In 1885 Sir Walter Crofton wrote to the Prison Congress at Rome:

I wish it to be known at the Congress that I have had nothing to do with the Irish prisons for many years, and that I am entirely opposed to the system pursued by the present Directors. The evils of that system are shown in the Report of the enquiry recently made by the Royal Commission. (quoted in Tallack, 1896: 166–7)

Notwithstanding the hostile political climate and increasingly restrictive and punitive legislation, James Organ continued in his duties as lecturer and Inspector of Discharged Convicts. In his 1867 Report, his objective is 'to teach the men to *think*, and when they have learned to do so to give them what I consider the best food for thought' (emphasis in original). He continued:

by the growing confidence that employers repose in my men, and the increasing demand for their labour ... I can now say that after a period of thirteen years practical, and by no means unimportant experience, that the prejudices of the public against the convicts are everyday diminishing ... no well-disposed prisoner ... can plead want of honest employment as an excuse for the pursuit of a life of crime. (ARDCPI, 1867: 51)

In the 1869 ARDCPI (1870: 7), the Directors acknowledged the death of 'James P. Organ, Inspector of discharged Convicts in the Dublin District'. 'As the passing of the Habitual Criminal Act 1869, makes considerable changes to the supervision of released convicts ... it was considered unnecessary to appoint an officer to the post which Mr. Organ had held.' The report went on to say that 'to Mr. Organ much of the success of the Intermediate phase of the Irish Convict system, in its early days, was due'. James Organ's grave at Glasnevin Cemetery is in the Garden Section (Fitzpatrick, 1900: 114–15), but is no longer marked.

His unexpected and premature death, on 11 November 1869, at the age of 46, was a distinct loss to the reformatory system. While Walter Crofton was the innovator in policy and political terms, James Organ was the person on

the ground, providing concrete guidance and practical support in the reformation, supervision and settlement of ex-convicts in the community. He led the way and provided the model for the development of parole, particularly in the United States.

By the 1940s, little remained in Ireland of the 'Irish system' apart from the class or prisoner grade names (D83222, 1946: 126–7). All trace of the Crofton and Organ pre-release preparation and testing for penal servitude prisoners had gone. It is a sad and disappointing reflection that, while the Irish system is remembered in American penal history, James Organ's groundbreaking endeavour is unknown and unheralded in Ireland. In this year, the 150th anniversary of his death, it is fitting that we recall and acknowledge his achievements as the world's first parole officer (Inspector of Discharged Convicts) and forerunner of the Probation Service and its work.

References

- ARDCPI (1854–1869), *Annual Reports of the Directors of the Convict Prisons in Ireland*, Dublin: H.M.S.O./Thom
- Barnes, H.E. and Teeters, N.K. (1951), *New Horizons in Criminology*, New York: Prentice Hall
- Carpenter, M. (1864), *Our Convicts*, Vol. 2, London: Longman, Green, Longman, Roberts, Green
- Carpenter, M. (1872), *Reformatory Prison Discipline as Developed by Sir Walter Crofton in the Irish Convict Prisons*, London: Longman, Longman, Green
- Carroll-Burke, P. (2000), *Colonial Discipline: The Making of the Irish Convict System*, Dublin: Four Courts Press
- Champion, D. (2005), *The American Dictionary of Criminal Justice: Key Terms and Major Court Cases* (3rd ed.), Lanham, MD: Scarecrow Press
- Chichester, Earl of (ed.) (1863), *Reports and Observations on the Discipline and Management of Convict Prisons*, London: Hachard and Co.
- Clay, J. (2001), *Maconochie's Experiment*, London: John Murray
- Commissioners' Reports (1854), *Copies of Correspondence Relative to the Management and Discipline of Convict Prisons, and the Expansion of Prison Accommodation with the Reports of the Commissioners*, London: House of Commons
- Cox, C. and Marland, H. (2018), 'Broken minds and beaten bodies: Cultures of harm and the management of mental illness in mid- to late nineteenth-century English and Irish prisons', *Social History of Medicine*, vol. 31, no. 4, pp. 688–710
- Crawford, W. (1839), *Report of William Crawford, Esq. on the Penitentiaries of the United States*, London: Home Office
- D83222 (1946), *I Did Penal Servitude*, Dublin: Metropolitan Publishing Company
- Davenport-Hill, R. and Davenport-Hill, F. (1878), *The Recorder of Birmingham: A Memoir of Matthew Davenport-Hill; with Selections from His Correspondence*, London: Macmillan

- Dooley, E.E. (1981), 'Sir Walter Crofton and the Irish or Intermediate System of prison discipline', *New England Journal on Prison Law*, vol. 7, no. 1, pp. 72–96
- Finnane, M. (2002), 'Review of Patrick Carroll-Burke, *Colonial Discipline: The Making of the Irish Convict System*', *Crime, Histoire & Sociétés/Crime, History & Societies*, vol. 6, no. 2, pp. 130–131
- Fitzpatrick, W.J. (1900), *History of the Dublin Catholic Cemeteries*, Dublin: Dublin Catholic Cemeteries Committee
- Henriques, U. (1972), 'The rise and decline of the separate system of prison discipline', *Past and Present*, vol. 54, pp. 61–93
- Hoefler, F. (1937), 'Georg Michael Von Obermaier—a pioneer in reformatory procedures', *Journal of Criminal Law and Criminology*, vol. 28, pp. 13–51
- House of Lords (1863), *Report of the Select Committee of the House of Lords on the State of Prison Discipline in Gaols and Houses of Correction* (Carnarvon Report), London: House of Lords
- Howard, J. (1792), *The State of the Prisons in England and Wales, with Preliminary Observations, and an Account of Some Foreign Prisons and Hospitals* (4th ed.), London: Johnson, Dilly and Cadell
- Irish University Press (1970), Vol. 14, *Irish University Press Series of British Parliamentary Papers. Crime and Punishment: Prisons* (21 Volumes), Shannon: Irish University Press, 1969–1971
- Lithner, K. (1968), 'Pioneers in criminology: Karl Roeder—a forgotten prison reformer', *Journal of Criminal Law, Criminology & Police Science*, vol. 59, pp. 219–226
- McConville, S. (1981), *A History of English Prison Administration 1750–1877*, London: Routledge
- MacDonagh, O. (1981), *The Inspector General: Sir Jeremiah Fitzpatrick and the Politics of Social Reform, 1783–1802*, London: Croom Helm
- Maxwell-Stewart, H. (2010), 'Convict transportation from Britain and Ireland 1615–1870', *History Compass*, vol. 8, no. 11, pp. 1221–1242
- Molesworth, Sir W. (1838), *Report from the Select Committee of the House of Commons on Transportation, Together with a Letter from the Archbishop of Dublin on the Same Subject, and Notes*, London: Henry Hooper
- Newman, T. (2005), *Becoming Tasmania: Renaming Van Diemen's Land*, Hobart: Parliament of Tasmania
- Organ, J.P. (1855), *A Plea for the Education of the Working Classes through the Medium of Evening Schools and Educational Mechanics' Institutes*, Dublin: James McGlashan
- Organ, J.P. (1858), *Lectures on Educational, Social and Moral Subjects Delivered at Smithfield Reformatory Institute, Dublin*, Dublin: W.B. Kelly
- Organ, J.P. (1865), *An Address Delivered in the Smithfield Intermediate Prison in Memory of the Late Earl of Carlisle*, Dublin: W.B. Kelly
- Rogers, H. (2016), 'Elizabeth Fry and Sarah Martin', in G. Atkins (ed.), *Making and Remaking Saints in Nineteenth-Century Britain*, Manchester: Manchester University Press
- Saleilles, R. (1911), *The Individualization of Punishment* (translated by R. Szold Jastrow), Boston: Little, Brown & Company

-
- Sanborn, F.B. (1865), *Special Report on Prisons and Prison Discipline by the Secretary of the Board*, Boston: Wright and Potter
- Sindall, Rob (1990), *Street Violence in the Nineteenth Century: Media Panic or Real Danger?* Leicester: Leicester University Press
- Tallack, W. (1896), *Penological and Preventive Principles with Special Reference to Europe and America* (2nd ed.), London: Wertheimer
- TNAPSS (1857–1870), *Transactions of The National Association for the Promotion of Social Science*, London: various publishers, available at <https://catalog.hathitrust.org/Record/010307859> (accessed 20 August 2019)
- TNAPSS (1862), *Transactions of The National Association for the Promotion of Social Science 1861*, London: Longman, Green, Longman, Roberts, Green
- TNAPSS (1865), *Transactions of The National Association for the Promotion of Social Science York Meeting 1864*, London: Longman, Green, Longman, Roberts, Green
- Vanhulle, B. (2010), 'Dreaming about the prison: Édouard Ducpétiaux and prison reform in Belgium (1830–1848)', *Crime, Histoire & Sociétés/Crime, History & Societies*, vol. 14, no. 2, pp. 107–130
- Von Holtendorff, F. (1860), *The Irish System, More Especially Intermediate Prisons* (trans. from the German), Dublin: W.B. Kelly and London: Simpkin, Marshall & Co.
- Wines, E.C. (ed.) (1871), *Transactions of the National Congress on Penitentiary and Reformatory Discipline Held at Cincinnati, Ohio, October 12–18, 1870*, Albany, NY: American Correctional Association

Restorative Justice as the New Default in Irish Criminal Justice

Ian D. Marder*

Summary: Restorative justice has developed at a slow but steady pace in the Republic of Ireland in recent years. Now, with the publication of a new European legal instrument strongly promoting its implementation, alongside successful efforts to mainstream restorative justice in a growing number of comparable jurisdictions, Ireland has another opportunity to refocus its criminal justice system around restorative principles and processes. This article highlights some of the ways in which Ireland could adopt restorative justice as a new default practice and approach to decision-making throughout its criminal justice process. It starts by outlining some of the key features of the new Council of Europe Recommendation concerning restorative justice in criminal matters and noting its commonalities with the Irish National Commission on Restorative Justice which reported in 2009. Drawing on innovations and research from elsewhere, the article examines how restorative justice might be implemented as a new default response to offending within An Garda Síochána, the Courts, the Probation Service and the Irish Prison Service, before exploring how these agencies might use restorative approaches beyond the criminal procedure. The article provides a generally optimistic assessment of prospects for the development of restorative justice in the coming years.

Keywords: Restorative justice, restorative practices, criminal justice reform, participatory decision-making.

Introduction

Restorative justice is a voluntary process characterised by the active participation of the victim(s), offender(s) and other stakeholders in the response to a crime or conflict. Research indicates that when this involves direct communication between victims and offenders, it can help victims recover from crime, reduce reoffending (even among serious and prolific offenders) and save public resources (Shapland *et al.*, 2011; Strang *et al.*, 2013; Angel *et al.*, 2014). Importantly, restorative justice also encompasses a series of principles that

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can underpin progressive change to institutional cultures and operational practices across criminal justice (Braithwaite, 2003).

Restorative processes have been used in the Irish criminal justice system since An Garda Síochána, the Probation Service and several non-governmental organisations (NGOs) established pilot projects in the late 1990s (O'Dwyer and Payne, 2016). The concept gained prominence with the passage of the Children Act 2001 and the formation of a National Commission on Restorative Justice in 2007 (Gavin, 2015). At the same time, restorative justice was increasingly used in Northern Irish youth justice: restorative conferencing became widely available as a diversion from prosecution, and legislation from 2002 required judges, in most cases, to adjourn sentencing to enable restorative justice to be offered pre-sentence.

In recent years, the institutionalisation of restorative justice has gathered pace in the Republic. It appears, for example, in the Criminal Justice (Victims of Crime) Act 2017, which outlines what the process should look like, provides safeguards for participants and obliges statutory agencies to inform victims about restorative justice, where available. The following year saw the launch of the new Restorative Justice and Victim Services Unit (RJVSU) within probation (Probation Service, 2018a) and the release of *The Meeting*, a cinematic piece that takes its viewers through a post-imprisonment victim-offender mediation in a real Irish case of serious sexual violence, in which the victim, Ailbhe Griffith, plays herself (Byrne, 2018). Ireland has also remained at the forefront of research on the use of restorative justice in cases of sexual abuse (Joyce and Keenan, 2013; Keenan, 2014).

Despite these developments, the provision of restorative justice in Ireland remains patchy, with most victims and offenders still not offered the opportunity to participate. Recent figures show that the number and proportion of restorative cautions for young offenders have decreased year on year (Garda Youth Diversion and Crime Prevention Bureau, 2018), while there is no or a limited capacity to deliver restorative justice with adult offenders in much of the country (O'Dwyer and Payne, 2016). At the same time, restorative justice is increasingly being made available in comparable jurisdictions both across and beyond Europe (Dünkel *et al.*, 2015). Academics, practitioners, policy-makers and civil society must now work together to develop the use of restorative justice across Ireland, ensuring that all victims, offenders and other relevant stakeholders have both the information and the opportunity to determine whether participating in a restorative process is right for them.

This article contends that Irish criminal justice agencies should adopt a default position of seeking to involve these stakeholders in deliberations and decision-making processes with the aim of repairing harm. This would make restorative justice the norm rather than the exception, while still allowing justice agencies to revert to more traditional, practitioner-led decision-making approaches when, for whatever reason, stakeholder participation is not possible. The article begins by outlining the key elements of the Council of Europe Recommendation CM/Rec(2018)8 ('the Recommendation') concerning restorative justice in criminal matters and exploring its congruence with proposals from the National Commission on Restorative Justice's 2009 final report. The following section considers some of the ways in which An Garda Síochána, the courts, the Probation Service and the Irish Prison Service might use restorative justice as a new default response to offending and conflict. Drawing on the Recommendation and on innovations from elsewhere, the potential role of restorative approaches to conflicts within the justice system, but outside of the criminal procedure, is also examined. Overall, it is argued that the conditions are ripe for refocusing the Irish criminal justice system around restorative principles and processes, and that advocates can take practical steps to ensure that these efforts are successful, and the gains sustainable.

A new European legal instrument

The Recommendation (Council of Europe, 2018a) was developed in 2017/2018 by the Council for Penological Co-operation, an expert-led Council of Europe working group. This group was chaired, for most of the process, by Vivian Geiran, Director of the Irish Probation Service.¹ Designed to expand on the previous Recommendation, entitled 'mediation in penal matters' (Council of Europe, 1999), the Recommendation's stated aims were fourfold: to promote the development of restorative justice in Europe; to elaborate on standards for training and practice; to incorporate restorative principles into the international legal framework; and to endorse the use of restorative justice by probation services and within prison settings (Council of Europe, 2018b: 2). This document is by far the most forward-thinking international legal instrument in the field, calling for all those affected by and responsible for crime to have access to restorative justice, and supporting a cultural shift within European criminal justice systems towards a more restorative approach at all levels of policy and practice.

¹ This author was employed by the working group from January 2017 to June 2018 as a 'scientific expert' to help draft the new Recommendation and its commentary.

The Recommendation depicts restorative justice in two ways: firstly, as a process involving the active participation of those who are affected by and responsible for crime (Rule 3), usually in the form of a dialogue between victims, offenders and other stakeholders (Rule 4); secondly, as a series of core principles (stakeholder participation and repairing harm) (Rule 13) and supplementary principles (such as voluntariness, procedural fairness and equal concern for participants' needs) (Rule 14). The former provisions were designed to find a balance between broader and narrower definitions of restorative approaches that would resonate across all 47 Council of Europe member states. The latter provisions sought to synthesise the vast literature on restorative principles (e.g. Zehr, 1990; Braithwaite, 2003), identifying those that are most relevant for practice and that could help 'underpin broader reforms to criminal justice' (Rule 14). This is a crucial step forward in the international framework, as research indicates that fidelity to restorative principles – what Chapman (2012: 80) calls 'principled facilitation' – is linked to the safety and effectiveness of restorative processes (McCold and Wachtel, 2002; Crawford, 2006). Any government or justice agency that seeks to implement the Recommendation must, in doing so, endeavour to adhere as closely as possible to the evidence-based principles therein. This echoes the National Commission for Restorative Justice's emphasis on the role of principles in identifying what constitutes a restorative approach (2009: 84–85).

The Recommendation is consistent with the National Commission's proposals in several further ways. Perhaps most importantly, it emphasises that restorative justice should be a 'generally available service' (Rule 18). This means that all victims and offenders should have access to restorative justice at all stages of the criminal justice process (Rule 19), rather than access being contingent, as in Ireland and most other European countries (Dünkel *et al.*, 2015), on factors such as the type of crime, the victim's location or the offender's age. The Commission similarly concluded that a restorative process should be available to all those who might benefit from participation, adding only that offences with mandatory minimum sentences should not be referred to restorative justice by the court, and that it would take time to create a sufficiently safe model for certain serious offences.

The Recommendation also provides evidence-based standards for implementation and delivery, describing (like the National Commission) how legislation and policy can help ensure that restorative justice is as consistent, safe and effective as possible (Rules 21–24). Additional elements discuss service autonomy (Rule 20), recording practices (Rule 39), practitioner and

managerial training (Rules 42–45 and 57) and the contents and determination of outcome agreements (Rules 50–52).

Moreover, in relation to the continuing development of restorative justice, the Recommendation goes much further than the existing international framework (such as the previous Recommendation and the 2012 European Union Victims' Directive) in four ways. Firstly, it outlines some of the broader operational practices that can be designed and delivered in accordance with restorative principles, including reparation schemes (also mentioned in the Commission's report), problem-solving courts, victim support services and offender reintegration ceremonies, among others (Rule 59). Secondly, the Recommendation advocates for the availability of restorative justice in response to conflicts beyond the criminal procedure, such as public complaints against the police and conflicts within prisons and between justice professionals (Rule 60). Thirdly, Rule 61 notes that restorative approaches can also be used proactively, its commentary describing how sequential circle processes can be used 'to build social capital and enable participatory decision-making' within communities and justice institutions (Council of Europe, 2018b: 14). Finally, the Recommendation argues that all member states should support each other in the development of restorative justice by sharing research, information and expertise on this subject (Rule 64).

While the Recommendation represents a significant step forward, it is important to note that it is not binding on member states. This means that key decision-makers must be convinced to expend the time and resources required to implement the Recommendation in full. Its predecessor was used successfully to instigate pilot projects and lobby for new legislation in a number of countries (Council of Europe, 2018b). It follows that, in order to support efforts to achieve its implementation, we must begin to delineate how restorative justice could be further developed in Ireland.

Integrating restorative processes into operational practices

In Ireland, the use and accessibility of restorative processes remain far below what the National Commission (2009) envisaged when it called for a complete national roll-out by 2015. Of course, shortly after the Commission reported, Ireland began to experience significant economic barriers to the realisation of new social policy ideas. To this day, criminal justice practitioners face time pressures, onerous caseloads and conflicting priorities which can inhibit them from enabling stakeholder participation and focusing on repairing harm. With

the appropriate level of investment and support, however, it is possible to integrate restorative processes into operational practices in ways that help improve the quality of justice and are not burdensome on practitioners. Given the convergence of Ireland's economic recovery with the inclusion and promotion of restorative justice within a number of important strategies and other governmental documents (e.g. Department of Justice and Equality, 2014; Department of Children and Youth Affairs, 2016; Joint Committee on Justice and Equality, 2018; Probation Service, 2018b), it is time fully to implement restorative justice throughout the Irish criminal justice process.

An Garda Síochána

There is considerable scope to develop restorative justice within An Garda Síochána. Currently, some Gardaí participate in NGO-led reparation panels in Dublin and Tipperary. However, members only facilitate restorative processes as part of the Garda Diversion Programme, the Children Act 2001 enabling specialist Juvenile Liaison Officers (JLOs) to deliver both victim–offender mediation and family group conferences alongside youth cautions.

An early evaluation of the programme's restorative elements found that it achieved high levels of victim participation (73% of cases with an identified victim), victim and offender satisfaction (93% and 94% respectively) and offender compliance with agreed outcomes (89%) (O'Dwyer, 2006, cited in O'Dwyer and Payne, 2016). Given these findings, one might have expected an ongoing emphasis on restorative justice within the diversion programme. However, its recent annual reports indicate that only a small minority of cautions are now restorative in nature: in 2016, 6.33% of cautions (667 out of 10,532) were recorded as being restorative, falling to just 3.99% (477 out of 11,968) in 2017 (Garda Youth Diversion and Crime Prevention Bureau, 2017, 2018).

According to the Garda Youth Diversion and Crime Prevention Bureau (2018), the drop in 2017 was linked to growing trepidation within An Garda Síochána about victim participation: the Gardaí feared breaching the Criminal Justice (Victims of Crime) Act 2017 if they inadvertently caused a victim to feel revictimised in this process. As a result, restorative cautions were reportedly only used with victimless offences in 2017. The latest report also noted that this fear had now been assuaged and that the use of restorative cautions was expected to increase in 2018. Still, if none of the 477 restorative cautions in 2017 included a victim, this raises questions about the proportion of restorative cautions in previous years involving victim–offender dialogue – the most effective form of restorative justice for helping victims recover from

crime and reducing reoffending (Shapland *et al.*, 2011). Given the high rates of victim participation earlier in the programme, the recent figures seem to indicate that young offenders and their victims are not regularly offered the chance to communicate as part of youth cautions.

The irony of this situation is that, far from being a barrier to restorative cautioning, s.7(1)(m) of the Victims of Crime Act obliges An Garda Síochána to inform victims about restorative justice 'where available'. The diversion programme may be exempted from the restorative justice provisions in s.26 of the legislation, but this should not affect the s.7 requirement to inform victims about restorative justice. Given that most JLOs are trained and able to use restorative justice, An Garda Síochána needs to communicate this to victims in order to comply with its statutory duty. JLOs should be supported explicitly by their sergeants and senior leaders to offer restorative justice systematically, in recognition of the fact that victims and offenders, once fully informed about what the process entails, are usually best placed to determine whether participation is right for them (Chapman, 2012). Any such process must be underpinned by the needs and interests of participating children and take account of the crucial youth justice principle of minimum intervention.

Research conducted in other jurisdictions illustrates why An Garda Síochána might benefit from using restorative justice more often and in a wider variety of situations. Clamp and Paterson (2017) summarised the early international evidence on the police's facilitation of restorative justice with low-level offending, indicating high levels of participation, satisfaction and perceived fairness, including in adult cases (e.g. McCold, 1998). This suggests that, in addition to offering restorative justice as part of the Youth Diversion Programme, there would be merit in making this process available alongside the Adult Caution Scheme. Although the scheme's guidance states that before a cautioning decision is made, 'the views of any victims must, if reasonably possible, be sought' (An Garda Síochána, 2006: 3), there is no scope within the policy for officers to facilitate victim-offender communication to discuss if either party needs any support or if anything ought to happen to put right the harm done (Tolan and Seymour, 2014). Whether such cases would best be facilitated by generalist or specialist Gardaí or referred to volunteers or external specialists is a matter for discussion. However, each option (or, perhaps, a combination) represents a viable way to make restorative justice more accessible with respect to low-level adult offending.

Recent research also suggests that many English police forces find utility in using an (often quasi-) restorative response to antisocial behaviour and

neighbourhood conflict (Shewan, 2010; Marder, 2018). Policing research has long shown that informal 'peacemaking' practices, in response to low-level crime, antisocial behaviour and neighbourhood conflict, make up a significant proportion of day-to-day operational policing (Banton, 1964; Sykes and Brent, 1983; Bittner, 1990). Training in restorative justice would strengthen the Gardaí's capability to resolve informally low-level crime and conflict in a more participatory, relational and harm-focused manner.

This would require all Gardaí to be trained in restorative justice, an approach that is not without recent precedent. At Durham Constabulary in northern England, all officers are now trained to facilitate restorative justice and required to assess every incident with a named complainant for its suitability for the process. To foster adherence to this policy, the force's internal recording framework requires officers to document why they did not use restorative justice if they did not do so in a given case. Local officials have also invested in a volunteer-led, specialist service to which officers (and other public agencies) can refer more complicated and entrenched conflicts (Marder, 2018).

Recent research in Durham indicates that the police now regularly offer citizens the opportunity to participate in some form of restorative justice. The findings further suggest that by combining officer training with a visible commitment to the concept among senior leaders, Durham Constabulary has achieved a change in mentality among some officers who have facilitated face-to-face encounters (Stockdale, 2015; Marder, 2018). Marder (2018) also found that officers gained job satisfaction from facilitation, as it supported their discretionary efforts to find a responsive resolution to low-level crime and conflict, enabled them to see cases through to the end, and led to praise from citizens in what they described as an otherwise thankless job. In other words, there were benefits for the organisation and its practitioners, as well as for participating citizens.

Few would seriously suggest that operational policing can always be done restoratively. However, An Garda Síochána could consider offering a restorative process in response to any offence or conflict that they sought to resolve outside of court, and that was not so minor that it could be resolved with less action or no action. This idea of offering participatory decision-making as a first port of call could be similarly applied within other justice agencies.

The courts

For cases that progress to the courts, there are further opportunities to utilise restorative approaches. Ireland already has two well-embedded NGOs which

deliver reparation panels and victim–offender mediation alongside pre-sentence adjournments. Restorative Justice Services (RJS) in Dublin and Restorative Justice in the Community (RJC) in Tipperary are funded by the Department of Justice through the Probation Service and receive judicial referrals in cases where an adult offender pleads guilty and the judge is willing to postpone sentencing (O’Dwyer and Payne, 2016). To give a sense of the scale of their operations, RJS received 367 referrals from District and Circuit Courts in and near Dublin in 2018, facilitating 43 mediated dialogues between offenders and their direct victims that year (RJS, 2019).

This is reminiscent of pre-sentence opportunities for restorative justice within youth justice in Northern Ireland, and adult and youth justice in New Zealand, with two main differences. Firstly, in both Northern Ireland and New Zealand, the capacity to deliver restorative justice pre-sentence exists across the jurisdiction (Campbell *et al.*, 2005; New Zealand Ministry of Justice, 2017). This contrasts with Ireland, where the service mostly exists only for adult cases in Dublin and Tipperary (O’Dwyer and Payne, 2016). Moreover, in New Zealand (for adult and youth cases) and in Northern Ireland (for youth cases), there are statutory obligations on judges to adjourn sentencing in order to explore the potential for restorative justice at that point. In Ireland, these adjournments rely wholly on judicial discretion, resulting in disparate referral rates across the small number of areas where this service is available (RJS, 2019).

Pre-sentence restorative justice fits well within the Irish system because of judicial discretion to facilitate compensation and use other sentencing outcomes, such as strike-outs and donations to the poor box, in lieu of conviction or punitive sentencing (Hamilton, 2005). Indeed, judges could use their existing discretion to support an array of restorative-inspired court approaches, involving stakeholders in addressing harm and determining reparation in a manner evocative of some community courts (Gavin and Sabbagh, 2019). Still, given that restorative justice is seldom requested by victims and offenders to whom it has not been explicitly offered (Laxminarayan, 2014), a new legal requirement to make a pre-sentence offer could greatly increase take-up and create a more participatory and harm-focused default approach to sentencing.

The Probation Service

There is also much potential to develop restorative justice within probation. Since the Children Act 2001, Young Persons’ Probation has been responsible

for delivering court-ordered family group conferences, although research indicates that such referrals have been low in recent years (37 in 2015, declining to 20 in 2016) (Kennedy and Seymour, 2018). The Probation Service also funds a small number of NGOs to which it refers cases for restorative interventions. For example, young persons on probation can be referred to Le Chéile, a Limerick-based youth service in which every €1 invested in its Restorative Justice Project was estimated to return approximately €2.92 in social value (Quigley et al., 2015). Again, the existence of these capacities means that s.7(1)(m) of the Victims of Crime Act creates a legal duty to inform victims about the opportunities for their involvement.

Moreover, the Probation Service has developed its own capacity to deliver restorative justice with adult offenders under its supervision. The new RJVSU supports the delivery of restorative justice, including victim-offender mediation and the 'Bespoke Restorative Justice' model, referring to ad-hoc and tailored reparative interventions, facilitated at the request of victims and judges (Probation Service, 2018a). The new unit also cements the service's strategic role in developing restorative justice across Ireland, having been established partially to 'provide leadership and support for the consistent and integrated provision of a range of Restorative Justice models' (Probation Service, 2018a: 2). This implies an ongoing role for probation officials in activities of strategic importance, such as urging new legislation, lobbying for additional resources and supporting multi-agency work, all of which are needed to ensure that restorative justice is more consistently available throughout the country and the criminal justice process. As recent experience from England and Wales indicates, multi-agency work with dedicated staffing can greatly help embed restorative justice in areas with little or no existing provision (Institute for Criminal Policy Research (ICPR), 2016). In Ireland, restorative justice presents an opportunity to build on advances in joint-agency working in offender management (J-ARC Evaluation Framework Working Group, 2018) and other contexts (e.g. victims' services).

On these and other issues, the Probation Service will need to navigate the responsibilities that come from being both a strategic lead and a service provider. This dual role is akin to that of probation services in Latvia, Slovakia, Lithuania and the Czech Republic, where restorative justice is embedded in probation legislation (Dünkel et al., 2015). As noted earlier, one important dynamic in Ireland is that the creation of any new delivery capability creates a corresponding obligation to inform victims about that service. Accordingly, the Probation Service is in a strong position to 'lead from the front' by

becoming more proactive in offering restorative justice to offenders under its supervision and their victims.

In fact, the Recommendation should be of particular interest to probation services as it lists the desire to 'elaborate on the use of restorative justice by prison and probation services' as one of four core aims. Its application in probation is expanded on in two rules. Rule 59 describes how well-established probation interventions (e.g. victim empathy work and reparation) and more innovative approaches (e.g. reintegration ceremonies and offender–family reconciliation) can be (re)designed and delivered in a manner that supports stakeholder participation and focuses on repairing harm. This is relevant to the RJVSU, which supports the delivery of a range of victim-oriented, reparative and reintegrative interventions. Rule 58 outlines how probation services can adopt a more systematically restorative approach by including stakeholders in sentence planning and allowing any agreed outcomes to inform supervision decisions.

Marder (2019) describes further what this might look like. 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.

This could happen with any community order. For example, with respect to the recently piloted Integrated Community Service Order (Guilfoyle, 2017), restorative justice could be used to explore both what form(s) of community service to undertake and which other interventions to use in lieu of some community service hours. As well as supporting desistance and victim recovery, this process could increase both compliance and offender-perceived legitimacy of probation, as offenders may be more willing to engage with interventions that they played a role in selecting (Sherman, 1993; Tyler, 2006). Outcomes may also be most likely to reflect the parties' unique needs and interests when the parties participate in decision-making (Schiff, 2007). Reforming sentence planning so that stakeholders are always given an opportunity (though not compelled) to participate would be one

way to change organisational routines so that restorative justice becomes the default approach to decision-making in probation.

The Irish Prison Service

If restorative justice is to be an option in more serious cases, the Irish Prison Service will also need to participate in these efforts. As noted earlier, *The Meeting* brought into the public consciousness the idea that victims of serious sexual violence might want to meet their offenders. Research has long indicated the potential benefits – and the notable, but manageable, risks – of enabling victims of serious offences to communicate with offenders (Daly, 2006; Ruggie and Cormier, 2011; Joyce and Keenan, 2013); the potential benefits for both parties may be even greater than with low-level offending (Strang and Sherman, 2015). The literature also suggests that while substantial levels of preparation and care are required when bringing victims into prison, it is possible for this to happen safely (Liebmann, 2010; Barabás *et al.*, 2012).

As the Irish Prison Service expands its victim liaison capabilities to cope with new obligations under the Victims of Crime Act, there will be ever more opportunities to offer restorative justice at various stages in an offender's imprisonment. For example, an offer could be made during any contact with the victim, following an offender's successful completion of a victim empathy course, as part of the parole process, or alongside the nascent Community Return programme (McNally and Brennan, 2015). Different victims and offenders will seek to communicate at different points following an offence and must be enabled to make contact safely and at a time that is right for them.

Again, who facilitates these practices is a matter for further discussion. Dozens of prison officers are trained in conferencing (Gavin and Sabbagh, 2019), although advanced training is necessary to facilitate serious and complex cases (Keenan, 2018). Probation Officers and police officers could also be involved at different points in the process. Existing NGOs can be extended, and new services established, in areas with limited capacity. Indeed, in many jurisdictions with comprehensive services, these are situated outside of the traditional criminal justice agencies: for example, Norway has an independent public mediation service comprising volunteers; New Zealand, Belgium and Nova Scotia all fund regional NGOs; while Northern Ireland has a statutory, professional facilitation service for youth conferencing. The service need not be identical across Ireland; recent experience from England and Wales illustrates the benefits (as well as the downsides) of localised approaches to service provision (ICPR, 2016). Multi-agency

co-operation, inclusive of NGOs and victims' services, is needed to determine how best to make restorative justice available across Ireland.

Restorative justice beyond the criminal procedure

As mentioned earlier, one of the most significant advances in the Recommendation is its explicit support for the use of restorative processes within the criminal justice system, outside of the criminal procedure. This article has already described how the police can make use of restorative approaches in response to non-crime conflicts. This section outlines further ways in which restorative approaches might be used – both *reactively* and *proactively* – across the Irish criminal justice system.

Rule 60 lists a range of situations in which the kind of processes already described can be used to react to other types of conflict in the criminal justice context. Two of the many examples provided will be discussed here: public complaints against the police, and conflicts within prisons.

With respect to public complaints against Gardaí, research has indicated that, as in other contexts, both parties may benefit from an opportunity to tell their side of the story, listen to the other party and contribute to outcome decisions (Young *et al.*, 2005). Restorative justice could help respond to concerns articulated by the Joint Committee on Justice and Equality that the complaints procedure is 'overly-bureaucratic and complainant-unfriendly' (2016: 14) and, later, by the Commission on the Future of Policing in Ireland (2018) that the system is too focused on identifying which rule was broken and which punishment to use. Experimentation in this context is particularly timely, as the police accountability bodies in Ireland may be reformed in the coming years (Commission on the Future of Policing in Ireland, 2018). However, any piloting of a restorative approach to police complaints must be transparent in its design and overseen and evaluated independently to ensure that this less formal method is not used unfairly to promote either party or prioritise resolution over addressing harm.

Prisons can use restorative justice to respond to conflicts among people in custody or between people in custody and prison staff, inclusive of prison adjudication processes. A recent report by the Prison Reform Trust (Edgar, 2018) argued that an exclusively punitive response to prison conflict and discipline can create an adversarial relationship between staff and those in their care and inspire resistance among those who receive punishment, making prisons more dangerous for both groups. Edgar (2018) promotes

restorative justice as an early intervention to resolve conflicts before they can escalate into violence. A process evaluation at three of the many English prisons at which this is currently being tested found that the training of several dozen staff and residents was well received and concluded that 'with commitment, leadership and clear lines of accountability, it is possible to use RA [restorative approaches] to deal, both formally and informally, with a wide variety of conflicts' in prisons (Fair and Jacobson, 2018: 25). Others have also noted the potential benefits for staff wellbeing, skill-building and violence reduction (Liebmann, 2010; Barabás et al., 2012). In Ireland, this process could be (re)piloted as part of the disciplinary and grievance procedures in one or more prisons. Furthermore, those serving custodial sentences and prison staff alike could receive related training to build their conflict resolution and communication skills, as Childhood Development Initiative (2017) is already doing with the 'anti-violence restorative training' delivered to the young people detained in Oberstown. Pranis (2007) also noted the potential of restorative approaches to respond to staff-on-staff conflict in prisons; following a successful pilot in 2007, this was implemented state-wide in the Minnesota Department of Corrections.

Finally, while everything suggested so far has sought to react to a specific crime or conflict, public institutions in many sectors – including justice, education, social work and social care – are increasingly using restorative methods proactively, usually referred to as restorative practices. In support of this development, the commentary to Rule 61 provides for the use of 'circles' – a flexible process often characterised by the right to speak going around the participants sequentially – by and within criminal justice agencies. Circles can be used in almost any setting to build relationships, share experiences, discuss difficult issues and make collective decisions, ensuring that all participants have an equal opportunity to speak to whatever topic is being deliberated (Stuart and Pranis, 2006). To date, circles and other restorative practices have been used for many purposes. Post-sentence, for example, they can aid in reintegration during community orders and pre- or post-release from prison, if used to build relationships between offenders and their family or community (Barabás et al., 2012; Slump, 2016). This is supported by the Recommendation and could easily be piloted in Ireland.

Another recent example of an innovative approach to the use of circles in criminal justice took place in Gloucestershire, where the Youth Forums project used circles, arts and coaching with police officers and young people to humanise both groups in each other's eyes and address mutual mistrust.

The project evaluation found that this was 'effective in identifying, challenging and resolving negative perceptions that the participating police officers and young people hold about [each other]' (Payne *et al.*, 2016: 3). In Ireland, such an approach could help build trust and understanding between, for example, An Garda Síochána and Travelling or working-class communities where there is a long history of mistrust (Mulcahy and O'Mahony, 2005). The point is that the circle process provides a structure for dialogue that encourages people to listen to each other's views and reflect on their own attitudes, assumptions and behaviours. Restorative practices could also support more regular and meaningful participation of citizens in identifying crime prevention priorities (Weitekamp *et al.*, 2003), remedying some limitations of the Joint Policing Committees (Mulcahy, 2008).

An Garda Síochána's senior management already have some experience of circle processes, having participated in circles, facilitated by the Edward Kennedy Institute for Conflict Intervention, to discuss the force's Cultural Audit in 2018. This raises the possibility that circles might be further utilised within the force, enabling staff to participate in conversations about what kind of reform is needed and how this can be implemented. Frontline buy-in is crucial to implementing and sustaining change in policing, and restorative practices can help create a more legitimate and procedurally just change process.

Finally, restorative practices can be used within any organisation to support practitioners to reflect openly and collectively on their day-to-day decision-making and the values implicit therein. This notion of 'explicit practice' can help organisations to learn from their successes and mistakes in a considered and participatory way (Lohmeyer, 2014; O'Connell, 2019), and is a key feature of 'whole organisation' approaches to restorative practice that have been developed in other sectors. This can have a variety of benefits, depending on the sector in question. In education, for example, one study found that the whole-organisation approach led to a reduction in bullying and to gains in self-esteem and empathetic attitudes in schools (Wong *et al.*, 2011). In social work, meanwhile, a recent evaluation of the whole-organisation approach in a large children's service (Leeds, UK) argued that it supported significant reductions in children being taken into care and produced 'clear indications of culture change' within the broader service (Mason *et al.*, 2017: 10). This is what Rule 61 of the Recommendation is referring to when it states that these practices can 'help to build a restorative culture' within justice agencies. Notably, contracts have recently been awarded to deliver restorative practices training to schools and youth

diversion projects across Ireland (Chapman, 2019). With sufficient resourcing and a strong commitment from both senior leaders and frontline practitioners, restorative practices have the potential to change Irish criminal justice in a significant way.

Conclusion: Changing the default approach

In 2009, the National Commission on Restorative Justice recommended that Ireland fully embrace restorative justice, arguing for 'a restorative perspective [to] be introduced nationally into the Irish criminal justice system' (2009: 3). Despite some important developments in the intervening decade, Ireland lacks the capacity to offer a restorative process to all victims and offenders, while operational practices and institutional cultures throughout the system are yet to be strongly informed by the key principles of stakeholder participation and repairing harm. Increasingly, restorative justice is appearing – and is being lauded as a positive and effective approach – in a range of governmental and institutional reports, strategies and recommendations. The time has come to invest the time, effort and resources needed to make this happen in practice.

This article has described how restorative justice could be offered, as a default approach to decision-making, at all stages of the justice process. This would not prevent reversion to traditional approaches when the parties decline, or when there is an overriding public or private interest in an entirely state-led decision-making process or in keeping the parties apart (Daly, 2005). Rather, it would mean that there was a presumption in favour of offering to enable stakeholder participation and aiming to repair harm in response to crime and conflict, unless the totality of the circumstances in a given case clearly dictated that a different response was necessary.

This applies both within and outside of the criminal procedure. An Garda Síochána could offer restorative justice as the decision-making process of first resort in cases that it seeks to resolve outside of court. Courts could systematically postpone sentencing to enable restorative justice to be offered whenever a person pleads or is found guilty, while Probation could begin all sentence planning processes by offering stakeholders the opportunity to participate. For the minority of cases resulting in imprisonment, restorative justice can be offered to all offenders and their victims, while staff and people in custody alike can be upskilled so that many more conflicts and disciplinary issues can be responded to restoratively. In all these agencies, restorative practices can help support relationship building, participatory decision-

making and reflection. Developments can be designed and instigated collaboratively by justice agencies, academia and civil society. A culturally informed analysis of the current state of affairs is necessary to identify the salient gaps in policy and practice and to determine how best to overcome any barriers or inertia. Research can also be used to learn about what works well and what is possible, both in other countries and as we pilot and evaluate programmes in Ireland. Indeed, much can be learned from Northern Ireland's vast experience of developing restorative justice in youth justice, and through collaboration with those involved in the North's ongoing efforts to create a new restorative justice strategy for adult offenders.

The empirical literature shows us how to manage implementation, maximising the benefits and minimising the risks involved. Necessarily, there will be some gaps between theory and practice, as restorative principles come into conflict with institutional goals, priorities and rationales (Daly, 2003; Blad, 2006; Crawford, 2006; Barnes, 2015; Marder, 2018). These tensions will present challenges to safe and effective practice, which is reliant on practitioners having the time, skills and inclination to facilitate participation and deliver information impartially and fairly, without coercing people into participating or prioritising or imposing their preferred outcomes (Chapman, 2012). However, these risks can be managed through training and ongoing support (Shapland *et al.*, 2011; Keenan, 2014) and by involving families and other non-state actors in the practices (McCold and Wachtel, 2002; Crawford, 2006), while action research can help identify 'teething problems' in new programmes (Hoyle *et al.*, 2002; Schwalbe *et al.*, 2012).

There are elements of the unique culture of Irish criminal justice that may be conducive to restorative justice. Hamilton (this volume) points to the greater emphasis placed on practitioner discretion, relative to Ireland's neighbours. This culture of 'informalism' could suit restorative justice, insofar as it may enable the tailoring of solutions to specific problems and circumstances. Meanwhile, Brangan's research (2019) identified a compassion-driven humanitarian streak in Irish practices, describing this culture as 'pastoral penality'. Restorative justice provides both the methods and the language that practitioners can use to support victims and offenders and achieve positive and mutually beneficial outcomes, systematically and intentionally. The ethos that Brangan describes, therefore, should look favourably on the restorative approach.

Many of the right conditions exist, and much of the groundwork has already been done. It is now over to those who work in and study Irish

criminal justice to co-create and implement a strategy that can achieve the aforementioned goals. Indeed, this is the purpose of a new cross-European project – Restorative Justice: Strategies for Change – in which Ireland is now participating. The Irish strategy for this project was published in June 2019 (Marder et al., 2019), and efforts are ongoing to utilise design thinking, facilitate working groups and organise events that bring stakeholders together in pursuit of achieving its three aims around accessibility, knowledge and cultural change.

Criminal justice will never entirely or exclusively reflect any one aim, theory or framework. Still, by adopting restorative justice as a default practice, Irish criminal justice can go some way to becoming as restorative as it is possible for a modern system to be.

References

- An Garda Síochána (2006), *Adult Cautioning Scheme*, available at <https://www.garda.ie/en/About-Us/Publications/Policy-Documents/Adult-Cautioning-Scheme.pdf> (accessed 15 January 2019)
- Angel, C., Sherman, L., Strang, H., Ariel, B., Bennett, S., Inkpen, N., Keane, A. and Richmond, T. (2014), 'Short-term effects of restorative justice conferences on post-traumatic stress symptoms among robbery and burglary victims: a randomized controlled trial', *Journal of Experimental Criminology*, vol. 10, no. 3, pp. 291–307
- Banton, M. (1964), *The Policeman in the Community*, London: Tavistock
- Barabás, T., Fellegi, B. and Windt, S. (eds) (2012), *Responsibility-Taking, Relationship-Building and Restoration in Prisons*, Budapest: Foresee Research Group and National Institute of Criminology
- Barnes, O. (2015), *Restorative Justice in the Criminal Justice System: The McDonaldization of Diversionary Youth Conferencing*, available at <http://ethos.bl.uk/OrderDetails.do?uin=uk.bl.ethos.669225> (accessed 14 June 2017)
- Bazemore, G. and Griffiths, C. (2003), 'Police reform, restorative justice and restorative policing', *Police Practice and Research*, vol. 4, no. 4, pp. 335–346
- Bittner, E. (1990), *Aspects of Police Work*, Boston: Northeastern University Press
- Blad, J. (2006), 'Institutionalising restorative justice? Transforming criminal justice? A critical view on the Netherlands', in I. Aertsen, T. Daems and L. Robert (eds), *Institutionalising Restorative Justice* (pp. 93–119), Cullompton, UK: Willan
- Braithwaite, J. (2003), 'Principles of restorative justice', in A. von Hirsch et al. (eds), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?* (pp. 1–20), Oxford: Hart Publishing
- Brangan, L. (2019), 'Pastoral penalty in 1970s Ireland: Addressing the pains of imprisonment', *Theoretical Criminology*, available at <https://doi.org/10.1177/1362480619843295> (accessed 12 August 2019)

- Byrne, J. (2018), *The Meeting is a remarkable and very moving film*, available at <https://www.rte.ie/entertainment/movie-reviews/2018/0927/998260-the-meeting-is-a-remarkable-and-very-moving-film/> (accessed 9 January 2019)
- Campbell, C. et al. (2005), *Evaluation of the Northern Ireland Youth Conference Service*, available at <https://restorativejustice.org.uk/sites/default/files/resources/files/Evaluation%20of%20the%20Northern%20Ireland%20Youth%20Conference%20Service.pdf> (accessed 29 November 2012)
- Chapman, T. (2012), 'Facilitating restorative conferences', in E. Zinsstag and I. Vanfraechem (eds), *Conferencing and Restorative Justice: International Practices and Perspectives* (pp. 65–82), Oxford: Oxford University Press
- Chapman, T. (2019), 'A European perspective', presentation at the *Restorative Justice: Strategies for Change* symposium, Maynooth, 1 March
- Childhood Development Initiative (2017), *Milestones, Memories and Momentum: CDI, Ten Years On*, available at <https://www.cdi.ie/wp-content/uploads/2017/09/Milestones-Memories-Momentum.pdf> (accessed 8 March 2019)
- Clamp, K. and Paterson, C. (2017), *Restorative Policing: Concepts, Theory and Practice*, London: Routledge
- Commission on the Future of Policing in Ireland (2018), *The Future of Policing in Ireland*, Dublin: Commission on the Future of Policing in Ireland
- Council of Europe (1999), *Recommendation No. R (99) 19 of the Committee of Ministers to Member States Concerning Mediation in Penal Matters*, Strasbourg: Council of Europe
- Council of Europe (2018a), *Recommendation CM/Rec(2018)8 of the Committee of Ministers to Member States Concerning Restorative Justice in Criminal Matters*, Strasbourg: Council of Europe
- Council of Europe (2018b), *Commentary to Recommendation CM/Rec(2018)8 of the Committee of Ministers to Member States Concerning Restorative Justice in Criminal Matters*, Strasbourg: Council of Europe
- Crawford, A. (2006), 'Institutionalising restorative justice in a cold, punitive environment', in I. Aertsen, T. Daems and L. Robert (eds), *Institutionalising Restorative Justice* (pp. 120–150), Cullompton, UK: Willan
- Daly, K. (2003), 'Mind the gap: Restorative justice in theory and practice', in A. von Hirsch et al. (eds), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?* (pp. 219–236), Oxford: Hart Publishing
- Daly, K. (2005), *The Limits of Restorative Justice*, available at http://www.antonioacasella.eu/restorative/Daly_2005.pdf (accessed 13 October 2014)
- Daly, K. (2006), 'Restorative justice and sexual assault: an archival study of court and conference cases', *British Journal of Criminology*, vol. 46, no. 2, pp. 334–356
- Department of Children and Youth Affairs (2016), *Tackling Youth Crime: Youth Justice Action Plan 2014–2018; Progress Report 2016*, available at <https://www.dcy.gov.ie/documents/20171212TacklingYouthCrimeJstcActPlan20142018ProgRep.pdf> (accessed 25 June 2019)
- Department of Justice and Equality (2014), *Strategic Review of Penal Policy: Final Report*, available at <http://www.justice.ie/en/JELR/Strategic%20Review%20of%20>

- Penal%20Policy.pdf/Files/Strategic%20Review%20of%20Penal%20Policy.pdf (accessed 25 June 2019)
- Dünel, F., Grzywa-Holten J. and Horsfield, P. (eds) (2015), *Restorative Justice and Mediation in Penal Matters: A Stock-Taking of Legal Issues, Implementation Strategies and Outcomes in 36 European Countries (Vols 1 and 2)*, Mönchengladbach, Germany: Forum Verlag Godesberg
- Edgar, K. (2018), *Ensuring a Safe Environment: A Conflict Centred Strategy*, London: Prison Reform Trust, available at http://www.prisonreformtrust.org.uk/Portals/0/Documents/Ensuring_a_safe_prison.pdf (accessed 13 August 2019)
- Fair, H. and Jacobson, J. (2018), *Process Evaluation of the Restorative Prisons Project*, available at <http://eprints.bbk.ac.uk/22849/1/RS%20report%20final%20June%202018.pdf> (accessed 8 February 2019)
- Garda Youth Diversion and Crime Prevention Bureau (2017), *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme*, Dublin: An Garda Síochána
- Garda Youth Diversion and Crime Prevention Bureau (2018), *Annual Report of the Committee Appointed to Monitor the Effectiveness of the Diversion Programme*, available at <http://www.iyjs.ie/en/IYJS/Section%2044%20Monitoring%20Committee%20Report%202017.pdf/Files/Section%2044%20Monitoring%20Committee%20Report%202017.pdf> (accessed 9 January 2019)
- Gavin, P. (2015), 'Slow and steady progress: Developing restorative justice in the Republic of Ireland', *Safer Communities*, vol. 14, no. 3, pp. 156–164
- Gavin, P. and Sabbagh, M. (2019), 'Developing community courts with restorative justice in Ireland', *British Journal of Community Justice*, available at <https://www.mmuperu.co.uk/bjcc/articles/developing-community-courts-with-restorative-justice-in-ireland> (accessed 12 August 2019)
- Guilfoyle, E. (2017), 'What exactly is a Community Service Order in Ireland?', *Irish Probation Journal*, vol. 14, pp. 189–205
- Hamilton, C. (2005), 'Sentencing in the District Court: "Here be dragons"', *Irish Criminal Law Journal*, vol. 15, no. 3, pp. 9–15
- Hoyle, C., Young, R. and Hill, R. (2002), *Proceed with Caution: An Evaluation of the Thames Valley Police Initiative in Restorative Cautioning*, available at <https://www.jrf.org.uk/file/36675/download?token=2wPeK1LY&filetype=full-report> (accessed 12 August 2019)
- Institute for Criminal Policy Research (2016), *Report of a Mapping Exercise of Restorative Justice Provision in England and Wales for the Restorative Justice Council*, available at <https://www.rjc.org.uk/sites/default/files/resources/files/ICPR%20mapping%20report%20of%20restorative%20justice%20provision.pdf> (accessed 3 May 2016)
- J-ARC Evaluation Framework Working Group (2018), *Critical Review of Initial Evaluations on the Three J-ARC Pilot Projects*, 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 12 March 2019)

- Joint Committee on Justice and Equality (2016), *Report on Garda Oversight and Accountability*, available at <https://webarchive.oireachtas.ie/parliament/media/committees/justice/report-on-garda-oversight.pdf> (accessed 7 February 2018)
- Joint Committee on Justice and Equality (2018), *Report on Penal Reform and Sentencing*, available at http://opac.oireachtas.ie/AWDData/Library3/Penal_reform_report_final_092026.pdf (accessed 25 June 2019)
- Joyce, N. and Keenan, M. (2013), *Restorative Justice, Sexual Violence, and the Criminal Justice System*, UCD School of Applied Social Science Working Paper Series no. 33, available at https://www.ucd.ie/t4cms/WP33_Joyce&Keenan.pdf (accessed 8 March 2019)
- Keenan, M. (2014), *Sexual Trauma and Abuse: Restorative and Transformative Possibilities?*, available at <https://researchrepository.ucd.ie/handle/10197/6247> (accessed 12 August 2019)
- Keenan, M. (2018), 'Training for restorative justice work in cases of sexual violence', *International Journal of Restorative Justice*, vol. 1, no. 2, pp. 291–302
- Kennedy, N. and Seymour, M. (2018), 'Participation in youth justice: the potential of family conferencing', presentation at *The North–South Criminology Conference*, Dublin, 6 September
- Laxminarayan, M. (2014), *Accessibility and Initiation of Restorative Justice*, available at http://euforumrj.org/assets/upload/Accessibility_and_Initiation_of_RJ_website.pdf (accessed 13 September 2016)
- Liebmann, M. (2010), *Restorative Justice in Prisons – An International Perspective*, available at https://www.foresee.hu/uploads/media/MarianLiebmann_text.pdf (accessed 8 March 2019)
- Lohmeyer, B. (2014), *Taking Restorative Practice Seriously – Re-engage Youth Services*, available at https://www.parliament.act.gov.au/_data/assets/pdf_file/0009/681750/Exhibit-No.1B-Real-Justice-Australia-and-Re-engage-Youth-Services.pdf (accessed 12 March 2019)
- McCold, P. (1998), *Police Facilitated Restorative Conferencing: What the Data Show*, available at <https://www.iirp.edu/news/police-facilitated-restorative-conferencing-what-the-data-show> (accessed 12 August 2019)
- McCold, P. and Wachtel, T. (2002), 'Restorative justice theory validation', in E. Weitekamp and H. Kerner (eds), *Restorative Justice: Theoretical Foundations* (pp. 110–142), Cullompton, UK: Willan
- McNally, G. and Brennan, A. (2015), 'Community return: a unique opportunity', *Irish Probation Journal*, vol. 12, pp. 141–159
- Marder, I. (2018), *Restorative Justice and the Police: Exploring the Institutionalisation of Restorative Justice in Two English Forces*, available at <http://etheses.whiterose.ac.uk/19578/> (accessed 9 January 2019)
- Marder, I. (2019), 'Building restorative probation services', *Probation Quarterly*, vol. 13, pp. 22–24
- Marder, I., Fernée, U., Chapman, T. and O'Dwyer, K. (2019), *Restorative Justice: Strategies for Change – A Collective Strategy for Ireland, 2019–2023*, available at [http://www.probation.ie/EN/PB/0/5D1EAF15E4717EF80258418002CF512/\\$File/Ireland_RJ_Strategy_for_Change%20Final.pdf](http://www.probation.ie/EN/PB/0/5D1EAF15E4717EF80258418002CF512/$File/Ireland_RJ_Strategy_for_Change%20Final.pdf) (accessed 25 June 2019)

- Mason, P., Ferguson, H., Morris, K., Munton, T. and Sen, R. (2017), *Leeds Family Valued: Evaluation Report*, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/625222/Leeds_Family_Valued_-_Evaluation_report.pdf (accessed 12 March 2019)
- Mulcahy, A. (2008), 'Policing, "community" and social change in Ireland', in J. Shapland (ed.), *Justice, Community and Civil Society: A Contested Terrain* (pp. 190–208), Cullompton, UK: Willan
- Mulcahy, A. and O'Mahony, E. (2005), 'Policing and social marginalisation in Ireland', Working Paper 05/02, Dublin: Combat Poverty Agency
- National Commission on Restorative Justice (2009), *Final Report*, available at <http://www.justice.ie/en/JELR/NCRJ%20Final%20Report.pdf/Files/NCRJ%20Final%20Report.pdf> (accessed 9 January 2019)
- New Zealand Ministry of Justice (2017), *Restorative Justice: Best Practice Framework*, available at <https://www.justice.govt.nz/assets/Documents/Publications/restorative-justice-best-practice-framework-2017.pdf> (accessed 15 January 2019)
- O'Connell, T. (2019), 'The best is yet to come: Unlocking the true potential of restorative practice', in T. Gavrielides (ed.), *Routledge International Handbook of Restorative Justice* (pp. 422–441), Abingdon, UK: Routledge
- O'Dwyer, K. and Payne, B. (2016), 'Restorative justice', in D. Healy et al. (eds), *The Routledge Handbook of Irish Criminology* (pp. 222–241), Abingdon, UK: Routledge
- Payne, B., Hobson, J., Lynch, K. and Hyde, D. (2016), *The Gloucestershire Youth Forums Evaluation*, Cheltenham, UK: University of Gloucestershire
- Pranis, K. (2007), 'Healing and accountability in the criminal justice system: Applying restorative justice processes in the workplace', *Cardozo Journal of Conflict Resolution*, vol. 8, no. 2, pp. 659–675
- Probation Service (2018a), *Restorative Justice and Victim Services Unit*, Dublin: Probation Service
- Probation Service (2018b), *Strategic Plan 2018–2020*, 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 2019)
- Quigley, M., Martynowicz, A. and Gardner, C. (2015), *Building Bridges: An Evaluation and Social Return on Investment Study of the Le Chéile Restorative Justice Project in Limerick*, available at <http://qualitymatters.ie/wp-content/uploads/2015/02/Building-Bridges-Restorative-Justice-SROI-Evaluation-2015.pdf> (accessed 15 January 2019)
- Restorative Justice Services (2019), *Annual Report 2018*, available at <https://rjs.ie/wp-content/uploads/2019/06/RJS-Annual-Report-2018.pdf> (accessed 27 August 2019)
- Rugge, T. and Cormier, R. (2011), 'Restorative justice in cases of serious crime: an evaluation', in E. Elliot and R. Gordon (eds), *New Directions in Restorative Justice: Issues, Practice, Evaluation* (pp. 266–277), Abingdon, UK: Routledge
- Schiff, M. (2007), 'Satisfying the needs and interests of stakeholders', in G. Johnstone and D. Van Ness (eds), *Handbook of Restorative Justice* (pp. 228–264), Cullompton, UK: Willan

- Schwalbe, C.S., Gearing, R.E., MacKenzie, M.J., Brewer, K.B. and Ibrahim, R. (2012), 'A meta-analysis of experimental studies of diversion programs for juvenile offenders', *Clinical Psychology Review*, vol. 32, no. 1, pp. 26–33
- Shapland, J., Robinson, G. and Sorsby, A. (2011), *Restorative Justice in Practice: Evaluating What Works for Victims and Offenders*, Abingdon, UK: Routledge
- Sherman, L. (1993), 'Defiance, deterrence, and irrelevance: a theory of the criminal sanction', *Journal of Research in Crime and Delinquency*, vol. 30, no. 4, pp. 445–473
- Shewan, G. (2010), *A Business Case for Restorative Justice and Policing*, London: ACPO
- Slump, G.J. (2016), 'House of Restoration: a virtual shelter for restoring (family) ties', *European Journal of Parental Imprisonment*, summer, pp. 13–15
- Stockdale, K. (2015), *The Implementation of Restorative Justice Policy: A Case Study of One Police Force in England and Wales*, available at <http://etheses.dur.ac.uk/11331/> (accessed 9 January 2019)
- Strang, H. and Sherman, L. (2015), 'The morality of evidence', *Restorative Justice*, vol. 3, no. 1, pp. 6–27
- Strang, H., Sherman, L.W., Mayo-Wilson, E., Woods, D. and Ariel, B. (2013), *Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A Systematic Review*, Oslo: The Campbell Collaboration
- Stuart, C. and Pranis, K., 2006. 'Peacemaking circles: Reflections on principal features and primary outcome', in D. Sullivan and L. Tift (eds), *Handbook of Restorative Justice: A Global Perspective* (pp. 121–133), Abingdon, UK: Routledge
- Sykes, R. and Brent, R. (1983), *Policing: A Social Behaviorist Perspective*, New Brunswick, NJ: Rutgers University Press
- Tolan, D. and Seymour, M. (2014), 'Increasing the potential for diversion in the Irish criminal justice system: the role of the Garda Síochána Adult Cautioning Scheme', *Irish Journal of Applied Social Studies*, vol. 14, no. 1, pp. 60–71
- Tyler, T. (2006), 'Restorative justice and procedural justice: Dealing with rule breaking', *Journal of Social Issues*, vol. 62, no. 2, pp. 307–326
- Weitekamp, E., Kerner, H. and Meier, U. (2003), 'Community and problem-oriented policing in the context of restorative justice', in E. Weitekamp and H. Kerner (eds), *Restorative Justice in Context: International Practice and Directions* (pp. 304–326), Cullompton, UK: Willan
- Wong, D., Cheng, C., Ngan, R. and Ma, S. (2011), 'Program effectiveness of a restorative whole-school approach for tackling school bullying in Hong Kong', *International Journal of Offender Therapy and Comparative Criminology*, vol. 55, no. 6, pp. 846–862
- Young, R., Hoyle, C., Cooper, K. and Hill, R. (2005), 'Informal resolution of complaints against the police: a quasi-experimental test of restorative justice', *Criminal Justice*, vol. 5, no. 3, pp. 279–317
- Zehr, H. (1990), *Changing Lenses: A New Focus for Crime and Justice*, Scottsdale, PA: Herald Press

Delivering Victim Services: An Overview of Practice in the Probation Board for Northern Ireland

Gillian Montgomery*

Summary: Everything Probation does is about preventing victims of crime. We work directly and indirectly with victims of crime. In supervising those who have offended we challenge them to look at the impact their crime has had. Pre-sentence reports and reports for the Parole Commissioners address the impact of the crime on the victims and the wider circles of victimisation. Many of our programmes challenge offending behaviour, often for the first time, confronting the individual who has offended with the impact of the harm that has been caused. Through schemes like community service, victims can have a say in what type of work an individual completes as part of their court order and we have developed a partnership with Victim Support Northern Ireland (VSNI) in relation to delivering a problem-solving approach to justice. Furthermore, the Probation Board for Northern Ireland (PBNI) has developed service user involvement forums that give victims a further voice. This paper considers the key developments in PBNI following the publication in 2015 of the PBNI Victims Policy. It considers the impact of those developments and whether the policy has resulted in victims' voices being more central to decision-making within Probation and more adequately represented within criminal justice.

Keywords: Victim, problem-solving justice, service user involvement, technology, scheme, information, community service.

Background

In 2011 the Criminal Justice Inspectorate Northern Ireland (CJINI) carried out a wide-ranging inspection of the care and treatment of witnesses in Northern Ireland. It made a number of recommendations to improve the treatment of victims and witnesses. The Chief Inspector, writing in 2011, said:

There is a core tension at the heart of the justice system and its interaction with victims and witnesses. The uncomfortable reality is that the goals of

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justice bodies do not have the needs of victims and witnesses at their centre. This arises from the fact that in an adversarial system victims cannot be 'at the heart of the system', as they have often been described. From the Police Officer who investigates a crime and prepares a file, to the evidence and public interest tests of the Public Prosecution Service (PPS), through to the effective administration of justice within the courts and the implementation of the rule of law, the needs of the victim can often appear tangential and secondary to the needs of the justice system and the requirement that justice is delivered for offenders. (Maguire, 2011)

The 2011 inspection report made specific recommendations for the Probation Board for Northern Ireland (PBNI) in relation to the amalgamation of the three Victim Information Schemes (VISs), which were accepted and implemented (Hunter, 2015).

Two years later, in 2013, then NI Justice Minister David Ford MLA elaborated:

How we treat those who have been harmed by crime, is the ultimate test of how our criminal justice system responds. Witnesses are needed at all stages of the process. This includes investigating crimes, taking forward prosecutions, testing the strength of evidence and making sure cases are dealt with quickly and effectively. For victims and witnesses to come forward in the first place, they must believe that what they have to say is important and will be taken into account. At the centre of all of this is that we treat victims and witnesses with dignity and respect and they are certain that their contribution, no matter how small, is valued. (Ford, 2013)

At this time the Minister launched a new Victim and Witnesses Strategy 2013–2018, which aimed to reshape the criminal justice system to build a safer Northern Ireland, with lower levels of crime, safer shared communities and improved access to justice for all. Specifically, the strategy aimed to provide better-quality services that respond to the needs of victims and witnesses, and secure a more positive experience for all those who have contact with the criminal justice system.

The Department of Justice Strategy 2013–18 also made recommendations that impacted on PBNI, particularly in regard to the Victim and Witness Unit working with the VISs. These key documents helped inform the PBNI Victims Policy 2015.

This paper considers events since the development of PBNI's policy on victims in 2015, building on the existing VIS. Importantly, it seeks to consider whether PBNI has been able to put the voice of victims at the centre of decision-making and information-sharing or whether the experience of victims and practitioners in PBNI is that victims remain on the periphery of the system.

PBNI developments since 2015

The development of PBNI's Victims Policy in 2015 and associated action plans marked a new approach to how the organisation dealt with victims. The policy and related plans covered a number of important areas, including:

- the use of new technologies to engage with victims
- the development of restorative practices as part of problem-solving justice
- the establishment of victims' user groups in 2018.

In a system where 'the needs of the victim can often appear tangential and secondary to the needs of the justice system and the requirement that justice is delivered for "offenders"' (Maguire, 2011), this paper considers each of the areas to determine what PBNI has achieved.

The development of new technologies to engage with victims

PBNI's VIS became operational in October 2005. It is a statutory scheme that seeks to ensure that victims receive information about what it means when someone is sentenced to an order or licence that PBNI has oversight of. As well as providing information, the trained Victim Liaison Officers (Probation Officers) listen to concerns raised by victims; if appropriate, these concerns are passed on to the Probation Officer who is working with the individual who has offended, which strengthens the supervision process.

In a range of surveys carried out with victims of crime in Northern Ireland, one of the biggest frustrations that they articulate is the absence of timely information throughout their involvement with the criminal justice system; the VIS seeks to address this. PBNI's VIS gives victims information and, for some, an associated level of 'control'. PBNI works closely with other criminal justice and victim organisations to provide a wide range of information and services to victims of crime at various stages of the criminal justice process. Through working with criminal justice partners including Northern Ireland Prison Service

and the Department of Justice, PBNI is able to ensure that the victim receives information at key points in the offender's sentence – home leave, temporary leave, Parole Commissioner hearings, release, changes to orders/licences, and breach and recall; this is information victims would otherwise not get.

However, the VIS is legislatively an 'opt-in' service – if victims do not register, PBNI cannot provide them with any information. From surveys conducted with victims, we know that many of them found the 'opt-in' system onerous. PBNI is of the opinion that this legislative position should change to an 'opt-out' scheme where the starting position is that victims will be provided with information, but can choose to 'opt out' if they wish. However, given that Northern Ireland is currently without a legislative assembly, any legislative change in the near future is unlikely.

Therefore, in order to further facilitate registrations to the scheme, in November 2017 PBNI launched the 'online registration' facility. For the first time, victims could register without having to fill out a paper-based 'application form' that was returned by post. The use of technology is increasing in all areas of life, and PBNI was proactive in ensuring that victims of crime had easy access to the registration process. The link to register is available not only on PBNI's website but also on the Northern Ireland Prison Service, Department of Justice and NI Direct websites. In the year following the launch of digital registration, there was an increase of 42% in new victims registering with the scheme.

Linked to the increasing use of technology is PBNI's *Changing Lives* app. Within the app there is a specific section for victims, which includes details of online registration and resources. The evaluation of the app showed that victims who used it found it very beneficial. Stakeholders also pointed to the importance of having victim-facing information in a readily available format. However, there is significant work to be done in the next phase of development of the app to provide further information and support for victims.

The victim perspective in problem-solving justice

Problem-solving justice is a new approach in Northern Ireland aimed at tackling the root causes of offending behaviour and reducing harmful behaviour within families and the community.

Within Northern Ireland, the Department of Justice leads on problem solving. Five problem-solving pilots are currently operating:

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- a substance misuse court
 - a domestic abuse programme
 - the Enhanced Combination Order (ECO)
 - support hubs
 - family drug and alcohol court.

PBNI leads on the first three initiatives. The principles of problem-solving justice include greater judicial oversight and accountability, collaboration, community engagement, enhanced information, individualised justice and outcomes (O'Hare, 2018).

The Chief Executive of Victim Support NI, Geraldine Hanna, argues that the problem-solving justice approach can benefit victims by enabling their voice to be heard.

From a victim's perspective it can be perceived as a soft option. Again this is often due to a lack of understanding as to what is involved. For victims that do engage with some of that reparatory work with offenders there is a sense they are getting their voice heard in a way that the traditional criminal justice system doesn't enable them to, particularly in restorative practices where there is a face-to-face meeting. Victims who engage in this report to having a more positive experience. Whilst not everything is made better as such, they have had an opportunity to explain the impact and to look the offender in the eye and hear an apology – whether they accept that or not, they have had the opportunity to put forward the impact of the crime on them.¹

The Enhanced Combination Order

One strand of the problem-solving approach which PBNI leads on is the ECO. This order provides an alternative community sentencing option instead of a short custodial sentence (Hamilton, 2016) and contains a restorative element which has been evaluated.

Those subject to an ECO participate in victim-focused work and, where possible, a restorative intervention is an enhancement to this order. The first evaluation of ECO, carried out in 2017, outlines that restorative work had been completed, was ongoing or was due to start for approximately

¹ <https://www.agendani.com/in-discussion/>. PBNI hosted a discussion on the strategic role of Probation in the rehabilitation of offenders through problem-solving justice and how community sentences can lead to less reoffending.

three-fifths of cases. Under a tenth of participants either were not ready to commence restorative work yet or the emphasis was on other aspects such as parenting and addictions. The remaining cases had either breached or had no restorative work recorded.

A restorative approach in problem-solving justice

Restorative work was undertaken through partnerships with organisations such as Community Restorative Justice Ireland (CRJI) and Northern Ireland Alternatives (NIA) as well as by Probation Officers who have completed training in restorative work through Ulster University. While supporting participants, CRJI applied restorative practice, values and processes and assisted participants to make good in the community. NIA helped participants develop a restorative plan and provided victim awareness. A key focus of their work was to help to integrate participants in positive ways into community life through volunteering and training.

Additionally, victim-led restorative engagement is possible through PBNI's Victim Information Unit. Where a victim is registered with PBNI's VIS and wishes to participate in a restorative conference, appropriately trained staff are available to support the victim and the individual who has offended.

An additional feature, developed to increase victim input in the ECO, was designed in conjunction with Victim Support NI. PBNI was very keen to include the views of victims at the earliest stage of the process, but has no legislative authority to contact victims of offences prior to the individual who has offended being sentenced at court. Therefore, in partnership with Victim Support NI, PBNI is able to gain the views of victims by Probation Officers making referrals to Victim Support NI at the pre-sentence stage in cases where an ECO is being recommended as a sentence (where there is an identifiable victim). Victims are then contacted by Victim Support NI, with which in many cases they already have a working relationship, the content of the order is explained and their views on a potential sentence in their case are sought. Furthermore, victims are asked for their input regarding the type of community service the person who has offended should complete and if they would be interested in working restoratively with them.

While the number of initial referrals to Victim Support NI remains modest, there are valid reasons for this including a significant number of cases where there is no identifiable victim. Offences for which ECOs are imposed are often repeat 'lower level' offences, i.e. public order. In the 2017 evaluation of

ECOs, all but one of the victims contacted supported an ECO as a sentencing option and said they would be willing to work restoratively with their offender.

Restorative work with those subject to ECOs continues to increase. While the benefits of face-to-face restorative conferences should not be underestimated, PBNI is realistic about the number of conferences that will take place during the ECO. It is not possible or indeed appropriate to use this approach in every case, but all those who have offended are encouraged to reflect on the impact of their offence on victims and encouraged to write a 'reflective letter' to their victim. Geraldine Hanna points out that the ECO has led to more collaboration and Victim Support NI has been closely involved with the scheme. There is however significantly more work to do.

The Gillen Report 2019

The Gillen Review Report² into the law and procedures in serious sexual offences in Northern Ireland, published in May 2019, cites the restorative aspect of ECOs and considers whether restorative interventions could apply in cases of sexual offences. Sir John Gillen recommends that restorative justice should be invoked as a possibility where the offender has pleaded guilty and the victim has indicated a desire to avail of restorative justice, and the offender agrees also. He states that the Department of Justice should also give careful consideration to restorative facilitators being available in an alternative process to resolve certain serious sexual offences outside the criminal justice system, where the complainant does not wish to report the matter to the police and the alleged offender agrees to participate. In this regard he notes the work carried out through ECO and the qualified staff that are based within Probation. Therefore there are opportunities to further develop restorative interventions through the problem-solving justice model, which is being led by the Department of Justice in Northern Ireland.

The establishment of victims' user groups in 2018

The establishment of a Service User Forum that incorporates the perspectives of victims as well as those who have offended is further evidence of PBNI's commitment to engaging more effectively with victims.

² <https://www.justice-ni.gov.uk/publications/gillen-review-report-law-and-procedures-serious-sexual-offences-ni>. The NI Criminal Justice Board, which exists to oversee reform, change and openness in the criminal justice system, commissioned the Gillen Review on 24 April 2018 as an independent review of arrangements around delivery of justice in serious sexual offences.

The benefits of service user involvement are well documented, and include promoting social inclusion and ensuring that services better meet the needs of those who use them (Scottish Executive, 2006). However, despite these benefits, while some areas of service user involvement appear to be relatively well advanced, others, such as in the field of criminal justice, are underdeveloped (Duffy, 2008: 12). One of the difficulties often mooted about service user involvement within criminal justice is that tensions and contradictions are inherent in working with involuntary service users (Smith *et al.*, 2010). 'Such clients, if consulted about their views, might well express the wish that social workers simply leave them alone' (Gallagher and Smith, 2010: 8). Involuntary clients do not freely enter into the working relationship and many are mandated by law to do so. McLaughlin (2009: 1109) identifies the central issue: 'there is a point where the social worker is expected to act on their own professional assessment of the situation, informed by agency policy, legal mandates and research, irrespective of what the service user's choices or views are'. Against this background, PBNI launched the Service User Strategy in 2017, which recognises that service user involvement can play an important role in the delivery of its services. This strategy sets out the framework for future service user involvement within PBNI.

There is much theoretical evidence (Barr and Montgomery, 2016) as to the benefits of service user involvement. It supports desistance; it increases effectiveness, compliance, credibility and legitimacy of services; and it promotes a sense of social justice consistent with social work values.

From the outset, PBNI was committed to involving 'victims' as well as 'offenders'. It was not deemed appropriate or indeed ethical to have service user groups composed of both those who have been offended against and those who have offended, so the decision was taken to have separate 'victim' and 'offender' groups. All those registered with PBNI's VIS were invited to join a victim service user group; there are two such active groups across Northern Ireland. The service user groups enable victims of crime to have a say in how services are delivered. It is absolutely essential that victims' voices are heard and that we want victims to be able to tell us how services can be improved. We know that being listened to and contributing to a more effective system can be valuable to the rehabilitation process and, for victims, can give back an element of control.

There were a number of drivers to the development of this strategy within PBNI, as follows.

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- PBNI's commitment to service user engagement is reflected in the 2017/18 Business Plan, where it is stated that 'Service users will be involved from the outset in the planning and delivery of new/revised services in PBNI'.
 - *Improving and Safeguarding Social Wellbeing: A Strategy for Social Work in Northern Ireland 2012–2020* (Department of Health, Social Services and Public Safety, 2012) identifies service user engagement as one of the key principles.
 - The *Social Work Research and Continuous Improvement Strategy 2015–2020* (Health and Social Care Board, 2015) includes specific reference to service user engagement.
 - Section 75 of the Northern Ireland Act outlines that public bodies such as PBNI should consult with people directly affected by their policies and who will be affected by any change to service delivery.
 - CJINI (2009) suggested that more focused and targeted consultation with service users was necessary.

By enhancing the involvement of service users in the planning, development and evaluation of services, the following can be achieved:

- increased ownership and commitment by individuals and communities to identifying ways to address offending behaviour
- increased sense of ownership and responsibility among service users
- responsive and appropriate services that are needs-led and influenced by service users
- help in priority setting and decision-making across competing priorities
- increased efficiency
- improved compliance by service users with community supervision
- reduction in reoffending, reduction in number of victims and safer communities
- reduction in number of complaints.

The 'victim' service user group meets on a monthly basis and is facilitated by a Victim Liaison Officer and a Probation Officer who works with those who have offended; this ensures that the 'victims' are fully supported and any issues raised can be followed up. The focus of the victim groups is different, but equally important. PBNI is one of the first Probation Services to have included victims in service-user involvement and co-production; and service

users, those who have offended and victims were involved in the recent review of PBNI's Victim Awareness Intervention. Service users who have offended will complete this intervention during their order or licence – they will have to look at their offending behaviour, the harm that was caused and the impact of their offence for victims and society. Therefore, having victims involved in the review of the intervention was of the utmost importance to PBNI. The victim group has also been actively involved in the design of PBNI's mobile phone app *Changing Lives*.

The impact of having victims involved in the design of interventions has been positively noted by both victims and practitioners. It is an area of work that PBNI should seek to develop further in improving service delivery.

Conclusion and next steps

PBNI has commenced work on its Corporate Plan for 2020–2023. The new Probation Board appointed in December 2018 has already indicated its desire to see victims' issues at the centre of decision-making and effective practice. The first Board seminar, held in March 2019, focused on the area of victims and made clear that the Board intends to focus on consulting and engaging with victims and their representatives during its tenure of office. Therefore it is important that the forthcoming Corporate Plan includes a strategic theme that incorporates PBNI developing its work with victims.

Further, as problem-solving justice continues to develop through the Department of Justice, there is a significant education and awareness work to carry out on explaining to victims the impact and value of problem-solving and, in particular, restorative elements of problem-solving. The Department of Justice's communication and engagement strategy should prioritise these elements. PBNI should also consider how its trained restorative practitioners can expand their remit and potentially deliver restorative interventions as set out in Sir John Gillen's report.

PBNI should seek to influence future legislative change both in regard to making the Victim Information Scheme 'opt-out' rather than 'opt-in' and in regard to having an onus on providing adult restorative interventions in appropriate circumstances. Finally, there is a need for technology to be continually updated to assist in PBNI's engagement with victims. Over the next year the PBNI app will be updated and it should develop in particular its section on victims.

These recommendations will help to ensure that victims' voices are central to policy, practice and decision-making within PBNI.

This paper has outlined the current context in relation to victim involvement in PBNi. The needs of victims are considered in every part of PBNi's work and are increasingly involved in PBNi practice – from directly inputting into where an individual who has offended against them completes community service, to consultation on interventions such as the Victim Awareness Intervention, and the opportunity of providing direct feedback and helping to shape the services that PBNi delivers. This paper has outlined significant progress over recent years; PBNi is committed to turning the curve and placing the needs of victims at the centre of our practice.

References

- Barr, N. and Montgomery, G. (2016), 'Service user involvement in service planning in the criminal justice system – Rhetoric or reality?', *Irish Probation Journal*, vol. 13, pp. 143–155
- CJINI (2009), *Section 75: The Impact of Section 75 of the Northern Ireland Act 1998 on the Criminal Justice System in Northern Ireland*, Belfast: CJINI
- Department of Health, Social Services and Public Safety (2012), *Improving and Safeguarding Social Wellbeing: A Strategy for Social Work in Northern Ireland 2012–2020*, available at https://niscc.info/storage/resources/2012april_dhssps_socialworkstrategy2012-2022_afmck1.pdf (accessed 13 August 2019)
- Duffy, J. (2008), *Looking out from the Middle: User Involvement in Health and Social Care in Northern Ireland*, London: SCIE
- Ford, D. (2013), *Victim and Witness Strategy 2013–2018*, Belfast: Department of Justice
- Gallagher, M. and Smith, M. (2010), *Engaging with Involuntary Service Users in Social Work: Literature Review 1*, available at <http://www.socialwork.ed.ac.uk/esla> (accessed 13 August 2019)
- Hamilton, S. (2016), 'Reset: an opportunity to enhance offender resettlement and rehabilitation through mentoring', *Irish Probation Journal*, vol. 13, pp. 134–142
- Health and Social Care Board (2015), *Social Work Research and Continuous Improvement Strategy 2015–2020*, Belfast: Health and Social Care Board
- Hunter, C. (2015), 'The development of restorative practice with adult offenders in the Probation Board for Northern Ireland', *Irish Probation Journal*, vol. 12, pp. 229–240
- McLaughlin, H. (2009), 'What's in a name: "client", "patient", "customer", "consumer", "expert by experience", "service user" – what's next?', *British Journal of Social Work*, vol. 39, no. 6, pp. 1101–1117
- Maguire, M. (2011), 'The care and treatment of victims and witnesses in the criminal justice system in Northern Ireland', available at <http://cjini.org/TheInspections/Inspection-Reports> (accessed 21 August 2019)
- O'Hare, G. (2018), 'Problem-solving justice and problem-solving courts: what Northern Ireland can learn from the US experience of mental health courts', *Irish Probation Journal*, vol. 15, pp. 148–160

Scottish Executive (2006), *Changing Lives: Report of the 21st Century Social Work Review*, Edinburgh: Scottish Executive

Smith, M., Gallagher, M., Wasu, H., Stewart, J., Cree, V.E., Hunter, S., Evans, S., Montgomery, C., Holiday, S. and Wilkinson, H. (2011), 'Engaging with involuntary service users in social work: Findings from a knowledge exchange project', *British Journal of Social Work*, vol. 42, no. 8, pp. 1460–1477

A Practitioner's Response to 'Resilience in the Face of Trauma: Implications for Service Delivery'

Deirdre Grant*

Summary: This paper is a practitioner's response to 'Resilience in the face of trauma: Implications for service delivery' by Aoife Dermody, Caroline Gardner, Sharon Davis, Sharon Lambert, John Dermody and Marisa Fein (*Irish Probation Journal*, 2018). That important paper highlighted research commissioned by the PALLS project, a Probation-funded project working with adults involved in the criminal justice system in the Mid-West region. The research focused on feedback from female service users on their needs and experiences of accessing local drug, homelessness and criminal justice services. The women who participated had experienced most forms of childhood adversity more frequently than people in the wider population. Importantly, the women gave some practical advice that could assist in the design and delivery of more trauma-informed services. As an operational manager, I work with young men who have experienced childhood adversity. This paper considers some of the main issues raised by Dermody *et al.* and reflects on similarities between the findings they outlined and my current work. More specifically, this paper considers Dermody *et al.*'s comments regarding 'trauma-informed practice', the findings of the research in relation to mental health/substance misuse and parenting, and the issue of building resilience.

Keywords: Adverse childhood experiences, resilience, trauma, post-traumatic stress disorder, trauma-informed care, service user, masculinity.

Introduction

As an area manager with the Probation Board for Northern Ireland (PBNI), I have responsibility for managing the Aspire Young Men's Project.¹ Many of the men that I work with suffer from intergenerational trauma and have been exposed to community violence in a post-conflict society. Many have experienced multiple childhood adversities, including being the victim of

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¹ Aspire is a Probation-led project that works with men aged 16–30 to prevent them becoming involved in criminality.

sexual abuse, exposure to domestic abuse as a child, and a parent having served a prison sentence. Therefore the article by Dermody *et al.* was very relevant reading. The literature review was informative and reinforced much of the learning and training experienced over the course of my career. I found the research findings and recommendations particularly relevant to my current practice.

Adverse childhood experiences and interface with criminal justice

This paper begins with a literature review and cites Felitti *et al.*'s (1998) research, which found that those with four or more adverse childhood experiences (ACEs) had a 4–12-fold increased health risk for alcoholism, abuse, depression and suicide attempts. Felitti *et al.* state, rightly, that the focus of early research was on health outcomes but subsequent research pointed to the correlation between a high number of ACEs and future violence, and entry into the criminal justice system. The impact of multiple ACEs on recidivism is recurrently evident in my work with young men, aged 18–30 years, in the Aspire Project. These participants are at risk of criminality and come from families experiencing intergenerational trauma, live in areas of high social deprivation, have experienced mental health and addiction issues, are marginalised and may be in drug debt.

In Northern Ireland, suicide is now the biggest single cause of death for 15–19-year-olds and the rate of suicides is the highest in the UK. You are three times more likely to die by suicide if you live in the most deprived areas of Northern Ireland (Rainey, 2017).

Much of the research in relation to trauma in Northern Ireland has focused on the legacy of the Troubles and post-traumatic stress disorder (PTSD) related symptomology. The transmission of intergenerational trauma as a result of a close family relative having been exposed to the trauma of persistent violence or the sudden death of a loved one impacts on parenting practices, on mental health and wellbeing of future generations, and on childhood adversities (Fryers and Brugha, 2013).

Bunting *et al.* (2013) reported that PTSD rates in Northern Ireland were among the highest in the world as a result of conflict-related experiences (lifetime prevalence 8.8%). Betancourt and Khan (2008) found that prolonged war exposure is linked to family disruption, maladaptive attachment relationships and poor social support networks that may result in increased levels of childhood adversities. It is perhaps unsurprising that so many of the

young men on the project are impacted by multiple adversities which increase the risk of poor physical and mental health outcomes such as anxiety, depression and complex trauma.

There has been limited empirical research examining the prevalence and impact of ACEs in Northern Ireland. This paper is relevant to practitioners who are seeking to develop and enhance trauma-informed practice within their own organisation.

Trauma-informed practice

Dermodly *et al.* (2018) highlight the importance of service providers understanding trauma – how it manifests and how services can appropriately support trauma survivors. I concur with the authors' view of the importance of staff training to enhance practitioners' knowledge and skills, equipping them to better understand service users' behaviour through a 'trauma lens' and respond appropriately to a wide range of adversities including assaults, domestic violence, abandonment, separation and bereavement. Jacobson *et al.* (2010) make it clear that those involved in the criminal justice system are more likely than the general population to have suffered adverse emotional, social, neurological and developmental effects from these experiences, some of which are linked to their offending. Therefore it is critical for practitioners to have an awareness of trauma-related issues in order to generate positive resettlement outcomes. The challenges faced by service users in trying to comply with the criminal justice system are apparent when they have difficulty in controlling impulses, making plans, assessing social situations and recognising the longer-term consequences of their actions.

To enable a trauma-informed approach to develop and embed in any organisation, there needs to be a whole-system approach. This involves organisations seeking to develop coherent cultures, policies and practices across systems of care that promote and inform a shared understanding of the prevalence and impact of adversities and trauma. This holistic approach aims to develop pathways for recovery and healing while proactively seeking to avert the possibility of re-traumatisation. It should recognise the signs and symptoms of trauma in staff, service users and others involved with the system (Substance Abuse and Mental Health Services Administration (SAMHSA), 2014).

Dermodly *et al.* (2018) outline key components in order for an organisation to work in a trauma-informed way. A key message in this for me was the

importance of collaboration. The research highlighted the need for collaborative service delivery in working with the women interviewed, as different services engaged with the same women simultaneously without positive outcomes. This resonates with my experiences of working with men, as some have difficulty engaging with and sustaining involvement in services and interventions. It is evident that close collaboration between criminal justice, health, social and educational systems is required in order to effectively address complex trauma-related needs.

Within PBNI, staff have become aware of the need to understand the impact of trauma on how people behave in order to shape interventions and the supervision process. Many of the men in *Aspire* often feel isolated and have a deep mistrust of strangers, therefore interaction with the various service providers will be a highly threatening and distressing experience as they are poorly equipped to deal with such stress. Skuse and Matthew's (2015) Trauma Recovery Model argues that the impact of trauma on individual development tends to blunt the 'cognitive readiness' of service users in several respects. This in turn reduces their scope for deriving benefits from programmes such as anger management and victim empathy that are designed to promote desistance, as they fail to address the underlying developmental and psychological drivers of such behaviours, a contributory factor in their disengagement. The *Aspire* team exercise latitude in working flexibly with the men in order to respond to trauma-related issues. Trauma-informed approaches that are layered and sequential can have an impact on the readiness of service users to develop their non-offending narratives. Early stages of engagement should focus on basic routines and physical safety, addressing emotional issues relating to feelings of personal control and self-awareness. However, due to an escalation in their risk of harm, decisions to recall are sometimes inevitable.

Many of our service users are parents and are often challenged in that role arising from the deficits within their own experience of being parented. Reekers *et al.*'s (2018) 'Signs of Safety Model' used in child protection organisations draws on techniques from solution-focused brief therapy and has two core principles. The first is establishing a working relationship with parents, referred to as a 'cooperative partnership', with the aim of parental empowerment; the second is retaining a focus on the need for child safety at all times. This model more explicitly seeks to engage meaningfully with parents, and that direct work with children is central to the success of professional intervention, facilitating parents and professionals to collaborate

to reduce the risk to children without challenging the fundamental basis of the child protection system (Keddell, 2014).

PBNI is part of the Regional ACE Reference Group which was formed in 2017 to raise ACE awareness in Northern Ireland and to support the Early Intervention Transformation Programme (EITP) ACE Workstream Projects. The role of the EITP is to provide general awareness of trauma-informed practice across a multi-agency spectrum and specialised training for professionals. The programme also has trauma-informed advisers whose role is to inform culture and practice at an organisational level.

Currently the Safeguarding Board for Northern Ireland (SBNI), which is made up of key partner organisations from the statutory, community and voluntary sectors who work to protect and enhance the wellbeing of children, is delivering trauma-informed practice seminars across all SBNI agencies. The focus of those seminars is to create a shared understanding of the impact of adversity and trauma in childhood, aiming to embed this in a whole-system approach. According to Hall *et al.* (2012), to deliver impact on ACE reduction at community level, interventions need to be multidisciplinary, multi-level and multi-year, as 'silo' interventions, focused on a single issue or group of problems, are unable to deliver such effects.

Staff in Aspire have been trained in trauma awareness, substance misuse, respectful relationships and strength-based programmes such as coping skills to enable them to deliver effective interventions in an attempt to break the generational cycle of harm and adversities. Service delivery aims to develop personal and social skills, improved mental health, emotional well-being and resilience, to build civic responsibility. Staff adopt a holistic and supportive approach to encourage pro-social development and desistance through negotiated, positive relationships. I believe this approach leads to more effective risk management. It enables staff to work in a creative and flexible way with vulnerable and chaotic men who have been excluded from services, thereby addressing the behaviour without rejecting the individual – this approach is sometimes called 'elastic tolerance' (Woodcock and Gill, 2014). Substantial investment in mental health support is required to improve health outcomes.

Dermody *et al.* (2018) explain the importance of service providers understanding the impact of trauma on the brain: how experiences of trauma frequently result in behaviours that may be regarded as 'aggressive, challenging, evasive and non-engaging'. These are issues that we observe daily with the young men within Aspire who have a tendency to externalise

their responses. 'Young males appear to learn from an early age that association with the world of emotions is to be avoided at all costs ... Contemporary masculinity studies reveal that males typically report a lower frequency of verbally communicating their feelings than women ... with a tendency to display anger and aggression' (Kring, 2000).

In Aspire we have observed that instrumental aggression may actually be reactive and trauma-related, as rage and aggression can mask the distress that young men experience. We know that trauma exposure creates aggressive pathways through hyper-arousal, hyper-vigilance and inappropriate hostile reactions. In Dermody *et al.*'s (2018) study, 91% of women reported being the victim of domestic violence; the men involved with Aspire have been victims of violent crime and have also been perpetrators of violence within a domestic context.

Some of the young men experience difficulty in articulating their feelings to other professionals such as their general practitioner (GP) or addiction services, which sometimes results in high levels of frustration and exclusion from services. Dermody *et al.* (2018) point to the importance of service providers taking a whole-service approach in order to provide an environment where clients can engage, heal and grow.

Findings in relation to mental health and parenting

The main part of Dermody *et al.* (2018) focuses on the research findings. There were many similarities between those findings and a recent evaluation carried out on the service users within Aspire. There were also some critical differences. These may be attributed to gender differences, and it would be interesting to conduct further research from a gender perspective on impact of ACEs. I will look at two areas from the research findings that I found to be of particular relevance.

Substance misuse and mental health

Critically, Dermody *et al.* (2018) found that all the participants interviewed for the research had current or previous difficulties with drug and/or alcohol abuse. Within the Aspire team approximately three-quarters (73.4%) of men had health issues largely relating to mental health/trauma, and 70% agreed that drug/alcohol addiction had been the reason for their referral to Aspire. Whereas Dermody *et al.* (2018) found that 39% of women reported daily/weekly drug use, many of them were primary carers, which made me question

whether some of the women had under-reported their substance misuse due to mistrust and fear of losing their children.

Women spoke about mental health and addiction services simultaneously and the need for services to work together. This is similar to men's experiences, as integrated mental health/addiction services are critical to positive resettlement. While the Aspire staff often accompany a service user to an appointment with mental health services to provide a fuller insight into their background due to previous non-compliance, mental health services have refused to work with those who misuse substances or miss appointments, regardless of their trauma. There do not appear to be specific assessments for trauma-related symptoms, with service users instructed to 'sort their addiction issues out'. Many of the men complain that they are asked numerous questions and then 'nothing happens', which leads to further disengagement. This reflects that assessment of need should enable access to appropriate services, rather than the individual fitting into services that are available.

In Dermody *et al.*'s (2018) research the authors highlighted that some of the women seeking help from GPs and mental health providers felt judged. Similarly, many of the men within Aspire indicated that they felt judged by mental health service staff, and this was a barrier to attending appointments. This is a worrying finding and is an area that requires further research and discussion.

Parenting

Women in the 2018 research also spoke of the challenges of balancing care for children and care for themselves. Interestingly, some of the women highlighted a fear of losing custody of children as an impediment to engaging with services. In contrast, for many of the men within Aspire, the parenting work in the project serves as an encouragement to access services. The vast majority of men within Aspire do not have contact with their children, but are keen to obtain access and are therefore encouraged to complete the Barnardo's 'Parenting Matters' programme, an initiative that focuses on the child and the impact of offending on their development. Trauma can have adverse effects on socialisation and on the individual's scope for forming attachments. Caregiving that is neglectful or unpredictable can be traumatising, leaving a child vulnerable to re-traumatisation and without an adequately secure base to turn to in the face of real or perceived threat.

For example, one man in Aspire – Mr Q, a 24-year-old with a significant criminal record – had suffered multiple childhood and adult adversities and

was motivated to work within the project as a way of gaining access to his children. Mr Q presented with an established history of attempting to resolve his emotional conflicts through the misuse of substances, and as a consequence behaved in an aggressive and violent manner. His substance misuse led to offending and criminality. Mr Q's oldest child was placed on the child protection register and he did not have contact with his other children. Building on a positive working relationship with Mr Q, intense and repeated interventions were delivered to calm emotional upset. This provided the basis for Mr Q developing a sense of trust, safety and control. He developed positive coping skills, and reached out to professionals who supported him to reduce his substance use, which led to positive change in his lifestyle. A referral to the parenting course delivered by Barnardo's afforded Mr Q a better understanding of child development and improved communication with his children. He is currently utilising these skills when he has contact with his children. Social services have been impressed by his engagement with Aspire, and this was a major influence in the decision to remove his eldest child from the child protection register.

Building resilience

Dermody *et al.* (2018) report that women were resilient when faced with adversities. This differs for the young men within Aspire, as many present in a permanent state of emotional arousal; are prone to emotional outbursts, frustration and depression; are impulsive; and take risks. Many lack resilience and that in turn leads to difficulties with substance misuse and mental health, as they mask their feelings and use poor coping techniques. Therefore intervention focuses on de-escalating emotional tensions rather than on sanctions. Staff in Aspire consistently work intensively with a strong and volatile range of emotions and are assisted to build their own psychological resilience. With more of a focus on trauma-informed practice, it is critical that staff are enabled to explore their own vulnerabilities and strengths to protect themselves against vicarious trauma and also to minimise any underestimation of the risks that service users may pose should they over-identify with them. Self-care is a critical component of practising in a safe and trauma-informed way. Therefore training, adequate supervision and support for staff working intensively with trauma requires further exploration to safeguard staff.

The role of resilience as a protective factor to mitigate the impact of ACEs is increasingly evident. Resilience is developed through the socialisation

process and secure attachment bonds. Even resilient children and adults can become overwhelmed by life events and stressors. Some people experience acute distress from which they are unable to recover. Others suffer less intensely and for a much shorter period. It is very much dependent on individual circumstances such as age, gender, previous history of traumatic events, and level of resilience. Some adversity early in life may be protective, helping to build resilience to other stressors. Rutter (2012) discusses the strengthening or steeling impact of early adverse experience; Schweizer *et al.* (2016) suggest that mild to moderate levels of ACEs may lead to enhanced emotional regulation capacity, which in turn can result in more positive psychological outcomes.

Many of the young men engaging with Aspire have not experienced secure attachments and experience difficulty in putting their thoughts and feelings in relation to their childhood into words: 'As such, personal development with the assistance of a Probation worker offers a taste of a secure base' (Ansbro, 2008: 239). Creating positive conditions of worth and using a person-centred approach is crucial in helping build resilience. An available trusting adult who demonstrates consistency and a non-judgemental approach, is available and endeavours to create a relationship of safety is a critical element in fostering a positive working relationship, enabling the individual to transition from the role of victim to survivor. For the service user, exercising choice and control in decisions that impact on them will help minimise re-traumatisation: the women in Dermody *et al.* (2018) refer to 'support, mutual respect and genuine caring'. McNeill (2009) advocates that a healthy balance between service user, service provider and the public can be reached if each perspective is appreciated, respected and considered, with practitioners recognising that service users are people with important stories to tell.

PBNI also uses its partnership arrangements, particularly with the community and voluntary sector, to help build resilience in individuals. Building relationships through the use of mentoring with a community partner, NIACRO, has been particularly beneficial. 'Well-implemented mentoring interventions amongst young people who have faced adversities have shown effectiveness across multiple outcomes, including drug misuse, crime and violence' (Di Lemma *et al.*, 2019). The approach provided by Probation and the impact of the 'pro-social role' provided by mentors is greatly valued by service users. Mentors accompany service users to GP appointments, help source benefits and housing, advocate and help with communication as well

as enhancing service user confidence; breaking down and explaining information helps reduce anger and frustration. Many of the women in the Dermody *et al.* (2018) study felt 'alone', especially at weekends and times when isolation kicks in. With the men, Aspire peer mentoring provides a flexible and responsive service, with mentors providing support at weekends. This has proved to be an effective method of working with young men to help them fulfil their potential. It has provided service users who have experienced multiple ACEs with a positive adult role model.

Conclusions

Dermody *et al.* (2018), a research-based paper, identified that women who engaged with a range of services were more often affected by multiple childhood adversities than people in the general population. This paper juxtaposed those findings with the reported experiences of males, many of whom suffer from intergenerational trauma and have been exposed to community violence within a post-conflict society. Similarly to the women in the Dermody *et al.* study, many of the men have developed destructive coping mechanisms to deal with their distress, are distrustful and reject those in authority.

Trauma has implications for the brain structure and decision-making processes, and impacts on an individual's ability to engage effectively with services. This may present real challenges for the management of compliance with court orders. As highlighted in this paper, intervention needs to be individually tailored and person-centred, acknowledging individual traumatic experiences to support service users in developing new coping skills, in building their resilience and in the development of protective factors. This will enable individuals to access social and positive support networks where they feel valued and respected – this was not the case in feedback provided by the female service users in Dermody *et al.*'s research.

It would be useful to explore gender differences in the impact of ACEs and trauma, as women seemed more resilient when faced with adversities, whereas young men tend to present in a highly emotional state, are prone to a display of reactive and emotional behaviours and overall lack resilience.

There are inherent challenges for practitioners and organisations. Trauma-informed care can be difficult due to the dilemma of meeting the needs of the service user, upholding agency policies and standards and expectations of the public, and ensuring that adequate steps are taken to protect the

public from harm (Renn, 2010). ACE- and trauma-informed practice does not necessarily mean that completely new approaches or interventions have to be developed, but rather requires ongoing evaluation of how agencies may co-operate to improve current service delivery (Ford *et al.*, 2016). This is reflected in the model adopted by the Aspire Project.

It is recognised that effective implementation of trauma-informed care is not without its challenges, with leadership commitment required. It is an opportunity to explore organisational culture and current systems within the various sectors, and how they can work collaboratively to share information and develop practice, for example within the health arena to address mental health and addiction issues simultaneously. This will enable organisations to identify what creates resilience to cope with adversity and will encourage organisations to develop policies and practice to embed trauma-informed practice in the workplace. Service user and practitioner involvement in this process is critical to inform the delivery of quality services. A trauma-informed organisational focus on staff self-care and how frontline staff are supported is important to minimise vicarious trauma, enabling staff to deliver practice safely and effectively.

References

- Ansbro, M. (2008), 'Using attachment theory with offenders', *Journal of Community and Criminal Justice*, vol. 55, no. 3, pp. 231–244
- Betancourt, T.S. and Khan, K.T. (2008), 'The mental health of children affected by armed conflict: Protective processes and pathways to resilience', *International Review of Psychiatry*, vol. 20, no. 3, pp. 317–328
- Bunting, B.P., Ferry, F.R., Murphy, S.D., O'Neill, S.M. and Bolton, D. (2013), 'Trauma associated with civil conflict and posttraumatic stress disorder: Evidence from the Northern Ireland Study of Health and Stress', *Journal of Traumatic Stress*, vol. 26, no. 1, pp. 134–141
- Dermody, A., Gardner, C., Davis, S., Lambert, S., Dermody J. and Fein, M. 'Resilience in the face of trauma: Implications for service delivery', *Irish Probation Journal*, vol. 15, pp. 161–178.
- Di Lemma, L., Davies, A.R., Hughes, K., Homolova, L., Gray, B. and Richardson, G. (2019), *Responding to Adverse Childhood Experiences: An Evidence Review of Interventions to Prevent and Address Adversity Across the Life Course*, Bangor, UK: Bangor University
- Felitti, V.J., Anda R.F., Nordenberg, D., Williamson, D.F., Spitz, A.M., Edwards V., Koss, M.P. and Marks, J.S. (1998), 'The relationship of adult health status to childhood abuse and household dysfunction', *American Journal of Preventive Medicine*, vol. 14, pp. 245–258
- Ford, K., Butler, N., Hughes, K.E., Quigg, Z. and Bellis, M. (2016), *Adverse Childhood Experiences (ACEs) in Hertfordshire, Luton and Northamptonshire*, Liverpool:

- Centre For Public Health (CPH), Faculty of Education, Health and Community, John Moores University, pp. 15–21
- Fryers, T. and Brugha, T. (2013), 'Childhood determinants of adult psychiatric disorder', *Clinical Practice and Epidemiology in Mental Health*, vol. 9, pp. 1–50
- Hall, J., Porter, L., Longhi, D., Becker-Green, J. and Dreyfus, S. (2012), 'Reducing adverse childhood experiences (ACE) by building community capacity: a summary of Washington Family Policy Council research findings', *Journal of Prevention & Intervention in the Community*, vol. 40, pp. 325–334
- Jacobson, J., Bhardwa, B., Gyateng, T., Hunter, G. and Hough, M. (2010), *Punishing Disadvantage: A Profile of Children in Custody*, London: Prison Reform Trust
- Keddell, E. (2014), 'Theorising the signs of safety approach to child protection social work: Positioning, codes and power', *Children and Youth Services Review*, vol. 47, no. 1, pp. 70–77
- Kring, A.M. (2000), 'Gender and anger', in A.H. Fischer (ed.), *Gender and Emotion* (pp. 211–231), Cambridge: Cambridge University Press
- McNeill, F. (2009), 'Probation, rehabilitation and reparation', *Irish Probation Journal*, vol. 6, pp. 5–22.
- Rainey, A. (2017), 'Northern Ireland has highest rate of suicide in the UK but mental health funding is 25% less', *Belfast Telegraph*, 19 December
- Reekers, S.E., Dijkstra, S., Stams, G.J.J., Asscher, J.J. and Creemers, H.E. (2018), 'Signs of effectiveness of signs of safety? A pilot study', *Children and Youth Services Review*, vol. 91, pp. 177–184
- Renn, P. (2010), *The Link Between Childhood Trauma and Later Violent Offending*, available at <https://www.counselling-directory.org.uk/counsellor-articles/the-link-between-childhood-trauma-and-later-violent-offending> (accessed 14 August 2019)
- Rutter, M. (2012), 'Resilience as a dynamic concept', *Development and Psychopathology*, vol. 24, pp. 335–344
- Schweizer, S., Walsh, N.D., Stretton, J., Dunn, V.J., Goodyer, I.M. and Dalgleish, T. (2016), 'Enhanced emotional regulation capacity and its neural substrates in those exposed to moderate childhood adversity', *Social Cognitive and Affective Neuroscience*, vol. 11, no. 2, pp. 272–281
- Skuse, T. and Matthew, J. (2015), 'The Trauma Recovery Model: Sequencing youth justice interventions for young people with complex needs', *Prison Service Journal*, no. 220, July, p. 1625
- Substance Abuse and Mental Health Services administration (2014), *Trauma-Informed Care in Behavioural Health Services*, Treatment Improvement Protocol (TIP) Series, no. 57, Rockville, MD: SAMHSA
- Woodcock, J. and Gill, J. (2014), 'Implementing a psychologically informed environment in a service for homeless young people', *Housing, Care and Support*, vol. 17, no. 1, pp. 48–57

Testing Artificial Intelligence in the United States Probation and Pretrial Services System

Matthew G. Rowland, Nancy Beatty-Gregoire and John J. Fitzgerald*

Summary: The United States Probation and Pretrial Services System has data on millions of persons charged and convicted of federal crimes. The data describe more than just the background and conduct of the diverse federal defendant population. The information details the strategies and techniques used by generations of Probation Officers in carrying out their duties. In addition, the data shed light on the impact of policies and procedures of the Probation and Pretrial Services system over the years. If studied, they could further our understanding of criminogenic risk, the rehabilitative process and effective policy making. Unfortunately, that potential has not been realised. The data have proved too voluminous and unwieldy to process economically with traditional analytic methods. Newer technologies, such as Artificial Intelligence, promise to efficiently analyse incredibly large and diverse data sets. Could the power of Artificial Intelligence allow the treasure trove of Probation and Pretrial Services Data to be more fully utilised? That is what federal court officials sought to find out. As this paper outlines, the results were exciting, but not without caveats.

Keywords: Artificial intelligence, proof of concept, violent extremist, mental health at sentencing, Federal Probation, United States Probation and Pretrial Services.

Introduction

The United States Probation and Pretrial Services System, known simply as Federal Probation, provides information and recommendations to judges related to pretrial release and sentencing decisions. Federal Probation is also responsible for supervising persons conditionally released to the community pending trial or as part of their sentence.

Federal Probation has 7500 staff working in 400 locations across the United States and its protectorates. The Federal Probation caseload is diverse, and

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Probation Officers interact with 300,000 pretrial defendants and convicted persons a year. In terms of the supervision cases, the most common types of charges filed relate to drug trafficking, fraud and weapons possession. However, there are also persons under supervision for many other types of federal offences.¹ About half the supervision population has a prior criminal record, usually involving offences adjudicated at the state and local levels.

Administrative and logistical support for Federal Probation is provided by the Administrative Office of the United States Courts (AOUSC) in Washington, DC. The AOUSC is statutorily required to promote the efficient administration of Federal Probation.² In doing so, the AOUSC is committed to being an informed decision-maker, in part by developing technology to capture data and evaluate results/outcomes on an ongoing basis (Hughes, 2008). To achieve that objective, the AOUSC identifies and evaluates emerging technologies.

In its development of computer systems, the AOUSC has prioritised operational systems that reduce clerical tasks and therefore allow Probation Officers and other court officials to focus on the higher level professional tasks for which they are best suited (Judicial Conference of the United States, 1995).

Over the years, the AOUSC has piloted and operationalised scores of software applications to make Federal Probation staff more effective and efficient.³ Those systems now contain a wealth of information, more than 70 terabytes, related to the background and behaviour of millions of people charged and convicted of federal crimes. The data also reflect the strategies and activities of thousands of Probation Officers over the years who strove, with varying degrees of success, to promote law-abiding behaviour among persons supervised.

To contextualise how much data has been collected, the largest physical library in the United States is the Library of Congress. It has millions of volumes in its collection. If the Federal Probation data were printed out, it would fill the Library of Congress several times over.⁴

¹ One of the most common prosecuted offences in the federal system relates to immigration violations. However, those defendants are usually deported prior to service of any supervision term imposed. Consequently, relatively few cases on the federal supervision caseload have been convicted of immigration offences. For more information and details on the classifications of different types of federal offences, see <https://www.justice.gov/usao/page/file/1081801/download>

² Title 18 of the United States Code, Section 3672.

³ The Probation Automated Case Tracking System (PACTS), Decision Support System (DSS), Access to Law Enforcement System (ATLAS), Electronic Reporting System (ERS), Safety Incident Reporting System (SIRS), National Offender Defendant Search System (NODS) and Offender Electronic Payment Reporting System (OPERA), among others.

⁴ <https://www.worldatlas.com/articles/largest-libraries-in-the-united-states.html>; <https://blogs.loc.gov/thesignal/2012/03/how-many-libraries-of-congress-does-it-take/>

The immense size and varied format of the data collection have historically made it impractical to use for research purposes.⁵ A significant portion of the data was created specifically for individual case management rather than systemic analysis. Moreover, some data are stored in defined text fields, others in narrative fields, and a growing amount takes the form of imaged documents, photographs, videos and audio recordings. Significant manual effort would be required to standardise and categorise the data in order to leverage them, making them cost-prohibitive to use in studies.

One of the promises of Artificial Intelligence (AI) and related technologies is that, if properly employed, they could make data in varied formats more uniform. The data could then be categorised and assigned values to facilitate research. Consequently, the AOUSC sought to experiment with AI and related technologies to see if they could allow the wealth of Federal Probation data to be better utilised.

What is Artificial Intelligence?

Definitions and understandings of AI vary, but it can be understood as a set of technologies that allows for the speedy collection, analysis and presentation of large amounts of data (Stanford University, 2016). When coupled with hardware that has a large memory store and fast processing speed, AI software can examine data on previously unheard-of scales. Its power explains why AI is being applied in an increasing number of fields, including academia, business, government and medicine (Learnitude Technologies, 2018).

AI can process data beyond those manually entered into computer systems, including source documents, images, videos and audio recordings. Such functionality increases the amount of information available to help answer business questions while reducing the need for paperwork and non-contemporaneous notetaking, long the banes of Probation Officers wanting to focus on their case work. For purposes of the proof of concept, the components of AI used included optical readers, advanced text-analytics and machine learning.

AI is not a panacea. It is only as good as the quality and relevance of the data it is exposed to. The adage of 'garbage in, garbage out' still applies. Data quality is said to be one of the biggest AI challenges (Council, 2019).

⁵ Portions of the data have been used successfully, for example in the development of the Pretrial Risk Assessment and Post-Conviction Risk Assessments, but at relatively considerable time and expense.

While that challenge is somewhat mitigated with the Federal Probation data because the information was used operationally and in court proceedings, it and other obstacles remain. For example, AI 'learns' essentially the same way humans do, through training and experience, therefore the quality of AI's education impacts the quality of its outputs. In addition, to the degree humans are involved in the design and review of AI findings, our own human frailties will always be a factor. The human biases that many hope AI will avoid could be perpetuated in the technology through the learning and coding process.

Even one of the most intriguing features of AI, the ability to interpret photos, videos and audio recordings, has drawbacks from a policy perspective. The Federal Probation system is increasingly looking to video and audio recordings of interactions between Probation Officers and supervisees for research, for quality control and to provide performance feedback. The recordings are made with the knowledge and consent of those involved, but there are still concerns, which mirror those articulated in relation to body-worn video cameras commonly used by police in the United States. Critics argue that privacy concerns, cost and behavioural distortion outweigh the benefits of the technology (Lum *et al.*, 2019; ProCon.Org, 2018).

The behaviour distortion issue is particularly important in the probation setting. There is research suggesting that people behave differently when they know they are being recorded (Shaw, 2017). Consequently, video and audio data, if interpreted literally by AI, may be documenting feigned or unnatural behaviour rather than revealing the true behaviour patterns that probation officials need to understand.

Securing more familiarity with the strengths and weaknesses of AI and determining how best to apply it was among the reasons the AOUSC decided to test the technology via a 'proof of concept'.

Background on the proof of concept

The idea of using AI had been discussed by AOUSC officials for some time. There was initial reluctance to use a proof of concept, however, due to concerns about cost and training requirements. There was also fear that the nature of the technology could lead to over-reliance on mechanical outputs. Adding to the problem were emails from Probation Officers that included a link to a humorous scene between an ineffectual robot parole officer and the actor Matt Damon in the film *Elysium* (Blomkamp, 2013). The underlying message was that while technology can now handle many formerly human

tasks, activities requiring a deep understanding of human emotions may defy technological mastery (VanBenschoten, 2019).

Some concerns about AI have lessened over time. As to cost, it was found that many AI software applications were free and open-source, making them ideal for a proof of concept effort (Ayres, 2018). Also, some operational enhancements to existing analytical systems used by the AOUSC, SAP Business Objects specifically, also offered embedded AI features. Reducing hardware costs was the serendipitous availability of servers from other technology projects, and those servers being able to house the AI software with minimal reconfiguration.

As to the training requirement, members of the AOUSC technology staff were already studying and becoming familiar with AI for non-probation applications. Also, the AOUSC created a comprehensive Judiciary Engineering and Modernization Center, in partnership with the MITRE Corporation.⁶ With the Center and MITRE partnership came added expertise in AI (MITRE, n.d.).

The fear that technology would ruin the culture of the system was lessened by two factors. First, the proof of concept proposed by AOUSC technology staff involved a 'supervised model' where the machine did not operate independently, but rather was augmented and overseen by subject-matter experts drawn from the ranks of Probation Officers and AOUSC administrators. The involvement of experts with an understanding of not just the business needs but the culture of Federal Probation was deemed very important (Robinson, 2019). Second, and just as importantly, AI continued to prove itself in other business sectors and has become an accepted part of everyday life (Bradley, 2018).

Even within the federal government, 60% of agencies were already actively using AI for essential operations or planning to do so (Government Business Council, n.d.). Much of the federal government AI effort has had a law enforcement and research emphasis, consistent with what was sought to be done in Federal Probation (Bennett, 2019).

Three offices within the AOUSC joined forces to conduct the proof of concept. From the agency's Department of Program Services, there was the Probation and Pretrial Services Office (PPSO) and Case Management and Systems Office (CMSO). From the Department of Technology Services, there was the Technology Solutions Office (TSO). PPSO served as the 'business owner' for the project, being most familiar with the meaning and purpose of

⁶<https://www.mitre.org/centers/judiciary-engineering-and-modernization-center/who-we-are>

the source data. CMSO and TSO worked as the technical experts, each focusing on different business questions and operating independently to increase lessons learned from the effort. TSO also brought the expertise of MITRE to help with the proof of concept.

The questions to be answered as part of the proof of concept related to (1) identifying persons under supervision who may be affiliated in some way with violent extremism and (2) learning of trends related to the mental health of defendants at sentencing.

The CMSO team was tasked with using AI and chronological entries, which are explained in more detail below, to identify persons under supervision with ties to violent extremism. They were also asked to identify the extremist group or cause supervisees were associated with and to develop a ranking system to assess the reliability of the information examined.

The TSO team and MITRE were tasked with using AI and imaged presentence reports to determine the prevalence and nature of the mental health conditions and the treatment status of defendants at sentencing.

Common to both prongs in the proof of concept was a dynamic interactive model between subject-matter experts and the technology. The subject-matter experts developed word and phrase dictionaries, logic models and context clues for the AI to apply to the data.

One impressive feature was identifying a negation. For example, in relation to the mental health question, the AI successfully recognised the sentence 'the defendant did not report any mental health issues' meant that the person did not report a mental health problem, even though the words 'mental health' appeared.

The AI was also able to distinguish names of people from names of places and organisations. That proved important in the violent extremist inquiry. The AI correctly identified 'Isis Street' in San Francisco as a location. Similarly, using context clues, the AI appropriately labeled 'Isis Perez' as a person's name, while in other instances ISIS the organisation was accurately flagged as a violent extremist group.

The subject-matter experts also suggested mechanisms of display for the results of the AI analysis. The technology then examined all the data, developed algorithms and models, and displayed the data back to the subject-matter experts. The process was then repeated, and the results refined. So, key to success of the project was not the AI alone, but the subject-matter experts who guided it through the examination of the data.

Proof of concept Prong A: violent extremism

It is extremely important that Probation Officers correctly identify persons under supervision connected to violent extremism. Community safety and successful rehabilitation of the supervisee can hang in the balance. Making such a classification, however, is not easy.

Several factors complicate the identification of violent extremists. There isn't a single adjudicatory body that bestows or removes the label of extremist. Instead, law enforcement and corrections agencies use the classification differently and in the context of their respective missions. Moreover, even within given professions, definitions of violent extremism vary. The differences often turn on whether the classification is limited to persons directly involved in ideologically motivated violence or who incite such violence, versus those who themselves do not act violently for an extremist cause but indirectly support those who do (United Nations Office on Drugs and Crime, 2018). Federal Probation uses the broader definition, but takes role, relative culpability and current commitment level into account when acting on that definition.

There is also no definitive source of information to identify persons associated with violent extremism. Instead, multiple sources must be consulted, including government reports, court records, interviews with supervisees and those who know them, and surveillance. Relatedly, the reliability of the data sources must be assessed before drawing conclusions.

With these challenges noted, the proof of concept focused on the chronological entries of Probation Officers for all active post-conviction cases. Chronological entries are Probation Officers' notes related to criminogenic risk in the case, the supervision conditions imposed by the court and rehabilitative activities.

The power of AI was demonstrated in its speedy review of 26 million chronological entries related to 133,000 active cases. Using the initial data dictionary developed by subject-matter experts, it found 100,000 chronological entries that contained one or more words associated with violent extremism. Slightly more than 43,000 supervisees had one or more such chronological entries.

The subject-matter experts found, however, that the analysis was overly sensitive and missed context in some instances. A calibration of the algorithm resulted in the number of people with data linking them to violent extremism being reduced to 420. Confirmation supplied by Probation Officers

throughout the country indicated the algorithm used to identify the violent extremist from chronological entries was accurate.

Even in the few instances of ‘false positives’, Probation Officers reported that the supervisee had had extremist ties at one point but, due to advanced age, illness, renunciation, or past co-operation, was not considered an active threat. The analysis also revealed that the extremist affiliations were, in order of prevalence: sovereign citizens; hate groups; religious extremists; and social cause extremists. The cases were spread throughout the country and protectorates, but with more densely populated states having – in raw numbers – more violent extremists.

To enhance the results further, subject-matter experts recommended that data sources beyond the chronological entries be considered by the algorithm. The subject-matter experts also indicated, in the case of violent extremism, that the supervised model of AI should continue to be used. With new extremist groups forming and old ones losing strength, data dictionaries and other source material for the AI will need to be constantly updated (Brennan, 2019).

Proof of concept Prong B: mental health at sentencing

The mental health condition of a defendant at sentencing is an important consideration. Under the United States Sentencing Guidelines, mental health condition may warrant a custody term outside the otherwise suggested range and is relevant in fashioning conditions of any supervision term imposed.⁷ Information as to mental health trends among defendants is also important to probation administrators. The information can help ensure that adequate services are available when defendants commence supervision, whether it be immediately after sentencing or years later after serving a prison term. Moreover, the link between mental illness and criminogenic risk is often misunderstood and requires ongoing study and discussion (United States Department of Health and Human Services, 2017).

Federal Probation closely monitors mental health issues on an individual case basis, but current systems do not easily allow for aggregation at the regional or national level. As a result, identifying trends and facilitating research has been difficult for the AOUSC. To address that deficit, AI was tasked with analysing the mental health and related sections of 11,243 randomly selected presentence reports. Notably, the documents were stored not in paper but as images in Portable Document Format (PDF).

⁷ USSG § 5H1.3, <https://www.ussc.gov/guidelines>

A descriptive analysis of the data revealed that the mental health section of presentence reports is usually shorter than other sections. Presumably due to confidentiality rules and other issues that restrict Probation Officer access to mental health information, the mental health sections averaged 81 words compared to 128 words in the substance abuse section.

In 36% of the cases, a mental health issue of some kind was cited. One in five defendants had a formal mental health diagnosis. Where specific condition types were cited, depression and anxiety were mentioned most commonly, in 21% and 16% of the cases respectively. Alarming, 26% of presentence reports mentioned the defendant having suicidal ideation. Clearly the stress of being sentenced seems to trigger, or aggravate, depressive, anxious and suicidal issues in defendants.

The next most common diagnosed conditions were bipolar disorder and attention deficit disorder, both cited in 6% of the cases, and post-traumatic stress disorder, noted in 4%. Prescriptions were mentioned in 19% of the reports, and the medications were consistent with the mental health conditions noted above. Specifically, the most prescribed drugs, in order, were Prozac, Ritalin, Seroquel and Xanax.

The AI analysis revealed that Probation Officers were able to verify mental health information through medical professionals or other third parties in only 17% of the cases citing a treatment history. Most of the information in the reports related to mental health was self-reported by defendants. That low level of verification likely stems from a combination of factors, including confidentiality surrounding treatment records, varied disclosure procedures required by treatment providers and the short time frames Probation Officers have to complete reports.

Due to the common link between mental health and substance abuse, the AI analysis was expanded to examine substance abuse data. The analysis revealed that the most common drugs abused were marijuana, alcohol, cocaine, prescription drugs, methamphetamine and heroin, in that order. The onset of substance abuse spiked between the ages of 10 and 25, and it peaked significantly between ages 16 and 18.

Because time allowed, the AI analysis was also expanded to include the criminal history section of the presentence reports. It found that 53% of the defendants had some form of prior criminal record. Of those with a record, the average number of arrests or adjudications was five.

The subject-matter experts who worked on the mental health portion of the proof of concept reported that the AI analysis proved both powerful and

useful. However, as with violent extremist analysis, the subject-matter experts indicated that ongoing review of data dictionaries, expansion of data sources and a strong feedback loop with users are needed for the technology to achieve its full potential (Levenson, 2019).

Cost analysis

One of the reasons Federal Probation data have been impractical to use on a systemic scale has been cost. As they are stored in varied formats and collected more for operational rather than research purposes, considerable time and effort would be involved in leveraging the data using traditional analysis methods (e.g. manual coding). The advertised strength of AI, in contrast, is the ability to process large amounts of data faster and more consistently than through traditional manual methods.

To manually examine, code and study the millions of chronological entries and thousands of the presentence reports in the proof of concept would have taken approximately 87 'work years', with an estimated cost (predominantly labour) of \$6.9 million.⁸ Considering the relatively narrow scope of the proof of concept, it has been cost-prohibitive previously to process all the Probation and Pretrial Services data.

In relation to the AI analysis, it was estimated that three work years were dedicated, including the technical personnel and subject-matter experts. The labour costs then totalled approximately \$240,000. Software and hardware costs were approximately \$10,000, bringing the total estimated cost to \$250,000. Therefore, at roughly 3% of the price of doing it manually and at a fraction of the time, the AI proof of concept revealed insights into violent extremists under supervision and the mental health condition of persons being sentenced in federal court.

Consequently, AI proved substantially more economical and efficient than traditional manual methods to process the data. Another important consideration is the cost of any replication. To run the AI analysis again would have minimal cost, while a manual effort would incur all the costs associated with the original effort.

Conclusions and recommendations

The proof of concept successfully demonstrated the ability of AI to process large amounts of diverse data in an economical fashion. The technology offers

⁸ A work year is considered 1880 hours, or one person working full-time. To compute cost, the salary and benefits for an employee in a work year were estimated at \$80,000.

unprecedented opportunities to learn from past cases, to make Federal Probation more efficient and to further several public interests. What is even more exciting is that the technology is expected to improve and become more accessible over time (Michaels, 2019).

However, the proof of concept also affirmed that there are limitations to the technology. The pilot involved only portions of the mass of data held by Federal Probation and, without the additional data sources included in the analysis, all conclusions are preliminary at best. Moreover, the technology, as powerful as it is, clearly needed ongoing interaction with subject-matter experts to be effective.

With an evolving work environment, the 'supervised model' is deemed a necessity at this stage. In fact, no one involved in the project advocates for the technology to replace professional judgement on matters of importance. Instead, they universally view AI as a valuable tool to help in the exercise of that judgement and to remove rote work best handled through automation.

The final recommendations of the AOUSC team that conducted the proof of concept for other entities interested in AI is to invest in the front end to ensure business needs are clear and that the AI is properly 'educated' about the data it will be processing. Again, there is strong support for the 'supervised model' of AI with the technology and subject-matter experts working together, rather than independently.

References

- Ayres, C. (2018), '6 pros and cons of open source software', available at <https://greengarageblog.org/6-pros-and-cons-of-open-source-software> (accessed 19 July 2019)
- Bennett, S. (2019), 'How artificial intelligence can transform government', available at <https://www.nextgov.com/ideas/2019/01/how-artificial-intelligence-can-transform-government/154462/> (accessed 19 July 2019)
- Blomkamp, N. (director) (2013), *Elysium* [motion picture], available at <https://www.youtube.com/watch?v=JzF5VawGgiA> (accessed 19 July 2019)
- Bradley, R. (2018), 'The manifest', available at https://medium.com/@the_manifest/16-examples-of-artificial-intelligence-ai-in-your-everyday-life-655b2e6a49de (accessed 19 July 2019)
- Brennan, P.S. (2019), Interview with Probation Administrator, Administrative Office of the United States Courts (M.G. Rowland, Interviewer), 29 May
- Council, J. (2019), 'Data challenges are halting AI projects, IBM executive says', available at <https://www.wsj.com/articles/data-challenges-are-halting-ai-projects-ibm-executive-says-11559035800> (accessed 19 July 2019)

- Government Business Council (n.d.), 'Is the Federal Government ready for AI?', available at <https://www.govexec.com/insights/federal-government-ready-ai/> (accessed 30 May 2019)
- Hughes, J.M. (2008), 'Results-based management in Federal Probation and Pretrial Services', *Federal Probation*, vol. 72, no. 2
- Judicial Conference of the United States (1995), *Long Range Plan for the Federal Courts*, Washington, DC: Administrative Office of the United States Courts
- Learntitude Technologies (2018), 'Applications of Artificial Intelligence in top 10 areas', available at: <https://learntechx.com/blog/applications-of-artificial-intelligence-in-top-10-areas> (accessed 19 July 2019)
- Levenson, S. (2019), Interview with Probation Administrator, Administrative Office of the United States Courts (M.G. Rowland, Interviewer), 29 May
- Lum, C., Stoltz, M., Koper, C.S. and Scherer, J.A. (2019), 'Research on body-worn cameras', *Criminology & Public Policy*, vol. 18, issue 1, pp. 93–118
- Michaels, C. (2019), Interview with Deputy Chief Technology Officer, Administrative Office of the United States Courts (M.G. Rowland, Interviewer), 30 May
- MITRE (n.d.), 'Judiciary Engineering and Modernization Center', available at <https://www.mitre.org/centers/judiciary-engineering-and-modernization-center/who-we-are> (accessed 19 July 2019)
- ProCon.Org (2018), 'Police body cameras: top 3 pros and cons', available at <https://www.procon.org/headline.php?headlineID=005399> (accessed 19 July 2019)
- Robinson, C. (2019), Interview with Division Chief, Administrative Office of the United States Courts (M.G. Rowland, Interviewer), 31 May
- Shaw, J. (2017), 'The watchers: Assaults on privacy in America', *Harvard Magazine* (online), January–February
- Stanford University (2016), 'One Hundred Year Study on Artificial Intelligence', available at <https://ai100.stanford.edu/2016-report/section-i-what-artificial-intelligence/defining-ai> (accessed 19 July 2019)
- United Nations Office on Drugs and Crime (2018), "'Radicalization" and "Violent Extremism"', available at <https://www.unodc.org/e4j/en/terrorism/module-2/key-issues/radicalization-violent-extremism.html> (accessed 19 July 2019)
- United States Department of Health and Human Services (2017), 'Mental health myths and facts', available at <https://www.mentalhealth.gov/basics/mental-health-myths-facts> (accessed 19 July 2019)
- VanBenschoten, S. (2019), Interview with Branch Chief, Administrative Office of the United States Courts (M.G. Rowland, Interviewer), 31 May

Aspire – ‘Changing Lives to Make Communities Safer’

Joan Ritchie and Gail McGreevy*

Summary: The Fresh Start Agreement of November 2015 set out the Northern Ireland Government’s commitment to tackling paramilitary activity and associated criminality. It set up an independent three-person panel to make recommendations on the disbandment of paramilitary groups. In response to the panel’s report, the Probation Board for Northern Ireland (PBNI) set up the Aspire Project in September 2017. The aim of Aspire is to reduce criminality and risk-taking behaviour in men aged 16–30 who are marginalised from communities and at risk of becoming involved in paramilitarism. One year after establishment, the impact of Aspire was measured by the Northern Ireland Statistics and Research Agency (NISRA). The findings demonstrate positive outcomes and highlight challenges and recommendations for the future direction of the project. This paper provides an introduction to the Aspire Project, describes its context and rationale and highlights the findings of the evaluation.

Keywords: Collaboration, criminality, paramilitary, intensive, cross-departmental.

Introduction

The Fresh Start Agreement of November 2015 set out the Northern Ireland Government’s commitment to tackling paramilitary activity and associated criminality (Northern Ireland Executive, 2015). It set up an independent three-person panel – the Fresh Start Panel¹ – to make recommendations on the disbandment of paramilitary groups. The panel’s report was published in June 2016 (Northern Ireland Executive, 2016). The report contained recommendations for a new strategic approach to tackling paramilitary activity. Recommendation B 12 (p. 27) stated:

Some young men are at particular risk of being drawn into criminal activity and a cross-departmental approach will be required to help achieve better

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¹ The independent three-person panel comprised Lord Alderice, Professor Monica McWilliams and John McBurney, who were appointed to undertake this role in December 2015.

outcomes. Building on the best practice model of INSPIRE, which works with women at risk of offending, we recommend that the Executive, in conjunction with the Probation Board, should develop, fund and implement an initiative focused on young men who are at risk of becoming involved, or further involved, in paramilitary activity. This initiative should be a collaboration between government departments and restorative justice partners to combine restorative practices and peer mentoring with targeted support in respect of employment, training, housing, health and social services.

In response to this recommendation, the Probation Board for Northern Ireland (PBNI) set up the Aspire Project in September 2017. The aim of Aspire is to reduce criminality and risk-taking behaviour in young men aged 16–30 who are marginalised from communities and at risk of becoming involved in paramilitarism. It is a collaborative project led by PBNI and delivered in conjunction with the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO), Northern Ireland Alternatives (NIA) and Community Restorative Justice Ireland (CRJI). One year after establishment, the impact of Aspire was measured by NISRA. The findings demonstrate positive outcomes and also highlight challenges and recommendations for the future direction of the project (NISRA, 2019). This paper provides an introduction to the Aspire Project, describes the context and rationale for the project and highlights the findings of the evaluation.

While significant progress has been made in tackling paramilitarism since the ceasefires of the 1990s, paramilitary violence has continued in some communities across Northern Ireland (NI). In 1972, the peak year of violence, 470 people were killed in the Troubles. By 2015 this had fallen to two people killed by paramilitary groups, a sharp, sustained reduction having occurred in 2005 and 2006 (Melaugh *et al.*, 2019). While incidents of paramilitary violence continue to be large in number, today they rarely kill and are mostly directed against members of their own most disadvantaged communities (Braithwaite, 2016).

However, there has been a sharp increase in paramilitary-style ‘punishment’ shootings and beatings by republicans and loyalists across Northern Ireland in recent years. Indeed, there has been a 60 per cent increase in such attacks over the past four years. Figures from the Police Service of Northern Ireland’s (PSNI) statistics branch show that in 2013 there

were 64 such attacks. In 2017, the figure rose to 101 shootings and beatings.² There is also a perception, particularly among young people, that there is a high incidence of paramilitary activity in NI and that paramilitaries still control certain communities (McAlister et al., 2018).

In order to try to bring continuing paramilitary activity to an end, the NI Executive and the UK and Irish Governments published *A Fresh Start: The Stormont Agreement and Implementation Plan* in 2015. Aiming to address some of the most challenging issues facing society, the Fresh Start Agreement reaffirmed support for the rule of law and provided a framework for tackling paramilitary activity and organised crime. This framework included the appointment of an independent three-person panel to report to the Executive with recommendations for a strategy for disbanding paramilitary groups. The *Fresh Start Panel Report on the Disbandment of Paramilitary Groups in Northern Ireland* was published in May 2016. Setting out a strategy that followed four broad objectives (A. Promoting Lawfulness; B. Support for Transition; C. Tackling Criminal Activity; D. Addressing Systemic Issues), it contained 43 recommendations. Recommendation B12 (within Support for Transition) stated:

The Executive, in conjunction with the Probation Board, should develop, fund and implement an initiative (based on the INSPIRE³ model) focused on young men who are at risk of becoming involved, or further involved, in paramilitary activity. This initiative should be a collaboration between Government departments and restorative justice partners to combine restorative practices and peer mentoring with targeted support in respect of employment, training, housing, health and social services.

The Northern Ireland Executive subsequently responded to the panel’s report in July 2016 with the publication of *Tackling Paramilitarism, Criminality and Organised Crime: Executive Action Plan*. Acknowledging the valuable contribution the recommendations made, the report set out an action plan for how each would be taken forward and implemented. The plan for implementing B12 stated:

² <https://www.psni.police.uk/inside-psni/Statistics>

³ INSPIRE is a Probation-led project that tackles female offending. It provides a women-only space for women to attend their Probation appointments and complete offence-focused programmes such as victim awareness, anger management, coping skills, alcohol and drug awareness and confidence building, which are delivered by both Probation staff and other support programme providers. Partner organisations include NIACRO, the Women’s Support Network (WSN), Start 360, EXTERN, Northern Ireland Housing Executive (NIHE), Social Services, Women’s Aid, Addictions NI, Alternatives NI and Community Restorative Justice Ireland.

The Probation Board will lead on the development of a model aimed at systematically addressing the age-related specific risks, experiences and needs of young men who have offended and are at risk of being drawn into crime and paramilitarism. The model will be co-designed between Government departments and restorative justice partners to combine restorative practices and peer mentoring with targeted support in respect of employment, training, housing, health and social services.

This in turn led the PBNI to develop the Aspire initiative in September 2017.

Aspire Project

PBNI established a dedicated team consisting of a manager with overall responsibility for the programme, as well as three Probation Officers (POs), three Probation Services Officers (PSOs) and a part-time Administrator to lead and implement Aspire.

The scheme takes referrals and operates with two distinct groups:

1. statutory service users (those under Probation supervision)
2. non-statutory service users (those not currently known to the criminal justice system/subject to statutory supervision).

The target group for inclusion in the Aspire Project are 16–30-year old males who fit the following criteria:

- originating from families experiencing intergenerational trauma
- originating from families living in high social deprivation
- from households where lack of parental control is an issue
- with mental health issues and low levels of self-esteem
- who may be in drug debt
- with a lack of prospects and social marginalisation
- who are unemployed, with low educational attainment
- involved in drug and/or alcohol abuse
- involved in antisocial behaviour
- who may be under threat (or previous threat) within their community
- looking to find their place, a sense of belonging.

All the criteria were based on research⁴ that identified the characteristics that made young men more likely to be vulnerable to criminality and paramilitary influence.

Statutory service users

Statutory referrals to Aspire were made by POs and NIACRO staff, within both the prisons and the community. Referrals were also received from prison staff. The Aspire Manager then determined whether service users who were on statutory supervision fitted the eligibility criteria.

The statutory service users fitting all the criteria (known as Aspire referrals) were supervised by a dedicated Probation team made up of POs and PSOs who provide intensive interventions and focus on desistance and alternative pro-social pathways. All statutory service users who consented to the referral to Aspire received support from a dedicated NIACRO adult mentoring programme for up to 16 weeks; engagement with Aspire is voluntary.

Aspire supervision entailed weekly contact with POs/PSOs providing intensive interventions, focusing on desistance and encouraging access to alternative pro-social pathways including employment or training, stable housing and a focus on personal development, health and wellbeing. POs with support from PSOs co-ordinated referrals to, and worked collaboratively with, relevant community and voluntary sector groups to address substance related/mental health issues and other offending-related factors. In addition to the intensive support provided by the PBNi Aspire team, these individuals availed of a mentoring programme provided by a dedicated team within NIACRO for 16 weeks and also had the opportunity to be referred to the Barnardo’s Project to focus on parenting issues.

At the end of the six-month period the Aspire Manager, in conjunction with the PO and PSO, decided whether the service user should transfer back to the local community team. This was, however, flexible and if there were particular difficulties at the time of transfer or the service user’s period of supervision was due to end in the near future, the Aspire team retained case management responsibility.

A number of statutory service users who did not necessarily meet the threshold to be considered in the Aspire referrals element of the project met the criteria to be referred into the Adult Mentoring Services provided by NIACRO. This service was provided over 16 weeks, focused on support with housing, access to a general practitioner (GP) following release from prison,

⁴ Research was conducted by Data Analytics Labs on behalf of the PBNi.

assistance with benefits, etc. PBNI supervision was by the assigned community PO rather than an Aspire PO.

Non-statutory referrals

NIACRO took the lead in the element of Aspire known as Aspire Community Engagement. This involved a range of community-based interventions, including restorative justice approaches for young men who were not subject to statutory supervision. Working in partnership with NI Alternatives and CRJI, referrals were largely identified by the three organisations with some involvement from other community and voluntary sector partners, local community groups, youth/educational welfare services, PSNI and prison staff. In some cases, referrals to Alternatives and CRJI came directly from family members or from schools. The same 11-point criteria for accepting referrals were used for non-statutory and statutory referrals.

Many of the non-statutory service users working with NIACRO had just been released from prison, where they had been serving short-term sentences but without statutory PBNI involvement on release. All availed of the mentoring element of the initiative for 16 weeks.

Evaluation

The purpose of the independent evaluation conducted by NISRA was to assess the effectiveness of Aspire in meeting its aims, as set out by the Northern Ireland Executive (2016), namely 'combining peer mentoring with targeted support in respect of employment, training, housing, health and social services'. The evaluation also aimed to determine Aspire's impact on the lives of participants and wider society.

Methodology

The evaluation used a mixed methodological approach combining quantitative and qualitative techniques.

Quantitative data sources

The evaluation used the following.

- Data collected and held by the PBNI Aspire team for the 252 statutory service users who accessed the service between 1 September 2017 and

1st September 2018, including demographic information, Assessment, Case Management & Evaluation (ACE) system scores and information regarding risk, recall and focus of interventions (Cooper and Whitten, 2013).

- Data collected and held by NIACRO for 242 statutory service users and 250 non-statutory service users who accessed the service between 1 September 2017 and 1 September 2018, including demographic information.

Interviews and focus groups

The qualitative elements of the evaluation involved:

- semi-structured interviews with Probation Managers (3) and stakeholders (6)
- focus groups with service users (17), mentors (12), and POs (6).

Questionnaires

- Entry ($n = 265$) and Exit Questionnaires ($n = 129$).

Service users completed an entry questionnaire at the start of the programme and an exit questionnaire when it finished. The entry questionnaire gathered data regarding service user background, safety within the area they live and problems that had resulted in their referral to Aspire.

Data limitations

Participation on Aspire was on a voluntary basis. It is possible therefore that the cohort consists of a more motivated group of individuals with a greater desire to stop reoffending.

Findings

Referrals

A total of 171 referrals were made to the Aspire team (i.e. statutory service users supervised by an Aspire PO). A total of 148 service users were accepted, 141 of whom participated during the first year of the initiative. By 1 September 2018, 28 had successfully completed the programme and a further 28 had breached or were recalled; 85 were categorised as still live or waiting. A total

of 111 referrals were made by the Aspire team to the adult mentoring element of the initiative (i.e. statutory service users supervised by a community PO). A total of 104 were accepted. The community engagement element received an overall total of 270 referrals, of which 250 were accepted.

Service user profile

Service users were asked about the difficulties that had resulted in their referral to Aspire. The vast majority said it had been because of their drug and/or alcohol use (70%) or they had nothing else to do (65%). Approximately six out of 10 said they had got caught up with the wrong people. Just over half said they didn't care about life and they had always been getting into trouble; 44% said they had difficult relationships with family members. Three out of every 10 service users said they didn't have anyone else to turn to or they owed money for drugs and 28% said they felt under pressure/threatened.

The majority of service users (65%) said they had been threatened or attacked. In contrast, only 21% said they felt unsafe and approximately half agreed there was a strong sense of community in their area. The focus groups identified that, while contradictory, this was most likely because service users tended to live in the 'here and now'. It was also suggested that some of the service users were fearless: their willingness to take risks, low self-esteem/confidence and poor decision-making coupled with deep-rooted anger towards the paramilitaries or other gang influences within their local community meant they were not allowing themselves to be intimidated by these negative influences.

Maybe it's an age thing but some of our boys don't really care. Feeling safe isn't important and they stick two fingers up at the paramilitaries. (Stakeholder)

They will all say they feel safe because they have moved out of the area where there was trouble a few weeks ago. They are not in West Belfast any more. They answer in the here and now. They don't think of a few weeks ago. They may not realise they are threatened because this is just part of normal life. They are doing wee things for money and don't realise the seriousness of it all. (Mentor)

It's awful that you can't live in the community that you were born in because people are going to put a bullet in your head. (Service user)

I got put out of my flat last time and had eight death threats. Now the cops have to agree that you've been threatened to get points and the two stories have to match. (Service user: comment relating to the evidence of threat required to obtain priority housing)

In line with the issues identified in the service user entry questionnaires, the main focus of engagement/intervention was drug/alcohol addiction (79% of service users). This was followed by training/employment/Duke of Edinburgh Award/sport activity (75%) and mental health/trauma work (67%).

Approximately six out of 10 service users needed support with self-esteem, accommodation and relationship/family issues. Under threat/community issues was the focus of engagement for 56%. Around half needed support with peer/gang influences and 40% with social isolation. PSOs engaged service users in addressing issues such as developing coping/thinking and problem-solving skills. Developing healthy relationships/peer influences was also a focus of intervention. Restorative justice agencies and mentors also responded to issues and adapted their focus of engagement to specific needs. Debt/finances and restorative work were the focus for 37% and 31% of service users respectively. Parenting services and sectarian attitudes were the focus for one-fifth and 13% of service users respectively.

Impact on service users

The provision of practical support by mentors was identified as a major benefit of the Aspire initiative, particularly for vulnerable service users just released from prison and dealing with the challenges of adapting to life outside. Accessing critical services, particularly those relating to benefits, housing and health care, was challenging. The research showed that POs/PSOs were aware of the challenges faced by many of the service users and regularly liaised with the Community Forensic Mental Health Teams alongside consultation with PBNI forensic psychologists to enable service users to access appropriate services. Accessing critical services with the support of the mentors and their good working knowledge of these systems enabled service users to obtain ID, register with a GP, apply for housing and access benefits. PSOs and mentors acted as advocates, helping service users with communication, explaining information and helping them prepare what they had to say before an appointment.

They can kick off at the GP, get barred and get criminal charges brought, in a very short time. Mentors can prevent this. (Mentor)

The mentor's role helps the service user with communication. Many service users wouldn't make it to the benefits office. (PBNi)

There was a perception that professionals were more likely to listen to service users when POs/PSOs and mentors were present.

Doctors will listen more when we are there. We help them to prepare what they have to say, explain things before they go to appointments. Help with their confidence. (Mentor)

In addition to support with the service providers, Aspire equipped service users with time management skills, enabling them to keep appointments and with practical issues like visiting food banks or helping with transport both from the prison gate on day of release and to appointments, particularly when these were a considerable distance from the service user's home.

In terms of engagement/interventions, drug/alcohol addiction was the main focus for the vast majority of service users (79%) and mental health/trauma for 67%. Findings from the focus groups and interviews showed that Aspire was impacting on both these areas. POs made referrals to local addiction and counselling services in addition to accessing GP services to enable appropriate referrals to the Community Addiction and Community Mental Health Teams.

I thought it was good. Sometimes I didn't want to come when I was in the wrong, taking drugs/drink but you came out to see me and held me to account. (Service user)

Boredom and drugs are a big thing. I arrange to meet service users mid-day, that way I know they won't take drugs in the morning. (Mentor)

Mentors and Probation staff worked hard to maintain stability through the use of various strategies. These strategies were critical given the lengthy waiting times for support services and the challenge of obtaining a dual diagnosis, with mental health service providers willing to deal with service users only once addiction issues were addressed and vice versa.

Most are turned down as they abuse substances. It's the chicken and the egg. I suspect many are victims of sexual abuse. They self-harm. (Stakeholder)

Service users lived mainly in rental accommodation (62%), hostels (16%) or their own houses (16%); under 1% were homeless. Accommodation, however, was a focus for 59%. The qualitative research showed that service users appreciated the support that Aspire provided, particularly during complex and challenging interactions with the Housing Executive; 44% agreed it had helped them get a better place to live. Those living in hostels tended to be less positive about their accommodation experiences than those residing in other types of accommodation, and stakeholders across the research reported mixed experiences.

The majority of service users (85%) were unemployed and the focus for engagement/intervention for 75% was training/employment. The qualitative research suggested, however, that many had never had a job or did not or had not regularly attended school, making this a difficult area to address. Support with training and employment was welcomed by some service users and there was evidence of a number finding employment. In addition, 71% agreed that Aspire had helped them in this area. While access to Level 1 courses was good, a lack of available courses to progress to was raised as a concern. There was also a perception that some very capable service users had the potential to be 'pigeonholed' either by a lack of confidence in themselves or by a society that perceived them as 'only for a building site', when educationally they were capable of achieving much more.

Just over a quarter of service users had at least one child, although focus group discussions suggested that the vast majority did not have contact. Those keen to obtain access were encouraged to complete the Barnardo's Parenting Matters programme, an initiative focusing on the child and the impact of offending on their development. In total 17 service users were referred to Barnardo's. While this may seem low, many had already completed the course while in prison or had undertaken the 'Dads Project', a Parenting NI initiative. Others, focused on other resettlement issues, did not see the course as a priority and consequently were unwilling to engage. Overall, almost three-quarters of service users agreed that Aspire had helped them to get on better with their family.

One particular service user did have a lot of work done with his family. They helped communicate where the specific difficulties were. This improved his family and social networks enormously. This can be difficult if someone is under threat and the service user thinks that their family want nothing to do with them. (Stakeholder)

They helped me get on with my family more. I got put out of Ballymena. They helped me get back to my family. I want to get a job and start working. They are helping me go down a different road.' (Service user)

The responsive and flexible service provided by both PBNI and NIACRO and the impact of the 'pro-social role' provided by mentors was identified by stakeholders across the research as supporting service users to stay out of trouble. The majority of individuals who successfully completed the initiative said that Aspire had helped them take a better path in life (83%) and avoid/reduce reoffending (78%). Most believed that they would be able to resist negative pressure to become involved in criminality in the future (83%).

Approximately nine out of 10 said they were unlikely to commit an offence in the future and 72% said they were unlikely to associate with people who might encourage them to.

Aspire helps because they [mentors] are constantly with you. They ring to make an appointment and you haven't the time to get in with the wrong crowd. I have to say 'No lads, I can't see you today my mentor is coming over.' (Service user)

I used to be a one-man crime spree but now I'm more chilled. I have a wee daughter and my goal is to pick her up from school. I'm not allowed access but my mum has access one day a week. I'm staying away from prison for my family. (Service user)

Stakeholders generally felt, however, that the high-risk, chaotic nature of service users meant that reoffending should not be the only significant marker of the success of the programme, but rather this should also include how service users had improved across the areas that the initiative spanned. While it was inevitable that there would be some returns to prison, recognising the significance of small but positive steps was important.

Interestingly, throughout the evaluation an increased risk of recall or breach proceedings was not a factor highlighted by service users as a difficulty with the project. The value of the project seemed to outweigh any issues about compliance.

There were statistically significant decreases between pre- and post-Aspire ACE scores (i.e. the likelihood of reoffending score) among those who successfully completed the programme and were supervised by an Aspire

PO. The average ACE score was 33 pre-Aspire intervention, indicating that the average service user presented with a high likelihood of reoffending. The average score post-Aspire intervention (26 weeks later) was 25, which is in the medium category. This indicates the individual is less likely to offend.

Impact on others

The research identified a number of benefits for other stakeholders. This included the children of service users who indirectly benefited from the Barnardo’s and Parenting NI programmes through the development of service user parenting skills and increased awareness of the impact of their actions on their children. The intensive nature of support from all the services impacted positively on service users’ parents and hostel staff, relieving some of the pressures experienced by both.

The research also identified several benefits for PBNI, including increased stability when service users returned to community POs. While PBNI was responsible for risk management, mentors on occasion acted as a buffer between service users and POs, encouraging meaningful compliance with the supervision process and adherence to licence conditions.

Next steps

Evidence has shown that the Aspire programme is working very effectively. A small number of recommendations have been made, as follows.

- Explore whether more follow-up post-Level 1 courses are available to enable service user progression.
- Explore the possibility of cross-over between NIACRO statutory and non-statutory mentors to allow wider and more efficient geographical coverage.
- The high-risk, chaotic nature of service users means that reoffending should not be the only significant marker of progress; ‘distance travelled’ in relation to reoffending may be a better marker.
- Explore whether offending profiles for statutory service users are available from DOJ’s Analytical Services Unit. In addition, both PBNI and NIACRO have recently started using the Outcome Star System, specifically the Justice Star. Once sufficient information has been collected, it should be analysed to gauge progression.

- Quantitative data are an important source of evidence for applications for further funding streams. These supporting data are currently collected and held across a number of sources/organisations, making it difficult to obtain overall participant numbers. Explore whether it is possible to have one central repository.
- PBNI staff are trained in restorative work. This should be explored in relation to delivering a service for those on statutory supervision.

Conclusion

At the time of writing, the Aspire Project has been running for 18 months. The evaluation has shown that the project is effective and is having an impact on service users and others, including their children and parents. Service user comments include:

It's the best programme I've ever been on in 12 years. My Probation Officer introduced me to [named mentor]. I'm only out of prison. She has taken me to the Royal and Dungeness. She has helped me fill in all my forms.

The support, you have no structure, and it's someone who is willing to support you. You just pick up the phone and they are there.

Mentors are top notch at what they do.

Comments from mentors working on the programme include:

The programme is a relief for families and parents. It's a support for parents when I say 'I can take him to this appointment.' It can be a buffer between parents and children. We can help them each to see the other side. Sometimes there is only so much a parent/family can take on. I can help them not worry. I can communicate with them about how he's getting on. It's a support for mums and dads as well as service users.

It is clear from the evaluation that the right service users are being targeted and that the aims of Aspire, including support with employment, training, housing, health and social services, are being met. Participants are also receiving support with family relationships and staying out of trouble.

The mentor's role was seen as essential and they were held in very high regard by service users, PBNI and stakeholders. Seen as pro-social role

models, the impact they made on service users’ lives was evident in the examples provided across the research.

The mentoring aspect is so essential. Service users leave prison in a heightened state. They are extremely vulnerable in the first six to eight weeks, needing the GP, accommodation, etc. (PBNI)

The Aspire POs and PSOs were very well thought of across all the research groups, with stakeholders feeling very well supported.

More long-suffering, more prepared to give them a chance. It’s like the Aspire Probation Officer has found their heart. (Mentor)

If we are looking for a response we will get one within a few hours. (Stakeholder)

Stakeholders across all the research groups highlighted the benefit that the high level of flexibility (from PBNI and NIACRO) offered, including greater capability to respond to a crisis situation and better management of service user risk and needs.

In October 2018 the Independent Reporting Commission published its first in a series of reports on progress in relation to the progress on tackling paramilitarism. It stated:

We met with the Probation Board for Northern Ireland and those providing the Aspire mentoring services. We also met with a small number of young men on the programme who outlined the many challenges they face. We endorse the programme and commend those who are delivering it. We welcome the wider involvement of organisations in the provision of mentoring services, including those involved in restorative justice and the targeted approach towards those most at risk.

This endorsement and the findings of the evaluation provide direction and important information to help shape and develop Aspire in the coming months.

References

- Alderdice, Lord, McBurney, J. and McWilliams, M. (2016), *The Fresh Start Panel Report on the Disbandment of Paramilitary Groups in Northern Ireland*, Belfast: Northern Ireland Executive
- Braithwaite, J. (2016), 'Restorative justice and responsive regulation: the question of evidence', RegNet Research Paper No. 2014/51 (updated version of a paper of the same title published in 2014), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2839086 (accessed 15 August 2019)
- Cooper, L. and Whitten, I. (2013), 'Assessing ACE: the Probation Board's use of risk assessment tools to reduce reoffending', *Irish Probation Journal*, vol. 10, pp. 193–202
- McAlister, S., Dwyer, C. and Carr, N. (2018). *Experiencing Paramilitarism: Understanding the Impact of Paramilitaries on Young People in Northern Ireland*, Centre for Children's Rights Research Findings, no. 1, pp. 1–8
- Melaugh, M., Lynn, B. and McKenna, F. (2019), 'Background Information on Northern Ireland Society – Security and Defence Table NI-SEC-04: Deaths (number) due to the security situation in Northern Ireland (only), 1969-2015', available at <https://cain.ulster.ac.uk/ni/security.htm> (accessed 7 May 2019)
- NISRA (2019), *Evaluation of Aspire September 2017 to September 2018*, forthcoming
- Northern Ireland Executive (2015), *A Fresh Start: The Stormont Agreement and Implementation Plan*, available at https://www.northernireland.gov.uk/sites/default/files/publications/nigov/a-fresh-start-stormont-agreement_0.pdf (accessed 7 May 2019)
- Northern Ireland Executive (2016), *Tackling Paramilitarism, Criminality and Organised Crime: Executive Action Plan*, available at <https://www.northernireland.gov.uk/sites/default/files/publications/newnigov/Executive%20Action%20Plan%20-%20Tackling%20Paramilitary%20Activity.pdf> (accessed 7 May 2019)

‘Prison Is the Worst Place a Traveller Could Be’: The Experiences of Irish Travellers in Prison in England and Wales

Paul Gavin*

Summary: Irish prisoners are the second most represented foreign national group in the prison system in England and Wales, and while no precise statistics are available, it is estimated that Irish Travellers make up a considerable percentage of the prisoners who identify as Irish. It has been said that Irish Travellers suffer from unequal hardship in prison and this has been linked with racism and discrimination from prison staff and other prisoners. This paper draws on a series of semi-structured interviews undertaken with ex-prisoners from Traveller and non-Traveller backgrounds ($n = 37$) as part of the author’s doctoral research. It considers more specifically the experiences of those who identified as being Irish Travellers ($n = 8$), with participants regularly reporting name calling, bullying and racism by both prisoners and prison staff. The paper also reflects on a perceived lack of Traveller engagement with education in the prison system and argues that a lack of literacy has resulted in Irish Travellers being in a prison within a prison.

Keywords: Irish Traveller, prison, racism, bullying, Irish prisoners abroad.

Introduction

Irish Travellers are a community of people ‘identified (both by themselves and others) as people with a shared history, culture and traditions, including historically, a nomadic way of life on the island of Ireland’ (s. 2.1 Equal Status Act, 2000). They have been a part of both Irish and British society for centuries (Power, 2003, 2004; Linehan *et al.*, 2002; Cemlyn, 2008; Van Hout and Stanewicz, 2012; James, 2007) and in the UK they are recognised as being a distinct ethnic group under the Race Relations Act 1976 (as amended in 2000), the Human Rights Act 1998 and the Equality Act 2010. It was not, however, until March 2011 that Irish Travellers were categorised as a distinct ethnic

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group in the UK National Census. Prior to this they were considered invisible in official statistics (Tilki *et al.*, 2009) and the 2011 Census showed that there were approximately 56,100 who identified themselves as an Irish Traveller or a Gypsy. This figure is likely to be an underestimate, as many Travellers may not complete a Census form. The Traveller Movement (2013) has estimated a population of around 120,000 Irish Travellers, while the Council of Europe (2012) has estimated a population of between 150,000 and 300,000 in the UK.

At this point it is important to note that Irish Travellers are distinct from members of the Roma community, as well as those who classify themselves as Gypsies. This was highlighted by van Cleemput (2010: 316), who noted that various ethnic minority groups in the UK, including English, Welsh and Romany Gypsies, Irish Travellers, Scottish Gypsy Travellers and Roma, all of whom may hail from from different countries, 'have been identified – and identified themselves – as having different languages, beliefs and certain different cultural traditions'. A wide range of studies have considered the differences between these groups (Fraser, 1992; Power, 2004; Simhandal, 2006; Department for Schools, Children and Families, 2010; Cromarty *et al.*, 2018). Despite the fact that Irish Travellers are a distinct, homogeneous group, there is little to suggest that the public, the media or even the political establishment are informed of such differences, and Irish Travellers are invariably grouped under the generic heading of Gypsy, Roma or Traveller.

In England and Wales, the experiences of Irish Travellers in prison, and of Irish prisoners in general, are under-researched (MacGabhann, 2011; Gavin, 2014). There are, however, some notable exceptions to this. MacGabhann (2011, 2013, 2015) has made a substantial contribution to the research on Irish Travellers in prison in England and Wales, and other contributions such as those by Power (2003), Cemlyn *et al.* (2011) and Cottrell-Boyce (2014) should not be overlooked. Overall, however, there is a lack of research on Irish Travellers in prison. This is somewhat surprising as Irish Travellers are recognised as being a distinct ethnic group, and research on racial and ethnic minorities in the prison system in England and Wales is not uncommon. Furthermore, Irish prisoners in England and Wales more generally have always been an under-researched group, and have usually been ignored in the context of studies of ethnic minorities and the criminal justice system (Hickman and Walter, 1997; Cheney, 1993). Irish prisoners were once referred to as the 'invisible minority' (Murphy 1994: 2) and Gavin (2018) claims that research into Irish prisoners' experiences remains so underdeveloped that such a description retains its accuracy in the prison system of England and

Wales. This is also surprising, as the Irish are now the second most represented foreign nationality in the prison system after the Polish. On 31 March 2017 the prison population in England and Wales stood at 84,968. Of this figure there were 773 prisoners whose nationality was recorded as Irish.

This paper considers the experiences of Irish Travellers in prison in England and Wales. Its data derive from a wider study undertaken as part of the author's doctoral research, which examined the lived experiences of Irish prisoners in England and Wales in the context of their mental health (Gavin, 2018). Participants were ex-prisoners who took part in a semi-structured interview. While Irish Traveller participants did not want to discuss aspects of their mental health, they did describe, at length, a series of issues that may have impacted on their mental health. These included bullying, racism and discrimination.

This paper begins by reviewing some of the available literature on Irish Travellers in Britain. It considers a range of problems that this group faces inside and outside of prison, such as literacy and mental health problems, as well as racism and discrimination. It then presents the findings of the research, which focuses on the views of Irish Traveller ex-prisoners in England and Wales.

The Irish Traveller community

Irish Travellers present with a very distinctive way of life, which is often manifested in their values, culture and traditions, including nomadism, the centrality of the extended family, their own language, and the entrepreneurial nature of their economy (Power, 2004). These have endured into the 21st century, 'with many members of Irish Traveller communities continuing to prefer a nomadic, self-employed way of life within a cohesive extended family structure, in spite of the hostility often exhibited towards them in the media and in government' (MacGabhann, 2011: 10). The nomadic rights of Irish Travellers, however, 'been severely curtailed by criminal justice legislation, commodification of marginal land, and settled people's resistance to their nomadic way of life. Conflict has arisen between urban settled denizens, municipal authorities, police forces, and Irish Travellers over modes of living and access to scarce resources' (Power, 2004: 5). Such curtailment, commodification and conflict may explain to some degree why Irish Traveller life circumstances are associated with many risk factors, including social exclusion, substance abuse, mental ill-health, unemployment, racism and a lack of education (van Hout, 2010; Health Intelligence, 2017; Yin-Har Lau and

Ridge, 2011; Cromarty *et al.*, 2018). All of these factors relate closely to the additional risk of an individual being involved, at some level, with the criminal justice system, and it can be argued they contribute to the over-representation of Travellers in the criminal justice system, both in Ireland and in England and Wales (Costello, 2014; MacGabhann, 2011, 2013; Gavin, 2014).

Irish Travellers have suffered from social exclusion, racism and discrimination based on their ethnicity for centuries (Power, 2003, 2004; Linehan *et al.*, 2002; Cemlyn, 2008; Van Hout and Stanewicz, 2012; James, 2007), and this has come from local communities, the political establishment and the media. A high-profile example of this in England was in the case of *R v Martin* (2001) (EWCA Crim. 2245), where the defendant was convicted of murdering a 16-year-old Irish Traveller who had broken into his home. During the trial the British media created space for the expression of the view that the presence of Travellers was simply incompatible with life in rural England (Vanderbeck, 2003). Martin was portrayed as the true victim who was, in the words of one Member of Parliament, merely defending his home (Vanderbeck, 2003). Van Cleemput (2010) has highlighted other examples of racism towards Gypsies and Irish Travellers in England and Wales, including the burning of an effigy of a Gypsy caravan with pictures of the family occupants in the window, and the murder of a 15-year-old Irish Traveller boy in what the police described as a racist incident. Racist attitudes have also presented in the Metropolitan Police in London, where there has been a recent discovery of an online chat forum used by police officers to post insults aimed at Gypsies (Bowcott, 2017).

Discriminatory attitudes can be harmful to a person's mental health (Gordon, 2016) and research conducted into the mental health of Irish Travellers in Ireland (McGorrian *et al.*, 2013) reported a rate of frequent mental distress of 12.9%. This was more than 2.5 times that reported in a population sample of the general public. The study identified discrimination as a strong predictor of frequent mental distress. The evidence points to a high incidence of depression and anxiety, as well as the existence of great stigma around mental illness, within the Travelling community. Research has also found that Irish Traveller women in particular rely on drug treatments rather than therapies that might address the causes of their illness, and there are particular concerns about suicide within the wider Travelling community (Tilki *et al.*, 2009). In 2010 The All-Ireland Traveller Health Study revealed that the suicide rate among Travellers was six times that of the general population in Ireland and accounted for 11% of all Irish Traveller deaths. Suicide for

Traveller men was found to be seven times the rate of the general population, and was most prevalent in men aged 15–25. The rate of suicide for Irish Traveller women was found to be five times higher than the general population. The study found that 62.7% of Irish Traveller women and 59.4% of Irish Traveller men said that their mental health was not good for at least one day in the previous 30, and while mental health services were available, they were often perceived as inadequate and inappropriate (Quirke, 2012).

Substance abuse is an increasing problem within the Irish Travelling community. Traveller culture traditionally offered resilience and protection from substance abuse through strong family networks and an anti-drug attitude (van Hout, 2010). However, these support systems have been eroded over the years, resulting in increasing levels of drug and alcohol abuse within the Travelling community (Quirke, 2012). Irish Traveller men report higher levels of alcohol and drug use than women; Traveller women, both young and old, present with high levels of prescription medication abuse. In terms of seeking counselling and treatment for substance abuse problems, Travellers are under-represented (van Hout, 2011). The numbers presenting to services for treatment for alcohol abuse are far higher than for drug abuse, and research (van Hout, 2010) has noted that reasons for alcohol abuse being significant in the Travelling community include using it to cope with problems, escaping from alienation, and, wanting to be part of the community they live in. Furthermore, there is an increasing level of tolerance of alcoholism and the problems it brings, so much so that it is now considered a normal part of Irish Traveller culture (van Hout, 2010).

The educational attainment of Irish Travellers is generally low, and traditionally, Travellers have had a poor engagement with education (MacGabhann, 2011, 2015; Cottrell-Boyce, 2014). In the UK, census data from 2014 showed that over 60% of Gypsy and Irish Travellers aged over 16 had no educational qualifications, compared to 23% for the rest of the population (Office for National Statistics, 2014). Cottrell-Boyce (2014) found that 25% of Gypsy and Irish Traveller children in the UK were not enrolled in education, while a local survey in Dorset found that 62% of adult Irish Travellers and Gypsies in the region were illiterate (Friends, Families and Travellers, 2007, as cited in Cottrell-Boyce, 2014). MacGabhann (2011: 33) noted that Irish Travellers come 'from a background where an opportunity to gain literacy skills as children have been restricted'. Despite these restrictions, studies indicate that the attitudes of Irish Traveller parents and pupils to primary education are predominantly positive (Derrington and Kendall, 2007; Wilkin

et al., 2009). Research undertaken in Wales found that Gypsy and Irish Traveller parents expressed a desire for their children to obtain a basic level of numeracy and literacy (Welsh Government, 2008). Research has, however, found a number of factors associated with poor Traveller educational engagement, including negative parental attitudes about education, weak affiliation with mainstream culture, a history of poor school attendance, older siblings with unhappy experiences in secondary school and predetermined intentions to leave school early (Derrington and Kendall, 2003). These factors often result in literacy problems.

Irish Travellers in prison in England and Wales

There are no definitive figures for the Irish Traveller prisoner population (MacGabhann, 2011, 2013). There are several reasons for this. First of all, the W3 form, which allows for Travellers to self-identify as Travellers at prison reception, was introduced only in 2011. Irish Travellers serving sentences prior to its introduction may not have had the opportunity to identify themselves as Travellers. Secondly, many Travellers may choose not to identify as Travellers when they enter prison, out of fear of bullying and racism from prison officers and from other prisoners. Information obtained through the Freedom of Information process revealed that on 30 June 2018, a total of 1443 prisoners in all prison establishments (including Immigration Removal Centres operated by Her Majesty's Prison and Probation Service) in England and Wales self-identified as either Gypsy or Irish Traveller (under the code 'W3'). This included those held on remand, those serving a sentence and non-criminal prisoners. There are an additional 489 prisoners whose ethnicity was either not stated or not recorded, some of whom may also identify as being Gypsy or Irish Traveller. Furthermore, examination of the data for 30 June 2018 showed that there are 13 prisoners classified under the old 'W8' form, which is now a superseded code formerly used to record those identifying as Gypsy or Irish Traveller (Freedom of Information Act Request 181012004¹).

The problem, however, lies with the single unitary classification of Irish Traveller and Gypsy. To compound this problem, Irish Travellers are sometimes codified under the abbreviation GRT – Gypsy, Roma or Traveller – for counting purposes. For example, research by Her Majesty's Inspectorate of Prisons (2014) found that as many as 5% of prisoners in male Category B prisons, and 7% of prisoners in local female prisons, in England and Wales are

¹ https://www.whatdotheyknow.com/request/525853/response/1251633/attach/5/FOI%20181012004%20reply.pdf?cookie_passthrough=1

of a GRT background. As previously stated, Irish Travellers are a distinct, homogeneous group when compared with Roma and Gypsies, and these groups present with wide-ranging differences. Research, therefore, suggests that Irish Travellers are overrepresented and undercounted in the prison system (MacGabhann, 2011, 2013; Gavin, 2014). This should come as no surprise, as there is widespread criminological and statistical evidence that members of racial and ethnic minorities are both over-policed and under-protected by the criminal justice system in England and Wales (Bowling, 1999; Bowling and Phillips, 2002, 2007; Rowe, 2004, 2007).

In 2011 the Irish Chaplaincy in Britain published *Voices Unheard: A Study of Irish Travellers in Prison*, which examined the position of Irish Traveller prisoners in England and Wales (MacGabhann, 2011). The research was commissioned in response to the needs of the Travelling community, as identified by two of the Chaplaincy's projects: The Travellers' Project and the Irish Council for Prisoners Overseas. The Travellers' Project advocates for the rights of Irish Travellers in prison, supports the educational needs of Irish Travellers to improve their situation in prison, campaigns on issues affecting them such as discrimination, planning law and site provisions, and communicates its recommendations to the authorities through research based on reason. The Irish Council for Prisoners Overseas was established by the Irish Catholic Bishops' Conference in 1985 in response to concerns regarding the number of Irish men and women in UK prisons. In a research study with 296 participants, MacGabhann (2011) identified a wide range of issues affecting Irish Traveller prisoners including literacy, education, physical and mental health, family contact and resettlement.

MacGabhann (2011: 84) found that Irish Travellers suffer unequal hardship in prison because 'poor levels of literacy, mental illness, limited access to services, discrimination, and prejudicial licence conditions for release, disproportionately affect Traveller prisoners'. They are entering prison with a very low level of educational attainment, and over 50% of Irish Travellers in prison had serious literacy problems. However, these are likely to be underrepresentations given the reluctance to report such problems. 25.5% of Travellers were reported as having learning difficulties and 59.3% were in need of some form of basic educational intervention. A basic lack of literacy may result in a wide range of problems for Travellers in the prison system. For example, an inability to read may act as a barrier to information, entitlements and education, and may result in feelings of low self-esteem. It may also result in a lack of availability of treatment options or rehabilitative services, or

as a barrier to entitlements such as applying for temporary release. Further research by MacGabhann (2015), which examined the educational attainment of Irish Traveller prisoners in England and Wales, found that that 68% of respondents ($n = 61$) either did not attend school or left school at or before the age of 14. Participants in that research spoke positively about the education they received in prison; for many it was the first time that they had access to a stable learning environment. Prison education could therefore offer 'a golden opportunity for many Traveller prisoners, if the Literacy and Numeracy classes are pitched at an appropriate level' (MacGabhann, 2015: 12).

Bullying of Irish Travellers has been widely reported in research examining their experiences in prison both in Ireland (Costello, 2014) and in England and Wales (MacGabhann, 2011). This was highlighted by research undertaken by the Prison and Probation Ombudsman (2015, 4):

Bullying is an issue that came up in a number of our investigations into self-inflicted deaths of Travellers. Bullying in prison has been identified as increasing the risk of suicide and self-harm in a number of previous PPO publications. Discrimination towards Travellers is still commonly experienced in the community and this can manifest itself in prison as threatening behaviour, intimidation or bullying.

Research by Her Majesty's Inspectorate of Prisons (2014) raised concerns over safety, behaviour management and mental health problems. Gypsy, Roma or Travellers were more likely to report having problems on arrival in prison, such as mental health problems, problems contacting family and money worries, than other prisoners. Bullying was also found to be an issue, and Her Majesty's Inspectorate of Prisons (2014) found that when compared with the general prison population, members of Gypsy, Roma and Traveller groups were more likely to report that they felt unsafe at the establishment at some point (36% compared with 17%); more likely to report that they had been bullied or victimised by another young person or group of young people (39% compared with 13%); and less likely to think that staff would take them seriously if they did report being bullied or victimised (56% compared with 82%). Bullying is a behaviour that occurs among all types of prisoners – men, women, juvenile, young and adult offenders – and inter-prisoner bullying is seen as commonplace in the prison environment (Ireland, 2002). It is, however, possible that the prison itself promotes a bullying culture.

Being on the receiving end of such behaviour, from other prisoners and from prison officers, can have a detrimental impact on one's mental health. Victims of bullying can experience 'fear and tension, isolation, depression, injuries, debt, difficulty in settling and making use of facilities, material deprivation and illness. Some victims may request to be segregated from other prisoners for their own protection, they may abscond or escape, and in some instances self-injure or commit suicide' (Ireland, 2002: 130). MacGabhann's 2011 study found that 26.1% of Irish Traveller prisoners were suffering from one or more mental illnesses, and 64.7% of female Traveller prisoners were suffering from a mental illness. Suicide and self-harm among the Irish Traveller prisoner population was highlighted as a cause of great concern and Travellers are significantly overrepresented in prison suicides compared to the general prisoner population.

This study

Ex-prisoners are considered to be a hard-to-reach group for the purposes of research (Hartfree *et al.*, 2008), as are Irish Travellers (Deakin and Spencer, 2011). Thus, trying to get Irish Traveller ex-prisoner participants was doubly difficult. Purposeful sampling was used to identify participants with the help of charities and advocacy groups that worked with Irish ex-prisoners in Britain. This involves identifying and selecting participants who have a good knowledge or understanding about an issue or who have experience with the issue being researched (Creswell and Plano-Clarke, 2011). Prior to the commencement of the research, ethical approval was sought and approved by the relevant ethics committees.

The overall research sample ($n = 37$) was made up of 29 Irish non-Travellers and eight Irish Travellers. Of the eight Travellers, 50% classified themselves as first-generation Irish and 50% second-generation Irish. 88% (seven) were male and 12% (one) was female. 38% (three) were born on the island of Ireland and 63% (five) were born in England, Wales or Scotland. 25% (two) were aged 18–23, 50% (four) were 24–29, 13% (one) was 30–34 and 13% (one) was 35–39. 88% (7) stated that their status as an Irish Traveller was not recognised at prison reception.

The format chosen for this research was that of semi-structured interviews with an informant-led interview style. Respondent-led interviews allow the interviewer to remain in control throughout the process, while informant-led interviews are concerned with 'the interviewee's perceptions with a particular

situation or context' (Robson, 1995: 231). Non-directive probing questions were used to encourage and motivate respondents to provide clarifying information without influencing their answers. Such an approach is designed to be neutral in order to avoid increasing the probability that any specific type of answer is encouraged or discouraged from respondents. Thematic analysis was used to analyse interview notes (Braun and Clarke, 2006; Caulfield and Hill, 2014).

The research findings in this paper are based primarily on the interviews conducted with eight Irish Travellers, therefore it must be acknowledged that this small sample size is a major limitation of the study. Although a rich narrative was obtained through the interview process, the small sample size raises questions over whether the views expressed in this paper are representative of the views of all Irish Traveller prisoners in England and Wales. It is, however, worth noting that many of the non-Traveller participants in this research confirmed much of what was alleged by Irish Travellers when discussing racism, bullying and discrimination.

Findings and discussion

Irish Travellers claimed that they suffered from racism, discrimination and bullying from both prison staff and other prisoners. Allegations of racism and discrimination were made against prison officers and other prisoners. Comments included:

There is a lot of racism and discrimination against us in prison. We get called pikey which is very disrespectful to our culture ... Prison is the worst place a Traveller could be. (Second-generation Irish; Irish Traveller; Male; 30–34)

There were degrading comments inside from officers and other inmates. One time I was listening to some Irish music in my cell. The officers came in and smashed up all my tapes and tore up family pictures I had. This happened when I was in a single cell and when I was sharing they would tell the other fella to get out so there were no witnesses. I was singled out 'cos I was Irish and because I was a Traveller. No doubt about it. (First-generation Irish; Irish Traveller; Male; 35–39)

Experiences of this nature mirror the findings of previous studies of the experiences of Travellers broadly and Irish Travellers specifically. For example,

as far back as 2003, the British Commission for Racial Equality identified failures in the system related to Irish Travellers:

Prisoners with low literacy skills had difficulty adapting to prison life and accessing prison services. In the case of Irish Travellers, this is compounded by prejudice and discrimination, leading to high levels of self-harm. (2003: 83)

Five years later, very little had changed, as the National Offender Management Service Race Review (2008) raised several concerns over the experiences of Travellers in prison. These included problems associated with accessing services, including offender behaviour programmes; derogatory and racist name calling by prisoners and by prison staff, in two of the prisons visited; a lack of confidence in the complaints system; and a lack of cultural awareness and understanding on the part of staff. Historically in prisons in England and Wales, Black and Asian prisoners were the most likely victims of racism, and the most common incident was verbal abuse. Prison officers were most likely to target Black prisoners, and verbal abuse and bullying were the most common problems. Furthermore, prison officers would often stereotype Black prisoners as being troublesome, being lazy and sharing an antipathy towards white society (Cheliotis and Liebling, 2006). It is interesting, therefore, to note that participants felt that prison officers and prisoners now see Travellers (possibly Gypsies and Roma also) as the remaining target for racist behaviour. This view was supported by another participant when noting a double standard in terms of racism in prison, whereby racism towards Travellers was seen as acceptable but racism towards other minority groups such as Black or Asian prisoners was not:

There's a lot of racism against the Travellers. We get called pikey and gypso every day. But nobody sees this as racism. But if they called a black person the N word or Asian a Paki, then somebody would get arrested. (First-generation Irish; Irish Traveller; Male; 30–34)

Racism, discrimination and bullying towards Irish Travellers in prison has always been commonplace, and this has been well recorded in research findings that identified mistreatment by prison staff:

Staff, either through personal experiences, or more often by process of social osmosis, carry unchallenged prejudices about Travellers and

nomadism. These are now often concealed in the case of Black and Asian prisoners due to various attempts by the Prison Service to tackle colour-based racism and discrimination, but Irish Travellers are still often perceived as a criminogenic group rather than an ethnic minority. (Power, 2004: 98).

MacGabhann (2011) raised concerns with regard to the treatment of Irish Travellers by other prisoners, and how complaints are dealt with by the authorities. Participants in that research claimed that they would never report the bullying, name calling and racism they suffered to the prison authorities. One participant noted that threats and abusive names shouted at and about Travellers were never reported, as nobody wanted to be seen as an informer. Indifference on the part of staff to such complaints was also highlighted as a potential reason for a lack of reporting.

Non-Traveller participants in this research ($n = 29$) also noted significant differences in the ways that Travellers were treated as opposed to other racial and ethnic minority groups. Several referred to incidents of racism and mistreatment towards Travellers through the use of derogatory language by other prisoners and prison staff, with bullying of Irish Travellers also highlighted:

One Traveller guy was really scared ... I don't know, maybe suffering racism or bullying. They do get called names like gypso and pikey. (First-generation Irish; Male; non-Traveller; 35–39)

They would never, ever get away with treating the Muslims or the Blacks like how they treat the Travellers in prison. (First-generation Irish; Male; non-Traveller; 45–49)

Non-Traveller participants highlighted the problems that low levels of literacy created for Irish Travellers:

They [Travellers] were never pushed towards education or to do courses because there was, I think, an assumption that they can't read or write. Some can't but there's a lot who can. (First-generation Irish; Male; Non-Traveller; 30–34)

Such disadvantage was borne out in the data, which suggested that all Irish Travellers who participated in this research had left school by the age of 13,

and 88% ($n = 7$) did not undertake any educational courses while in prison. This reaffirms MacGabhann's (2015) findings of a high percentage of Travellers leaving school at an early age. The importance of being able to read and write in prison was highlighted in no uncertain terms by one participant who stated that 'if you can't read or write inside, you're fucked' (second-generation Irish, Male, non-Traveller, aged 50+). The ability to read is a skill that is very important to surviving prison life, as highlighted by the National Offender Management Service (2008), which found that since Irish Travellers often have very low literacy levels, they can find it difficult to fill out complaints forms, visiting orders and forms for temporary release; it is common for Irish Travellers to have applications denied because certain forms are not completed correctly (MacGabhann, 2011). This was also highlighted by Costello (2014), who noted that literacy-related problems for Travellers in Irish prisons were linked with a lack of information, a barrier to entitlements and low self-confidence.

Conclusion

This paper has highlighted the position of Irish Traveller prisoners in England and Wales by providing evidence from Traveller and non-Traveller ex-prisoners. Participants in this research highlighted the mistreatment of Irish Travellers through racism, bullying and discrimination, as well as discussing the impact that a lack of literacy may have on this group when in prison. These issues may have the undesired effect of making Irish Travellers feel as though they are in a prison within a prison, one where they are being mistreated and where their management needs are not being met. This paper has shown that the problems faced by Irish Travellers in prison in England and Wales are not hidden, and if prisoners are aware of the problems then it is reasonable to assume that the prison authorities are also aware.

It must therefore be asked why such behaviour towards Travellers is deemed acceptable. There are several possible answers. First of all, it may be that Irish Travellers are seen as a sub-group of Irish prisoners, who are still a somewhat invisible minority in the prison system. When a group is invisible to the outside world but highly visible to those in the prison system, it makes them an easy target. Secondly, it might be that while Gypsies, Roma and Travellers make up 5% of the total prison population, there seems to be no understanding that each of these is an ethnic minority with its own history, culture and traditions. The label of Gypsy, Roma, Traveller is not representative of a homogeneous group. Perhaps a greater understanding of the

differences between these three groups might result in better treatment for all of them. What is most likely, though, is that Doherty's (2015) assertion is correct – that racism towards Travellers in England and Wales is seen as acceptable in society. Lane et al. (2014) found that discrimination and racism towards Irish Travellers is ongoing throughout England and Wales, and can often involve verbal abuse, violent physical attacks, abusive media coverage and overtly racist statements from politicians. If such behaviour is rife in society, it is only logical that some prison staff and prisoners will import these attitudes into the prison.

There are, however, several examples of good practice in prisons in England and Wales in dealing with Irish Travellers (Costello, 2014). First of all, there is a legislative basis for non-discrimination – since 2003, the prison service in England and Wales has had structures in place to prevent and address inequitable treatment of prisoners. The Equality Act 2010 placed a legal obligation on the then National Offender Management Service to have due regard to the need to eliminate discrimination, harassment and victimisation. There are equality and diversity representatives for different minority groups, including Irish Travellers, with whom the prison service is obliged to consult. Some prisons in the UK organise cultural and cross-cultural events to celebrate different cultures and traditions, including those of the Travelling community. One example is found in cultural awareness days, which involved preparing posters and facilitating oral histories (Costello, 2014). In 2018 the Ministry of Justice published *Tackling Racial Disparity in the Criminal Justice System*. On the issue of Gypsy, Roma and Travellers in prison, it stated that efforts are being made to explore and address specific disparities among Gypsy, Roma and Traveller communities. A Gypsy, Roma and Traveller action plan is to be drawn up to consider how needs or issues of this group can best be addressed. All of this is of course very welcome.

Some further options available to the prison authorities could yield positive results with regard to how Irish Travellers are treated in prison. First of all, the 'Gypsy, Roma, Traveller' classification should be abandoned for an individual classification to allow people to identify as one of Gypsy, Roma or Traveller, not as all three. Secondly, prison officers and prison staff are under a duty of care towards those in their charge. This duty includes taking measures to deal with racism and bullying on the wings as well as not engaging in racist or bullying behaviour towards prisoners. Finally, there is an onus on all concerned to ensure that anti-racist/discriminatory legislation is upheld within prison walls. Ongoing and innovative approaches to training on diversity

awareness and the application of restorative justice interventions would promote understanding and could serve to deescalate institutional tensions that will arise when people feel that they are 'in a prison within a prison'.

References

- Bowcott, O. (2017), 'Met police chat forum was used to post insults aimed at Gypsies', *The Guardian*, 21 September
- Bowling, B. (1999), *Violent Racism: Victimisation, Policing and Social Context*, Oxford: Oxford University Press
- Bowling, B. and Phillips, C. (2002), *Racism, Crime and Justice*, Harlow, UK: Longman
- Bowling, B. and Phillips, C. (2007), 'Disproportionate and discriminatory: Reviewing the evidence on police stop and search', *Modern Law Review*, vol. 70, no. 6, pp. 936–961
- Braun, V. and Clarke, V. (2006), 'Using thematic analysis in psychology', *Qualitative Research in Psychology*, vol. 3, no. 2, pp. 77–101
- Caulfield, L. and Hill, J. (2014), *Criminological Research for Beginners: A Student's Guide*, Abingdon, UK: Routledge
- Cemlyn, S. (2008), 'Human rights and Gypsies and Travellers: an exploration of the application of a human rights perspective to social work with a minority community in Britain', *Child and Family Social Work*, vol. 38, no. 1, pp. 153–173
- Cemlyn, S., Greenfields, M., Burnett, S., Matthews, Z. and Whitwell, C. (2011), *Inequalities Experienced by Gypsy and Traveller Communities: A Review*, London: Equality and Human Rights Commission
- Cheliotis, L. and Liebling, A. (2006), 'Race matters in British prisons: Towards a research agenda', *British Journal of Criminology*, vol. 46, no. 2, pp. 286–317
- Cheney, D. (1993), *Into the Dark Tunnel: Foreign Prisoners in the British Prison System*, London: Prison Reform Trust
- Commission for Racial Equality (2003), *Racial Equality in Prisons: A Formal Investigation by the Commission for Racial Equality into HM Prison Service of England and Wales*, London: Commission for Racial Equality
- Costello, L. (2014), *Travellers in the Irish Prison System*, Dublin: Irish Penal Reform Trust
- Cottrell-Boyce, J. (2014), *Working with Gypsy and Traveller Offenders: A Thames Valley Probation Case Study*, London: Irish Chaplaincy in Britain
- Council of Europe (2012), *Estimates on Roma Population in European Countries*, Strasbourg: Council of Europe
- Creswell, J. and Plano-Clarke, V. (2011), *Designing and Conducting Mixed Methods Research* (2nd ed.), London: Sage
- Cromarty, H., Hawkins, O., Kennedy, S., Powell, A., Pyper, D., Roberts, N., Strickland, P., Bate, A., Barton, C. and Grimwood, G. (2018), *Gypsies and Travellers: Briefing Paper 08083*, London: House of Commons Library
- Deakin, J. and Spencer, J. (2011), 'Sensitive survey research: an oxymoron?', in P. Davis, P. Francis and V. Jupp (eds), *Doing Criminological Research*, London: Sage

- Department for Schools, Children and Families (2010), *Moving Forward Together: Raising Gypsy, Roma and Traveller Achievement*, London: Department for Schools, Children and Families
- Derrington, C. and Kendall, S. (2003), 'Gypsy traveller pupils in English secondary schools: a longitudinal study', paper presented at the European Conference on Educational Research, Hamburg, 17–20 September, available at <http://www.leeds.ac.uk/educol/documents/00003187.htm> (accessed 23 January 2018)
- Derrington, C. and Kendall, S. (2007), 'Challenges and barriers to secondary education: the experiences of young Gypsy Traveller students in English secondary schools', *Social Policy and Society*, vol. 7, no. 1, pp. 1–10
- Doherty, M. (2015), 'It's time to end "the last acceptable racism" – against Gypsies and Travellers', *The Guardian*, 15 January
- Fraser, A. (1992), *The Gypsies*, Oxford: Blackwell
- Friends, Families and Travellers (2007), *Working with Gypsies and Travellers: A Brief Note for Health Practitioners*, available at http://www.gypsy-traveller.org/pdfs/working_health_gypsies_travellers_guide.pdf (accessed 15 August 2019)
- Gavin, P. (2014), 'Out of sight, out of mind: Irish prisoners in England and Wales', *Irish Probation Journal*, vol. 11, no. 1, pp. 29–43
- Gavin, P. (2018), *The Lived Experiences of Irish Prisoners in England and Wales in the Context of their Mental Health*, PhD thesis, Kingston University, London
- Gordon, D. (2016), 'Discrimination can be harmful to your mental health: UCLA experts view mental health status of victims as a public health concern', UCLA Newsroom, 13 January, available at <http://newsroom.ucla.edu/stories/discrimination-can-be-harmful-to-your-mental-health> (accessed 24 May 2018)
- Hartfree, Y., Dearden, C. and Pound, E. (2008), *High Hopes: Supporting Ex-prisoners in Their Lives After Prison*, London: Department of Work and Pensions
- Health Intelligence (2017), *Mental Health of Travellers*, Belfast: Public Health Agency Northern Ireland, available at <http://www.mhfi.org/travellermentalhealth.pdf> (accessed 27 March 2018)
- Her Majesty's Inspectorate of Prisons (2014), *People in Prison: Gypsies, Romany and Travellers*, London: Her Majesty's Inspectorate of Prisons
- Hickman, M. and Walter, B. (1997), *Discrimination and the Irish Community in Britain*, London: Commission for Racial Equality
- Ireland, J. (2002), 'Bullying in prisons', *The Psychologist*, vol. 15, no. 3, pp. 130–134
- James, Z. (2007), 'Policing marginal spaces: Controlling Gypsies and Travellers', *Criminology and Criminal Justice*, vol. 7, no. 4, pp. 367–389
- Lane, P., Spencer, S. and Jones, A. (2014), *Gypsy, Traveller and Roma: Experts by Experience: Reviewing UK Progress on the European Union Framework for National Roma Integration Strategies*, Cambridge: Anglia Ruskin University
- Linehan, S., Duffy, D., O'Neill, H., O'Neill, C. and Kennedy, H. (2002), 'Irish Travellers and forensic mental health', *Irish Journal of Psychological Medicine*, vol. 19, no. 3, pp. 76–79
- MacGabhann, C. (2011), *Voices Unheard: A Study of Irish Travellers in Prison*, London: Irish Chaplaincy in Britain

- MacGabhann, C. (2013), 'Irish Travellers in prison: the unknown prisoners', *Prison Service Journal*, vol. 206, pp. 19–24
- MacGabhann, C. (2015), *The Right Type of Education: A Briefing on Education and Training Provision for Gypsy and Irish Traveller Prisoners in England and Wales*, London: Irish Chaplaincy in Britain
- McGorrian, C., Aman Hamid, N., Fitzpatrick, P., Daly, L., Malone, K. and Kelleher, C. (2013), 'Frequent mental distress in Irish Travellers: Discrimination and bereavement negatively influence mental health in the All-Ireland Traveller Health Study', *Transcultural Psychiatry*, vol. 50, no. 4, pp. 559–578
- Ministry of Justice (2018), *Tackling Racial Disparity in the Criminal Justice System: 2018*, London: Ministry of Justice
- Murphy, P. (1994), 'The invisible minority: Irish offenders and the English criminal justice system', *Probation Journal*, vol. 41, no. 1, pp. 2–7
- National Offender Management Service (2008), *Race Review 2008: Implementing Race Equality in Prisons – Five Years On*, London: National Offender Management Service
- Office for National Statistics (2014), *2011 Census Analysis: What Does the 2011 Census Tell Us About the Characteristics of Gypsy or Irish Travellers in England and Wales?*, available at <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/whatdoesthe2011censustellusaboutthecharacteristicsofgypsioririshtravellersinenglandandwales/> 2014-01-21 (accessed 15 August 2019)
- Power, C. (2003), 'Irish Travellers: Ethnicity, racism and pre-sentence reports', *Probation Journal*, vol. 50, no. 3, pp. 252–266
- Power, C. (2004), *Room to Roam: England's Irish Travellers*, London: Communities Foundation
- Prison and Probation Ombudsman (2015), *Learning Lessons Bulletin: Deaths of Travellers in Prison*, London: Prison and Probation Ombudsman
- Quirke, B. (2012), *Selected Key Findings and Recommendations from the All-Ireland Traveller Health Study – Our Geels 2010*, Dublin: Pavee Point
- Robson, C. (1995), *Real World Research*, Bristol: Wiley
- Rowe, M. (2004), *Policing, Race and Racism*, Cullompton, UK: Willan
- Rowe, M. (2007), *Policing Beyond Macpherson: Issues in Policing, Race and Society*, Cullompton, UK: Willan
- Simhandal, K. (2006), "'Western Gypsies and Travellers'—'Eastern Roma': the creation of political objects by the institutions of the European Union", *Nations and Nationalism*, vol. 12, pp. 97–115
- Tilki, M., Ryan, L., D'Angelo, A. and Sales, R. (2009), *The Forgotten Irish*, London: Social Policy Research Centre
- Traveller Movement, The (2013), 'Number of Gypsies and Travellers in Britain', available at <https://travellermovement.org.uk/component/sppagebuilder/?view=page&id=5&highlight=WyJjZW5zdXMiXQ==> (accessed 15 August 2019)
- van Cleemput, P. (2010), 'Social exclusion of Gypsies and Travellers: Health impact', *Journal of Research in Nursing*, vol. 15, no. 4, pp. 315–327

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- Vanderbeck, R. (2003), 'Youth racism and place in the Tony Martin affair', *Antipode*, vol. 35, no. 2, pp. 363–384
- van Hout, M. (2010), 'Alcohol use and the Traveller community in the west of Ireland', *Drug and Alcohol Review*, vol. 29, no. 1, pp. 59–63
- van Hout, M. (2011), 'Assimilation, habitus and drug use among Irish Travellers', *Critical Public Health*, vol. 21, no. 2, pp. 203–220
- van Hout, M. and Staniewicz, T. (2012), 'Roma and Irish Traveller housing and health – a public health concern', *Critical Public Health*, vol. 22, no. 2, pp. 193–207
- Welsh Government (2008), *Moving Forward – Gypsy and Traveller Education, Guidance Circular: 003/2008*, Cardiff: Welsh Government
- Wilkin, A., Derrington, C. and Foster, B. (2009), *Improving the Outcomes for Gypsy, Roma and Traveller Pupils: Literature Review*, DCSF Research Report RR077, London: Department for Children, Schools and Families
- Yin-Har Lau, A. and Ridge, M. (2011), 'Addressing the impact of social exclusion on mental health in gypsy, Roma and Traveller communities', *Mental Health and Social Exclusion*, vol. 15, no. 3, pp. 129–137

Reducing Youth Crime: The Role of Mentoring

Kieran O'Dwyer*

Summary: This article discusses the role of mentoring in reducing youth crime, drawing on a 2016 evaluation of Le Chéile¹ mentoring services in the Republic of Ireland. There are many studies of mentoring of 'at risk' children and young people, which show a range of benefits when good practice is followed. There are fewer studies of mentoring of young offenders, and results are less clear-cut – variously described as 'promising', 'mixed', 'indirect', 'modest', 'tantalising' or lacking clear evidence. The Le Chéile evaluation identified benefits that included reductions in offending behaviour. The article examines the reasons for the equivocation about mentoring outcomes in other jurisdictions and explores possible reasons for Le Chéile's positive results. It discusses a number of themes, including the importance of volunteer mentors, the building of relationships of trust, the balance between listening and challenging, and the importance of commitment and perseverance. It also considers the nature of mentor support and transitions out of mentoring. Other themes discussed briefly are the integration of child and parent mentoring, earlier intervention, and mentoring of children in care and detention.

Keywords: Early intervention, mentoring, young offenders, evaluation.

Introduction and growth of mentoring programmes

The concept of youth mentoring was developed in modern times in the United States when the Big Brothers/Big Sisters programme was established in 1904 as a formal response to concerns over social welfare and exclusion (Newburn and Shiner, 2006). In 2011, there were said to be over 5000 programmes serving about three million youths across the US (DuBois *et al.*, 2011). In the UK, mentoring for 'at risk' youth developed in the mid to late 1990s, heavily based on the US programmes (White, 2014). The Youth Justice Board, established in England and Wales in 1998, embraced mentoring as an intervention and by 2000 had funded and supported almost 1000 mentoring

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¹ Le Chéile is a Probation-funded community-based organisation working in partnership with Young Persons Probation to provide a mentoring service to children and parents.

schemes (White, 2014: 6). In Ireland, Le Chéile was established in 2005 and provides a mentoring service for young people aged 12–21 who appear before the criminal courts and, since 2008, a mentoring service for parents or carers of young people who offend.

Most mentoring programmes are premised on the belief that 'a created relationship between an older and younger person will be a support to a young person facing adversity in their lives and will help them to have a positive sense of themselves and their future' (Dolan *et al.*, 2011: 2). Mentoring programmes for 'at risk' youth are designed to give them help and guidance so they can become responsible adults and compensate for their presumed lack of mentors otherwise in their lives (DKR, 2012: 22).

Mentoring programmes might be understood as 'interactive helping relationships between two individuals over an extended period, wherein an approved adult mentor develops trust, spends quality time, and passes along knowledge and skills to the mentee' (Tapia *et al.*, 2013: 2). Anton and Temple argue that 'the ultimate purpose of mentoring programs is to change the trajectories of the lives of young people and set them firmly on the path to becoming successful, productive adults who contribute to society' (2007: 26).

Much of the literature on mentoring focuses on 'at risk' children rather than those who have actually come into contact with the criminal justice system. The offending profile of the young people in the Le Chéile programme differs significantly therefore from that of mentees under many other programmes. Their age profile is also different, with a higher age cohort in the Le Chéile programme. There are other features that make comparison difficult, notably around style of mentoring in other programmes (not always one to one, sometimes using paid mentors, often incorporating group work or focusing on specific activities), duration (not always 12 months), frequency (not always weekly), intensity (varying number of hours) and location (sometimes in mentoring premises).

Overall effectiveness of mentoring

A large-scale study of the US Big Brothers Big Sisters programme found a wide range of benefits for participants: they were less likely to drink alcohol or use drugs, and had increased competency in their school work, less truancy, better grades, and better relationships with their families and friends; no negative effects were found (Grossman and Tierney, 1998). A later US meta-analysis of 55 evaluations, based primarily on perceptions of youths,

mentors and parents, found only modest benefit for the average youth. Importantly, however, it found that results were significantly improved if best practice was followed and the mentor–mentee relationship was strong. It also found that poorly led programmes could have a damaging effect (DuBois *et al.*, 2002). Similar results were reported from a review of research by Rhodes (2008), who concluded that positive effects were modest at best and that poor relationships could have negative impact. Roberts *et al.* (2004) commented that research ‘does indicate benefits from mentoring programmes for some young people, for some programmes, in some circumstances, in relation to some outcomes’. A large-scale evaluation of the Big Brothers Big Sisters programme in Ireland found positive results on some dimensions (Dolan *et al.*, 2011), including improved feelings of hopefulness, perceived social support and pro-social behaviour, but little impact as regards education or misconduct.

A systematic review of mentoring studies by the Danish Crime Prevention Council concluded that all the studied programmes for ‘at risk’ youth had at least one positive effect and mentoring interventions were described as ‘promising’. They noted positive effects within various measures of crime, behaviour, attitude, psyche, alcohol and drugs, school and relationships with family and friends. They also noted variations between programmes and that not all the effects were present in each study. Interestingly, impacts were greatest for younger children (aged 11–14) who were not already committing offences (DKR, 2012: 6).

An evaluation of mentoring schemes supported by the Youth Justice Board in England and Wales found evidence of improved educational performance, including better school attendance, a reduction in disruptive behaviour and less risk of school exclusion. Results were best for young people involved in low-level offending or ‘at risk’ youth and where the schemes provide a structured educational component. The evidence as regards improvements in self-esteem was inconclusive (Tarling *et al.*, 2004: 44–45). Another study of schemes supported by the Youth Justice Board found evidence of greater likelihood of entering education or training but that the schemes failed to improve problematic behaviour and basic education skills or to reduce drug or alcohol use; however, the average age of participants was 14 and attrition rates were high (St James-Roberts *et al.*, 2005).

A research synthesis for the UK Mentoring and Befriending Foundation reported that mentoring could produce positive outcomes when implemented alongside other interventions, but it was not clear that the same effects

resulted from mentoring alone (Philip and Spratt, 2007). A UK evaluation of 28 pilot mentoring programmes for 'looked after children', mostly in foster or residential care, found positive results that included self-reported improvements in all areas of their schooling, feelings about themselves and their future, likelihood of staying out of trouble and relationships with others. Several young people specifically mentioned that it was the mentor who had made the difference for them and several also indicated that the voluntary nature of the relationship was particularly important. Many felt that it was important that the mentor was there specifically for the young person and the time spent together was dedicated solely to them (Renshaw, 2008).

A small number of studies have highlighted potential negative effects of mentoring. These tend to be associated with short-term mentoring relationships or breakdowns in relationships and cause lower self-worth or negative peer influence (Grossman and Rhodes, 2002; DKR, 2012). Rhodes *et al.* (2008) point out that if mentees lack a strong bond with their mentors, feel that they cannot trust them, or have been let down by them, then the mentoring can have a damaging effect that outweighs the positive (cited in White, 2014: 8). Piper and Piper (2000) argue that the stigma of disaffection can be reinforced by involvement in mentoring because it suggests that there is something wrong that needs to be changed and is reinforced further by differences in status between mentor and mentee; they concluded that an empowerment approach was required in programmes.

Effectiveness of mentoring in reducing reoffending

The evidence on the impact of mentoring on reoffending is of more recent origin and somewhat ambivalent. A 2016 UK Ministry of Justice report described findings from recent reviews and meta-analyses as 'promising' but suggested a need for caution in interpreting results because of the variability of type of scheme implemented and the limited detail in studies of what mentoring actually involved and of key successful implementation characteristics (Adler *et al.*, 2016). An earlier Ministry of Justice report noted that some, but not all, evaluated mentoring programmes had demonstrated a positive impact. The effectiveness of mentoring was therefore described as 'mixed/promising' (Ministry of Justice, 2014). A Campbell Collaboration systematic review of 46 studies in 2013 reported significant but 'modest' effects from mentoring of 'high-risk' youth as regards delinquency and three associated outcomes: aggression, drug use and academic performance (Tolan

et al., 2014). In a rapid review and meta-analysis for the Swedish National Council for Crime Prevention, Jolliffe and Farrington (2008) examined 16 studies and suggested that mentoring reduced reoffending by about 4–10%. They noted that the better results were associated with lower quality studies and that higher quality evaluations did not find that mentoring had an appreciable beneficial effect on reoffending. They described their conclusions as ‘tantalising’ and described mentoring as a ‘promising intervention with some very hopeful results but also with some puzzling features’ (p. 39).

Other studies have produced less promising results. A study of 80 UK mentoring programmes supported by the Youth Justice Board failed to find ‘convincing evidence’ of a reduction in offending or in severity of offending during the first year after the start of a mentoring relationship (St James-Roberts *et al.*, 2005). Tarling *et al.* (2004) reviewed 36 mentoring schemes funded by the Youth Justice Board and, comparing reoffending rates for 359 mentees and equivalent national cohorts, found that those on the mentoring programmes fared a little worse than the national cohorts.

Factors critical to success in mentoring

Several studies have identified how the effectiveness of mentoring could be enhanced. DuBois *et al.* (2002), in their meta-analysis of 55 evaluations, reported that effects were greater where the mentoring involved more frequent contact and emotional closeness, where the duration was of six months or more and where there was intensive training, structured activities, greater support from parents and programme monitoring; they summarised that when best practice is followed and the relationship is strong, results are significantly improved.

The Danish Crime Prevention Council recommended that programmes should be ‘intense with weekly meetings lasting several hours and involving a supporting, trusting and emotional relationship for a period of at least a year ... and that especially volunteer mentoring should include professional staff to screen, match, train, support and supervise the mentors’ (DKR, 2012: 6). The research identified other criteria for effective mentoring, including combining mentoring interventions and leisure-time programmes, emphasis on the importance of the young person’s psychological and social development, and parental involvement.

The Campbell Collaboration meta-analysis found that programmes that stressed emotional support and those that emphasised an advocacy role on

behalf of the mentee had larger effects, while teaching and modelling/identification were regarded as 'worthwhile foci of attention in mentoring design' (Tolan *et al.*, 2014: 7/185). In summarising international evidence, Adler *et al.* (2016: 21) noted that 'when meetings lasted longer and took place once a week (as opposed to less frequently), mentoring had a greater effect on reducing re-offending'. Jolliffe and Farrington (2008: 8) reported that programmes 'in which the mentor and mentee spent more time together per meeting (5 hours or more) and met at least weekly were more successful in reducing reoffending'.

In judging what makes for an effective mentoring intervention, Tarling *et al.* (2004: 53) suggest focusing attention on three broad areas: the organisation and administration of schemes (including strong co-ordinator, critical mass, support for volunteers), the attitudes and attributes of volunteer mentors (realistic expectations, early matching, patience) and the nature of the mentoring relationship (good start, agreement, trust and respect, minimum 12 months, planned endings). As regards relationship quality, Sale *et al.* (2008) reported greater impact on social skills for youths who felt higher levels of trust, empathy and mutuality from their mentors.

Overview of Le Chéile mentoring

Le Chéile's mentoring service is delivered in partnership with the Probation Service and covers eight regions: Dublin (2), Cork (2), Meath, Midlands, South-East and South-West. Most referrals come from the Probation Service and the mentoring occurs in the context of Probation supervision. In each region a co-ordinator recruits, trains, supervises and supports a team of volunteers who mentor young people and parents/carers. Nationally there are over 200 volunteers and in 2017 mentoring was provided to 153 young people and 46 parents/carers. The profile of youth mentors is that they are caring, mature persons, aged 20 or more; they enjoy working with young people; and they are non-judgmental, are unbiased in their approach and have a good understanding of young people and the issues and challenges they face. They comprise men and women from all walks of life and do not need to have any specific educational qualifications.

The mentors for young people act as a positive role model, advisor and friendly supporter. They offer them support, stability and general guidance and help them make choices as well as set achievable goals and realistic challenges. They listen, give care and advice and share information and life/

career experience with them. They get involved with young people in various structured and planned activities and help them build self-esteem and self-confidence. At the beginning of the mentoring relationship, the mentors engage in social, fun activities such as bowling and playing pool, designed to help build a relationship. After this time, they jointly set some longer-term goals such as working on literacy skills, joining a sports club or class, working on the driver theory test, and re-engaging with education or training. The mentors typically work with the young people for about two hours a week for between six months and a year and sometimes for longer periods.

Evaluation of Le Chéile mentoring

The evaluation of Le Chéile mentoring showed significant positive impacts for young people who engaged with the service. Benefits were recorded in respect of improved family and peer relationships; involvement in activities outside the home; reduction in misuse of alcohol and drugs; involvement in education, work and training; increased self-confidence and well-being; and reduced reoffending. The estimated reduction in self-reported offending of 28% is significant given international experience. Full details are available in the report on Le Chéile's website (O'Dwyer, 2017). The social return on investment (SROI) was calculated at €4.35 for every €1 invested in Le Chéile.

The methodology for the study included interviews with and surveys of young people, parents, mentors, co-ordinators and Probation Service staff. The surveys provided quantitative data for the calculation of the SROI. They involved participants subjectively rating positions on a scale of 1–10 at the start and end of mentoring for themselves or, in the case of mentors and co-ordinators, in respect of mentees in their charge. They also indicated on a scale of 1–4 the extent to which they thought mentoring helped bring about the change. The sample of young people was selected randomly by the evaluator. Possible response bias was addressed by triangulating responses from the young people, mentors and co-ordinators and by conservatism and transparency in the assumptions about the size and value of impacts. The calculation of the SROI included all 69 cases that were recorded in 2015 as 'completed successfully' or 'active' and had lasted for a minimum of six months. A 50% allowance was made in respect of another 27 mentees who had been mentored for between four and six months. The methodology of the evaluation thus differed from at least some of the cited studies in that it involved mentees who had been mentored for at least four months (and not

all mentees who were ever assigned a mentor) and self-reporting of offending levels and other variables (and not, for example, drawing on police or other criminal justice offence records).

A theory of change for young person mentoring was developed for evaluation purposes as follows: through mentoring, mentees build a trusting relationship with an adult who is interested in them, develop communication practice, engage in positive leisure activities, and build self-confidence and self-esteem; this in turn leads to increased awareness of choice and goal-setting; and this results finally in achievement of positive outcomes, including reduction in antisocial activities, development of pro-social behaviour and integration as productive members in the community. The theory was developed by the evaluator and research advisory group and agreed with stakeholder interviewees as a satisfactory explanation of how mentoring works. It is in close accordance with the international literature.

Key strengths of Le Chéile mentoring identified in the evaluation were the space and time for the mentee and the exclusive focus on them; the patience and persistence of mentors and co-ordinators; the fact that mentors were unpaid volunteers; the personality of mentors and close relationships of mentees with their mentors; and mentoring values such as being non-judgemental and attentive. Probation Officers also referred to the structure and routine that mentoring brought into young people's lives, while Le Chéile co-ordinators drew attention to the flexibility of mentoring and the ability to customise the mentoring to individual needs, as well as the community location of mentoring sessions.

The quality of the relationship between mentor and mentee is seen as key to all mentoring outcomes, as emphasised in the literature. Young person mentees who were interviewed were universally positive about their mentors and consistently spoke very highly about them. A typical comment was 'I just liked the way she was, like. She talked and had a good personality. She was a nice person. I got on with her from the start.' Another commented that 'I liked a lot about him. He would listen, was always there, reliable, a good friend and good support, a good help. He was just a great person to be honest.'

Mentors as a group stressed the objective of helping young people to realise that there is a different way to live and behave and creating a space for them to get away from negative influences. They mentioned linking in with young people who feel alienated and disrespected and recognising that damage has often been caused to them wilfully or through neglect. They expressed empathy with young people and again emphasised the importance

of not being judgemental and being honest. Individually, other mentors mentioned providing a listening ear and supportive environment, developing coping skills, building confidence, offering an alternative role model, promoting a healthier lifestyle, empowering mentees to be more independent, helping them identify longer-term aspirations for themselves, giving hope, and getting them to respect and believe in themselves. Several referred to the absence of adequate supports and positive voices in the young people's lives. Getting the mentee from one week to the next could be the main objective initially, according to one experienced mentor. Objectives had to be realistic at the beginning.

Mentors also spoke about their understanding of the motivations of young people being mentored. For most mentees, having someone to talk to was an important motivation, especially if they had moved away from negative peers who were previously their only friends. This could be viewed as filling a gap until they had re-established themselves. For others, they came because they felt they had no choice and their initial position tended to be that they had no problems, no need to talk. It could take a long time to build up enough trust and comfort to open up. For some, the motivation was space and stability in otherwise chaotic lives. The various activities available with mentoring were also motivating factors. These were seen as hugely important in many respects, including learning social skills, overcoming fear that they would not be welcome, doing things that they would not dream of doing on their own, opening up new ideas and discovering that they are accepted as part of the community. Mentors believed that there had to be something positive in it for the young people and noted that many activities involved things that most others take for granted.

As regards positive role models, co-ordinators identified as common mentee backgrounds the absence of a constant adult male, families with negative influences such as ambivalence about offending or violence, and families that simply failed to recognise and encourage achievement. Mentors would be the first people to believe in them and begin the process of thinking about a better future. Developing social skills and life skills was an important objective in all this, often learning to do things that would be considered normal, everyday things by most people. Concerning development of communication skills, co-ordinators noted that a lot of the young people were not used to having a conversation or dialogue and were fearful of their views not being taken seriously or being ridiculed. Small things such as ordering in a restaurant or being asked their opinion on a movie could be powerful.

Several co-ordinators and mentors identified a particular objective of mentoring as giving mentees a belief that change was possible and introducing them to different concepts and social groupings. Many alluded to the objective of bringing about longer-term change rather than necessarily achieving immediate impact. This is an important point and highlights the value of planting a seed that may not germinate and take root for some years.

Mentors felt strongly that the voluntary nature of their service was valuable and helped build the relationship with mentees. One commented that mentees were impressed that they actually wanted to spend time with them and that it was 'a huge thing' for mentees that mentors were not being paid. The relaxed, casual, enjoyable nature of the interaction was also seen as important. Mentors spoke in positive terms about their mentees, recognising their talents and potential while acknowledging the challenges they faced. Several commented specifically that they enjoyed the company of their mentees.

From the mentors' own perspective, Le Chéile's support was a major strength. They had formal supervision, generally in groups, and could get informal supervision and advice anytime. They valued the supervision in terms of overcoming isolation and feeling part of a group as well as clarifying boundaries. They also praised the initial and ongoing training and highlighted good relations with co-ordinators and the fact that you could raise anything with them with confidence. These views are echoed in Le Chéile's annual surveys of volunteers, which show consistently high levels of satisfaction with induction training, ongoing training, group supervision, ongoing support and overall experience of mentoring (Le Chéile, 2013–2015).

Phases of relationship-building and challenging

Two phases can be identified in mentoring: a relationship-building phase and a more challenging, target-focused phase. Both were seen by all parties as important. The first phase was critical and took priority. It was expected to last six to eight weeks but in practice it was often longer and was tailored to the individual. The focus in this phase for mentors and mentees is on getting to know each other and on building trust. This is achieved primarily through participation in fun, non-threatening activities and simply sharing time talking. Co-ordinators and mentors pointed out that to rush this phase risked undermining the quality of the relationship and ultimately failure. Several co-ordinators remarked that it was the activities that drew mentees into

mentoring to begin with, and they only began to engage meaningfully once the activities had progressed. They pointed out that just keeping appointments was an important step for many mentees. Several noted that mentees often began to take better care of their appearance and dress more smartly for their meetings and this too was an indicator of progress as well as improving their self-image.

Co-ordinators and mentors acknowledged the need to move from trust-building to goal-setting. They emphasised the need to go 'softly, softly' in terms of target-setting and stressed the importance of the mentoring process itself, adding that mentoring was about challenging behaviour and attitudes in subtle, progressive, encouraging and supportive ways at a pace that the mentee could manage. Role modelling was seen as key and mentors demonstrated appropriate behaviours and attitudes in a natural way.

The average duration of Le Chéile mentoring in 2015 was 10.2 months in successfully completed cases, with almost a third lasting more than a year. In cases that were still active, the average duration was 7.7 months at the end of the year and 18% of active cases had already lasted more than a year. So it could be said that the mentoring was of sufficient duration to build a close relationship, have a positive impact and minimise any risk of negative effect.

Le Chéile guidance stipulates that a case review is arranged six to eight weeks prior to the end of mentoring and an exit strategy is devised with the young person. This exit strategy is designed to look at supports available outside of mentoring and to help the young people set future goals for themselves. Such planned meetings worked well where they took place. Mentors felt that it was important that mentoring relationships ended appropriately. Ending could be difficult at the best of times since a good relationship had usually been formed. Normally, mentoring ended when Probation supervision ended but flexibility was needed sometimes to allow continuation after the formal agreed period. Some mentees said that they would have liked their mentoring to continue for a while longer than occurred.

The international literature drew attention to the value of parental support in mentoring of young people. This was not a central focus of the evaluation of Le Chéile's youth mentoring but it was clear nevertheless that a high level of parental support existed in most cases. Some parents whose children were mentored availed of Le Chéile's parent mentoring service (which is available to all parents of children who offend). The most significant benefits for parent mentees were in the areas of self-confidence and emotional well-being, with benefits also in terms of improved self-esteem, hopefulness and ability to

manage stress, improved parenting skills and family relationships, and greater involvement in activities outside the home.

A number of mentees and their parents commented that they would have benefited from earlier access to mentoring. This was recognition of the value of mentoring to them but also an acknowledgement of hardship that might have been avoided. Some mentors and co-ordinators made similar comments and felt that mentoring was sometimes seen as a service of last resort. They too favoured earlier intervention, while acknowledging that some mentees might not be ready to engage fully with mentoring at a younger age. Their main point was that it was too late for some young people when they had got involved in offending and had gone through the court system. Several mentors and co-ordinators also made a case for mentoring for older age cohorts, up to age 25.

A number of cases examined as part of the evaluation involved young people from care backgrounds. Mentors in one focus group noted a significant difference in cases involving young people from such backgrounds, typically involving a lot of self-criticism and complexity, with a back-story of rejection; the mentors argued for specific consideration of the topic to ensure an effective service for this vulnerable group. One mentee said that if she had had something like mentoring when she was in care, she might not have ended up in trouble. As regards the transition from care, mentoring was seen as having a valuable role in providing support through this difficult phase. Other cases revealed the difficulty of staying in touch with young people who changed addresses during their time in care, either with foster carers or in residential care or both.

Experience with mentoring of young people in detention was broadly positive. The mentoring could be a continuation of mentoring started in the community or be initiated in detention. Mentees and their families appreciated the support at a difficult time and mentors commented that it strengthened the basis for mentoring after release. It was not always possible to arrange mentoring in detention, particularly if detention occurred or ended unexpectedly, was of short duration or brought an end to Probation Service involvement. Practical challenges arose in respect of travel and access, suitability of facilities and inability to participate in activities together. Travel to Oberstown, from rural areas in particular, raised issues of time and cost. Individual experiences showed that the limitations identified were not insurmountable barriers.

Conclusion

The international literature on the impact of mentoring on reoffending by young people is somewhat equivocal. It points out great variability in mentoring programmes that makes comparison difficult, but also examines factors that make positive outcomes more likely. These include notably mentor–mentee emotional closeness and strong relationship, frequent contact, duration of six months or more, structured activities and support from parents (DuBois *et al.*, 2002; DKR, 2012; Tolan *et al.*, 2014; Adler *et al.*, 2016; Jolliffe and Farrington, 2008; Tarling *et al.*, 2004).

This article presented findings from an evaluation of Le Chéile mentoring of young offenders in Ireland. A key finding was that a sizeable reduction in self-reported offending occurred as a result of mentoring. The evaluation focused primarily on cases described as ‘successfully completed’ and this may have influenced the results. That said, the qualitative evidence supported the quantitative survey findings. Importantly, Le Chéile’s mentoring programme encompasses most of the features identified in the literature as likely to maximise success. It should not be surprising, therefore, that positive results were achieved, not least as regards desistance.

The evaluation was designed to evaluate practice, provide evidence with regard to effectiveness or otherwise, and highlight where improvements could be made. The approach of the evaluation was primarily qualitative, with a quantitative element. This was appropriate and necessary for a variety of reasons, not least because its purpose was to evaluate a practice model but also because of difficulties in contacting young people after they have completed the mentoring programme and when their Probation supervision has ended. Subjective self-reporting was necessary because access to official criminal justice data was not granted. The methodological limitations were acknowledged in the evaluation report. Research methods such as use of a control group, use of independent offending data and a longitudinal element, while ideal (albeit costly), were simply not realistic options. It is difficult to see how a future evaluation might incorporate all such features and prove or disprove a hypothesis. In the meantime, the Le Chéile evaluation provides further strong evidence that mentoring can help bring about desistance, as well as improving the life chances of the young people concerned.

References

- Adler, J., Edwards, S., Scally, M., Gill, D., Puniskis, M., Gekoski, A. and Horvath, M. (2016), *What Works in Managing Young People Who Offend? A Summary of the International Evidence*, London: Ministry of Justice
- Anton, P. and Temple, J. (2007), *Analysing the Social Return on Investment in Youth Intervention Programs: A Framework for Minnesota*, St Paul, MN: Wilder Research
- DKR, Danish Crime Prevention Council (2012), *The Effectiveness of Mentoring and Leisure-Time Activities for Youth at Risk – A Systematic Review*, Glostrup: DKR
- Dolan, P., Brady, B., O'Regan, C., Canavan, J., Russell, D. and Forkan, C. (2011), *Big Brothers Big Sisters (BBBS) of Ireland: Evaluation Study – Report 3: Summary Report*, Galway: NUI Galway Child and Family Research Centre
- DuBois, D., Holloway, B., Valentine, J. and Cooper, H. (2002), 'Effectiveness of mentoring programs for youth: a meta-analytic review', *American Journal of Community Psychology*, vol. 30, no. 2, pp. 157–197
- DuBois, D., Portillo, N., Rhodes, J., Silverthorn, N. and Valentine, J. (2011), 'How effective are mentoring programs for youth? A systematic assessment of the evidence', *Psychological Science in the Public Interest*, vol. 12, no. 2, pp. 57–91
- Grossman, J. and Rhodes, J. (2002), 'The test of time: Predictors and effects of duration in youth mentoring relationships', *American Journal of Community Psychology*, vol. 30, no. 2, pp. 199–219
- Grossman, J. and Tierney, J. (1998), 'Does mentoring work? An impact study of the Big Brothers Big Sisters program', *Evaluation Review*, vol. 22, no. 3, pp. 403–426
- Jolliffe, D. and Farrington, D. (2008), *The Influence of Mentoring on Reoffending*, Stockholm: The Swedish National Council for Crime Prevention
- Le Chéile (2013–2015), Annual National Volunteer Surveys, Dún Laoghaire: Le Chéile
- Ministry of Justice (2014), *Transforming Rehabilitation: A Summary of Evidence on Reducing Reoffending* (2nd ed.), London: Ministry of Justice
- Newburn, T. and Shiner, M. (2006), 'Young people, mentoring and social inclusion', *Youth Justice*, vol. 6, no. 1, pp. 23–41
- O'Dwyer, K. (2017), *Reducing Youth Crime in Ireland: An Evaluation of Le Chéile Mentoring*, available at <https://www.lecheile.ie/wp-content/uploads/2017/06/Reducing-Youth-Crime-in-Ireland-An-Evaluation-of-Le-Cheile-Mentoring-Full-Report.pdf> (accessed 16 August 2019)
- Philip, K. and Spratt, J. (2007), *A Synthesis of Published Research on Mentoring and Befriending*, Manchester: Mentoring and Befriending Foundation
- Piper, H. and Piper, J. (2000), 'Disaffected young people as the problem, mentoring as the solution, education and work as the goal', *Journal of Education and Work*, vol. 13, no. 1, pp. 77–94
- Renshaw, J. (2008), *Final Evaluation Report of the DCSF Funded National Mentoring Pilot for Looked After Children*, Manchester: Mentoring and Befriending Foundation
- Rhodes, J. (2008), 'Improving youth mentoring interventions through research-based practice', *American Journal of Community Psychology*, vol. 41, no. 1–2, pp. 35–42

-
- Rhodes, J., Lowe, S., Litchfield, L. and Walsh-Samp, K. (2008), 'The role of gender in youth mentoring relationship formation and duration', *Journal of Vocational Behaviour*, vol. 72, no. 2, April, pp. 183–192
- Roberts, H., Liabo, K., Lucas, P., DuBois, D. and Sheldon, T. (2004), 'Mentoring to reduce antisocial behaviour in childhood', *British Medical Journal*, vol. 328, pp. 512–514
- Sale, E., Bellamy, N., Springer, J. and Wang, M. (2008), 'Quality of provider–participant relationships and enhancement of adolescent social skills', *Journal of Primary Prevention*, vol. 29, no. 3, pp. 263–278
- St James-Roberts, I., Greenlaw, G., Simon, A. and Hurry, J. (2005), *National evaluation of Youth Justice Board Mentoring Schemes 2001 to 2004*, available at <https://core.ac.uk/download/pdf/4157305.pdf> (accessed 16 August 2019)
- Tapia, M., Alarid, L. and Enriquez, A. (2013), 'Court-ordered mentoring programs for adjudicated juveniles: When should youth be referred?', *Justice Policy Journal*, vol. 10, no. 2
- Tarling, R., Davison, T. and Clarke, A. (2004), *The National Evaluation of the Youth Justice Board's Mentoring Projects*, London: Youth Justice Board
- Tolan, P., Henry, D., Schoeny, M., Lovegrove, P. and Nichols, E. (2014), 'Mentoring programs to affect delinquency and associated outcomes of youth at-risk: a comprehensive meta-analytic review', *Journal of Experimental Criminology*, vol. 10, no. 2, pp. 179–206
- White, H. (2014), 'The effectiveness of youth mentoring in a criminal justice context', *Internet Journal of Criminology*, ISSN 2045 6743

Human Trafficking and Its Interface with the Irish Criminal Justice System: Shared Learning

Ann Marie Keane*

Summary: 'Hidden in plain sight' is a phrase often associated with human trafficking, as victims are often fully visible to us, interacting with the community so that the trauma and fear that prevents them from escaping a life of exploitation and servitude is not recognised. Despite knowledge of the social, economic and individual harm that is caused, there is a lack of research into the prevalence and needs of the victims of this crime. The United Nations Office for Drugs and Crime identifies it as the second largest form of organised crime across the world. It defies all borders and transcends ages, genders and ethnicities. It is a both a global and a local issue that has gained prominence in wider social and criminal justice debates in Ireland in the past 10 years. The number of trafficking victims identified in Ireland in 2018 was 103, including four child victims, compared with 95 in 2016 and 78 in 2015 (Department of State, 2018: 235). This paper is based on the author's experience and learning as part of a seconded placement in 2018 with the Human Trafficking Investigation and Co-ordination Unit. It outlines the context of my placement; provides an overview of human trafficking in all its formations; explores its indicators; describes policy and practice against the backdrop of relevant legislation; and concludes with some reflections on the placement, and the implications of learning for Probation practice.

Keywords: Human trafficking, anti-human trafficking, United Nations Convention, indicators, cross-border, exploitation, victims, interagency co-operation.

Introduction

In 2017 the Criminal Justice Strategic Committee, comprising senior managers from the executive bodies across the criminal justice sector, introduced an Inter-agency Secondment Scheme with a dual purpose: 'to provide new experiential and development opportunities for staff and to enhance communication, understanding and cooperation across the sector' (internal circular). Information was provided on a range of placements across the Department of Justice and Equality and expressions of interest were

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requested from serving staff. My interest in the work of the National Human Trafficking Unit, located within the Garda National Protective Services Bureau (GNPSB), stemmed from my work on the Homeless Offender Team and as a member of the Probation team based in Mountjoy prison. My social work master's on 'An examination of inter-agency working in responding to the needs of homeless offenders' (2015) reflects my particular interest in inter-agency co-operation.

In the course of my Probation work I had engaged with people from various ethnic minority groups, many of whom had experience of disenfranchisement and containment often compounded by social and economic difficulties. In many instances the offending appeared to have occurred in hostile and toxic environments where the conditions that could potentially enable trafficking were rife. The issue itself was not specified, but human trafficking is a complex and multi-layered crime that is difficult to uncover, not least because of victims' fear. The secondment was an opportunity to increase my understanding of the distinguishing features of this form of criminality with the related trauma for victims and to forge links and share knowledge that could inform and enhance Probation interventions.

Following my successful application, I relocated from the Probation Service to the Human Trafficking Investigation and Co-ordination Unit (HTICU) for 12 months. Operating within the GNPSB, the unit provides the lead for the investigation and co-ordination of all human trafficking cases across Ireland. Protection of victims is at the core of that work.

What is human trafficking?

Article 3 of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (2000), adopted by The United Nations Convention Against Transnational Organized Crime, contains the following definition:

- (a) 'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the

prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) 'Child' shall mean any person under eighteen years of age.

Ireland ratified this protocol in June 2010.

Overview and Indicators of human trafficking

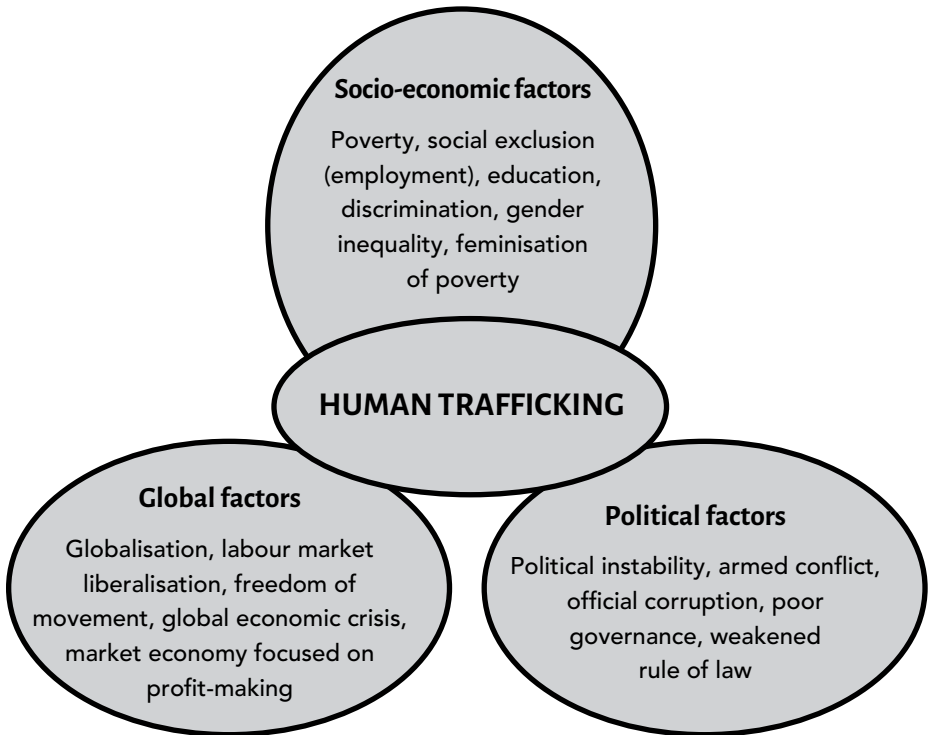
A global report on Trafficking in Persons (United Nations Office on Drugs and Crime (UNODC), 2016) provides an assessment of the scope of human trafficking based on data from 155 countries. According to the report, the most common form of human trafficking (79%) is sexual exploitation, predominantly of women and girls. The second most common form is forced labour (18%). What was particularly shocking was that worldwide, almost 20% of trafficking victims are children.

Traffickers use a number of strategies in their efforts to control what are termed commodities in their underworld. A common example is debt bondage, where a person enters in to an 'employment agreement' as a security against a loan. Once within the realm of the trafficker's control, physical, sexual and emotional abuse can all form part of their exploitation. Staff of the unit highlighted the increase in women trafficked into organised prostitution, many of whom give consent to work in Ireland and have paid a transaction fee only to find that their journey, begun with hope, is now following an unexpected and terrifying trajectory.

The three key elements that must be present for a situation of trafficking in persons (adults) are outlined by the UN Office of the High Commissioner for Human Rights (OHCHR) (2014) as: '(i) action (recruitment, ...); (ii) means (threat, ...); and (iii) purpose (exploitation)'. It goes on to state that International law provides a different definition for trafficking in children (i.e. persons under 18 years of age). The 'means' element is *not* required in this

case. It is necessary to show only: (i) an 'action' such as recruitment, buying and selling; and (ii) that this action was for the specific purpose of exploitation. In other words, trafficking of a child will exist if the child was subjected to some act, such as recruitment or transport, the purpose of which is the exploitation of that child (OHCHR, 2014). Factors that influence victim recruitment are shown in Figure 1.

Figure 1. Factors that influence victim recruitment (Stanoyoska and Petrevsk, 2012)



Although there is some commonality between people smuggling and trafficking, as both are profitable industries carried out by criminal networks involving trade in human beings, there are also distinct differences, as outlined in Table 1.

Table 1. *Trafficking versus human smuggling*

<i>Trafficking in human beings</i>	<i>Human smuggling</i>
Trafficking in human beings is a crime against the person and a serious human rights violation.	Smuggling is a crime against the state.
The trafficker exploits the victim as a commodity; the relationship is generally long-term and always non-voluntary.	The smuggler provides a service to the migrant, entered into voluntarily and almost always short-term.
Traffickers obtain a continuity profit which comes from ongoing exploitation of the victim.	Smugglers generally receive a one-off payment for the service they provide to the migrant.
Trafficking can be across national borders or within a national territory.	Smuggling is always across national borders.

Source: Immigrant Council of Ireland (2017).

The Irish legislative context

The primary legislation dealing with trafficking in human beings in Ireland is the Criminal Law (Human Trafficking) Act 2008, which created offences of human trafficking for the purpose of sexual exploitation, labour exploitation and the harvesting of body organs. 'Trafficks' is defined in the 2008 legislation as 'procures, recruits, transports or harbours [a] person'; it includes crimes against children. Convictions for trafficking carry a maximum sentence of life imprisonment. Section 2 of the act deals specifically with the trafficking of children. It creates the offence of trafficking of a child into, through or out of the state for the purposes of the exploitation of the child. In addition, it creates an offence of selling or purchasing a child. It also creates offences of causing the trafficking or attempting to commit or attempting to cause the offences.

Section 4 of the 2008 act refers to human trafficking of all persons other than children. This section creates the offence of trafficking in adults for the purposes of sexual or labour exploitation or the removal of their organs. Under this section, there must be evidence of the use of coercion, deception

or threats against the trafficked person or against any person who has charge, care or control of the trafficked person. There are no recorded incidences of organ removal in Ireland.

The Criminal Law (Human Trafficking) Act 2008 has been updated by the Criminal Law (Human Trafficking) (Amendment) Act 2013. The 2013 Act extends the definition of exploitation to include forced begging and forced criminality (forcing another to commit crime for gain or by implication for gain). The 2013 Act was enacted to give effect to certain provisions of Directive 2011/36/EU.¹

The Criminal Law (Sexual Offences) Act 2017 strengthens existing law on sexual offences. Part 2 addresses the sexual exploitation of children and targets those who engage in this criminal activity. It creates offences relating to the obtaining or providing of children for the purposes of sexual exploitation including online predation. It includes new offences relating to child sexual grooming and new and strengthened provisions to tackle child pornography.

Part 4 of this act makes it an offence for somebody to purchase sexual services from another person, in order to tackle 'demand' for these exploitative services. This section of the act introduces new provisions regarding the giving of evidence by victims in sexual offence trials, hence it includes amendments to the Criminal Evidence Act of 1992.

The Irish human trafficking landscape

The collation of statistics on human trafficking is required by Articles 19 and 20 of the European Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting victims. The Office for Migration and European Affairs with the European Commission collects these data across the 27 EU member states. The Anti Human Trafficking Unit (AHTU) within the Irish Department of Justice prepares an annual report as part of Ireland's obligations under the EU Directive.

Over the past five years the AHTU has reported on Ireland as a destination and a source country for women, men and children subjected to sex trafficking and forced labour, including forced criminal activity. Foreign trafficking victims identified in Ireland are from Africa, Asia and Eastern Europe, with a reported increase in suspected victims from Nigeria, Romania, Indonesia, Brazil and Pakistan (AHTU, 2017).

¹ https://ec.europa.eu/anti-trafficking/legislation-and-case-law-eu-legislation-criminal-law/directive-201136eu_en

The trafficking net extends far more widely than I had previously recognised. Annual reports from the AHTU document trafficked persons in the agricultural, fishing, hospitality and manufacturing industries as well as in domestic care and cleaning positions. Other areas include the facilitation of benefit and identity fraud. Forcing of people into marriage or into selling or giving up children for adoption, while culturally acceptable in some cultures, may contain elements of human trafficking as defined in Irish law.

In 2017, An Garda Síochána initiated 115 new human trafficking-related investigations, of which 95 were still open at year end. As at 31 December 2017, there were 373 open investigations related to trafficking in human beings. A considerable number of investigations cannot be progressed until new information is uncovered (Anti Human Trafficking Unit, Annual Report 2017). 63% of investigations ongoing as at 31 December 2017 were initiated within the previous three years (2015–2017 inclusive). There have been 283 victims detected since 2013, 75 of whom were detected in 2017. Over the five years, almost half of the suspected victims identified (47%) came from the European economic area (excluding Ireland), followed by African victims (31%) and Asian victims (12%). Data gathered indicate an increase in numbers experiencing labour exploitation, and in particular a greater presentation of men.

Doyle *et al.* (2019) offer a comprehensive account of the exploitative elements and precarious living situations for victims of labour trafficking in Ireland. Anti-Slavery International, the oldest human rights organisation in the world, has completed an exploratory study of good practice examples in relation to forced criminality and begging from a number of countries involved in the Race Europe Project (2012–2014). Ireland was represented by the Migrants Rights Council (Anti-Slavery International, 2014).

Suspected incidents of human trafficking are mainly referred from within the Gardaí, with other referral routes through social service providers and members of the general public. The Department of Justice and Equality has a dedicated website for the anonymous reporting of concerns by the public, which is managed by nominated Gardai.²

GRETA (the Group of Experts on Action against Trafficking in Human Beings) evaluates legislative and other measures taken by parties to the Council of Europe Convention to give effect to the provisions. In its 2017 evaluation of Ireland It expressed concern regarding the limited number of convictions secured in relation to trafficking. It has also been critical of the absence of a dedicated rapporteur to provide oversight of activities and

² www.blueblindfold.gov.ie (email: blueblindfold@garda.ie).

legislation implementation. The Irish Human Rights and Equality Commission (IHREC) has been granted leave by the High Court to act as *amicus curiae* in respect of cases that have centred on human trafficking.

Challenges within investigations: the violator or the violated?

Trafficked persons have frequently been victims of one or more serious criminal offences. The state has an obligation to assist these persons, and not treat them as criminals. Article 26 of the Council of Europe Convention on Action Against Trafficking refers to the Non-Punishment of Victims. GRETA in its role as European watchdog urged the adoption of a specific legal provision on the non-punishment of victims of trafficking in both its 2013 and 2017 country reports of Ireland. In 2015, the Irish High Court in its adjudication of a case found a need for protocols or legislation that dictate what happens when a victim is suspected of criminal activity ('P' case).³ The staff from HTICU collaborate closely with the Office of the Director of Public Prosecutions when the charges relate to a person who has broken the law while that person is simultaneously the victim of human trafficking.

Raising the bar: concerted efforts for education, research and learning

The national human trafficking unit within An Garda Síochána provides advice and assistance to members of An Garda Síochána throughout the country. Twice-yearly national training is provided to members to support the detection and investigation of this growing area of crime.

Action days and surveillance operations are integral components of enhanced efforts to combat human trafficking. A recent *Irish Times* article (Gallagher, 2019) reported on a three-day surveillance operation co-ordinated by the Operation Quest team at the Garda National Protective Services Bureau. The report highlighted the commitment of An Garda Síochána to target the demand for prostitution and to safeguard vulnerable persons, including victims of human trafficking involved in prostitution.

The roll-out of the Blue Blindfold campaign by the Department of Justice was an important initiative in increasing awareness. The campaign emphasised the hidden nature of human trafficking crimes: 'hidden in plain sight' and 'open your eyes to human trafficking'. In addition, the Reach Project, a Ruhama-based initiative funded by the EU, developed a training app for

³ High Court [2015] IHREC 222.

professionals in a range of agencies who could likely identify victims of trafficking and could offer support.⁴ The Second National Action Plan (2016) to combat and tackle human trafficking makes a commitment to undertake training in awareness raising and needs analysis across agencies. At an earlier point in Ireland's response, Ruhama along with the International Organization for Migration (IOM) developed a 'train the trainer' programme that is available on the Department of Justice Blue Blindfold website. The United Nations Office for Drugs and Crime endorses this training. The Office to Monitor and Combat Trafficking in Persons at the US State Department released an Adult Human Trafficking Screening Guide and Toolkit in January 2018. It is designed for use across various healthcare, behavioural health, social services and public health settings in order to assess adult patients or clients for human trafficking, victimisation or risk for potential victimisation. It is a survivor-centred, trauma-informed and culturally appropriate intervention.

Engagement and learning

During my time with HTICU it became clear to me that the work involved partnership with the Anti Human Trafficking Unit and close collaboration with the Irish immigration authorities. This work was also supported by liaison with key non-governmental organisations (NGOs) providing services to presumed or potential victims and survivors of human trafficking.

The Second National Action Plan to Prevent and Combat Human Trafficking in Ireland (Department of Justice and Equality, 2016) provides a road map to prevent, combat and respond to this growing crime. It renews the commitment to working in partnership with all the key stakeholders. This was of particular interest to me from a Probation perspective, as inter-agency working has been a key deliverable within recent strategic plans (Probation Service, n.d.). The National Action Plan recognises the need for a co-ordinated approach across government departments/agencies in tackling human trafficking, while acknowledging the important role of the NGOs and other international organisations. The National Referral Mechanism (NRM) is the framework through which State bodies fulfil their obligations to protect and promote the human rights of trafficking victims, working in partnership with civil society. The purpose of the NRM is to facilitate the delivery of a co-ordinated and 'best practice' service to victims of human trafficking (Department of Justice and Equality, 2016).

⁴ <http://www.reachproject.eu/Website/Reach/Reachweb.nsf/page/Whatis-en>

The support services include accommodation provision through the Reception and Integration Service (RIA), health care provided by the Anti Human Trafficking Team within the Health Service Executive, access to the Legal Aid Board and, as necessary, referral to the IOM, which offers voluntary assistance for return and reintegration back home. The NRM also ensures access to a crime prevention officer as well as translation and interpretation services. Organisations such as Ruhama, Migrant Rights Centre Ireland (MRCI), the Immigrant Council of Ireland (ICI), Doras Luimní and the Mendicity Institution work to support victims. MRCI and Ruhama account for most referrals to An Garda Síochána (AHTU, 2018). Persons identified as presumed victims of human trafficking from outside the EU/EEA are provided with support while their human trafficking claims are under investigation. These provisions are available under the Administrative Immigration Arrangements. This includes a period of up to 60 days' recovery and reflection that can be extended at the recommendation of the investigating Garda. An Garda Síochána acts as the competent authority and makes the decision based on reasonable grounds to initiate entry into the NRM and offer a range of services to presumed or potential victims of human trafficking.

In the same way as there are arrangements/protocols in place between the Probation Service and the Probation Board for Northern Ireland (PBNI) for the supervision of offenders in the community, there are processes and cross-border arrangements and relationships with the Police Board of Northern Ireland and with international and European bodies such as Interpol and Europol. The co-location elements of my secondment helped with developing a working knowledge of the various multi-agency and cross-functionalities involved in preventing and combatting human trafficking.

There is a specific Joint Agency Taskforce between An Garda Síochána and the Police Board of Northern Ireland to facilitate North-South co-operation. A number of co-ordinated joint action days to tackle human trafficking are also in place. In 2018, An Garda Síochána and the Police Service of Northern Ireland (PSNI) formed part of a broader European operation known as Operation Aidan to intensify efforts to intercept traffickers. Public awareness is likely to have increased with the airing in 2018 of a BBC drama, *Doing Money*. Filmed mainly in Belfast, it is based on a real-life story of a survivor of sex trafficking and conveys the processes used to bring a successful conviction against the trafficker.

The all-island Human Trafficking and Exploitation Project in Ireland (HTEPII), led by Mary Immaculate College Limerick, provides a real opportunity

to further develop knowledge and capacity in this area of crime. The team consists of researchers and personnel at the college along with An Garda Síochána, the Department of Justice and Equality, the PSNI and the Department of Justice Northern Ireland. The primary purpose of the project is to identify, collate, create and analyse databases relating to information on the scale and scope of human trafficking into and within Ireland. It is to include an appraisal of high-quality Irish and European data relating to this topic. This project is part of a broader project called the Santa Marta North Atlantic Maritime Project: a partnership that includes representatives of the police, clergy, state and civil society from Ireland and Northern Ireland focused on combatting human trafficking within the fishing industry.

I developed a working knowledge of the PULSE system in relation to the categorising and recording of human trafficking cases. I was involved in the gathering and compiling of data for the annual *Trafficking in Persons Report*. The collation of accurate and accessible data is a priority across all justice agencies. I was aware of challenges in categorising, including some anomalies around the inclusion of child sexual exploitation offences within the wider statistics on trafficking. I collaborated closely and developed key alliances with staff at the AHTU. During the course of my secondment I interacted with other units of the Protective Services Bureau, particularly that of Victims Services. I contributed to the preparation of position papers and procedural documents on human trafficking. Participation in round-table discussions and awareness-raising training broadened my knowledge base and enabled me to share learning from my experience of working with perpetrators and addressing the victim perspective in the context of that work. I sought out opportunities to attend conferences and networking events that afforded opportunities to raise awareness of the work of HTICU.

In 2018 I attended the AHTU event to mark EU Anti Human Trafficking Day: a public screening of the award-winning documentary *The Price of Sex*. It documented the stories of survivors through their own voices and own words. I met with the keynote speaker, Fiona Broadfoot, a survivor of human trafficking and a campaigner for protection of young girls at risk of prostitution. I had the opportunity to attend the launch of her 'Build a Girl' project at Bradford City Hall during November 2018 and was pleased to complete an account of this event for AHTU resources. Ms Broadfoot has made a commitment to bringing her 'Build a Girl' campaign to Ireland, to support agencies working with subgroups of female adolescents and young women.

Joining the dots: the influence of the frontline practitioner

Frontline services/practitioners including Probation Officers are well placed to intervene appropriately with those convicted of trafficking and to respond to/engage with victims or potential victims of human trafficking. As Probation Officers we need to be aware of how human trafficking may be 'hidden in plain sight' as it may not be identified in the index offence. Trafficking can be a feature in illegal detentions, drug offences, kidnapping, prostitution, murder, bodily injury, sexual assault, rape, cruelty, degrading or inhuman treatment, torture, slavery, forced abortion, forced marriage, debt bondage, forced labour, begging, tax evasion, corruption, money laundering and forgery of documents.

Faulkner (2018), Okech *et al.* (2017), Mostajabian *et al.* (2019) and Williamson (2017) focus our attention on the broader construction and conceptualisation of human trafficking, which, they argue, goes beyond the 'victim and villain dichotomy' narrative and even beyond the 'service provider as rescuer' narrative. These authors contend that an over-emphasis on the identification of the 'victim' and the frameworks for service delivery deflects from the structural issues that perpetuate migration. These include poverty, inequality, access to education and lack of developmental opportunities, all of which disproportionately affect women and contribute to the assessment and management of criminogenic needs within probation work.

The literature suggests that much of the human trafficking discourse and critique has glossed over or ignored the broader social, cultural and economic contexts in which migration in general and trafficking in human beings take place. Political, structural and cultural contexts can work to perpetuate trafficking. There is an obligation to find ways of identifying and reducing vulnerability to this international human rights violation. Faulkner (2018) raises particular questions regarding unregulated migration, profitable underground criminal activities and related issues. In particular he references the refugee crisis in Europe with the trafficking, sexual slavery, extremism and radicalisation that are perceived to threaten national security and have encouraged the proliferation of laws leading to stricter border controls and the creation of a climate that enables illicit activity to flourish.

Okech *et al.* (2017) published a review of human trafficking research for informing social work, based on an analysis of peer-reviewed journals spanning the 17 years since the initiation of the US TVPA (Victims of Trafficking and Violence Protection Act 2000) The review considered the

benefits of a better understanding of this area for social work practice. It highlighted that much of the research relies largely on qualitative studies. The reviewers noted the limited discussion afforded to the subject in social work education and the importance of critical appraisal of the challenges associated with locating those trafficked and in identifying perpetrators.

The HTEPII will produce a database as a foundation for an information notebook and training app for use by stakeholders in Ireland and across Europe. The expert evaluations on the Irish response to human trafficking have highlighted concerns over the limited attention being given to the education and upskilling of frontline social care providers to increase awareness and provide them with screening tools to identify where human trafficking is happening (GRETA, 2017). GRETA urged that training be provided to social workers, healthcare staff, staff of direct provision centres for asylum seekers and teachers, with a view to increasing the number of prosecutions and convictions in cases of human trafficking.

Reflections and opportunities

As a qualified social worker with an extensive career in the criminal justice sector, this secondment provided an excellent opportunity to use my skills and develop my knowledge and understanding of human trafficking. I now have an increased and more nuanced appreciation of the interactions and interdependencies between An Garda Síochána, other criminal justice agencies, NGOs and the wider community in working to reduce the harms of this insidious crime. The experience has strengthened my commitment to continuing to implement a trauma-informed approach to my work with service users and their families.

Since my return to the Probation Service I have been working as part of the court assessment team, providing assessment reports to the court. I am aware that I have added another lens to my assessment toolkit that enables me to hear and interpret verbal and non-verbal signals and patterns that could indicate trafficking or a vulnerability to this form of exploitation. In my recent work with a young woman, I was able to create a safe space that allowed her to name and separate out different strands of activity that left her seriously at risk of trafficking, with some indications that she had already been victimised. The offence for which she was before the court was not directly linked to those experiences. She was concerned, as many victims are, that 'nobody would believe this'. Her story was, regrettably, very credible,

meeting many of the indicators and criteria for the determination of human trafficking. These disclosures will be revisited, as part of the supervision order made by the court, in order to support her re engagement with a safe and pro-social lifestyle.

Mostajabian *et al.* (2019) identify sexual and labour exploitation among sheltered youth experiencing homelessness and have completed a comparative analysis of screening methods. The Children's Commissioner in the UK recently focused attention on the precarious existence of vulnerable young people and their greater need for specialist support. She signalled that those young people are 'pinballing' around the state systems, rendering them more vulnerable to sexual exploitation, running away from home, gangs, trafficking and drug use. This is an area that requires more dedicated focus in the assessment and supervision of young people referred to the Probation Service, access to evidence-based screening tools and a commitment to a trauma-led approach in responding to troubled youth.

As an organisation we have become much more aware of our responsibility to respond to disclosures, particularly in the context of child protection or domestic violence situations. There is a need to develop protocols and procedures across criminal justice agencies to guide practitioner responses in situations where there is an awareness and/or evidence of involvement in trafficking, whether as a perpetrator or as a victim.

I really valued the opportunity to work outside my 'comfort zone' within another criminal justice agency with a distinct and different set of challenges. Opportunities for continuous learning and awareness-raising are a key component of meeting shared challenges. Shared learning, pooling resources and expertise that build on existing cross-sectoral synergies enhances our capacity to effectively address human trafficking in order to safeguard victims and protect communities. I would encourage colleagues to take a risk, a leap of faith, and grasp any similar inter-agency opportunities to extend professional development.

References

- Anti-Human Trafficking Unit (2017), *Trafficking in Human Beings in Ireland: Annual Report 2017*, Dublin: Department of Justice and Equality
- Anti-Slavery International (2014), *Trafficking for Forced Criminal Activities and Begging in Europe: Exploratory Study and Good Practice Examples*, London: Anti-Slavery International

- Department of Justice and Equality (2016), *Second National Action Plan to Prevent and Combat Human Trafficking in Ireland*, available at http://www.justice.ie/en/JELR/2nd_National_Action_Plan_to_Prevent_and_Combat_Human_Trafficking_in_Ireland.pdf/Files/2nd_National_Action_Plan_to_Prevent_and_Combat_Human_Trafficking_in_Ireland.pdf (accessed 16 August 2019)
- Department of State (2018), *Trafficking in Persons Report: June 2018*, Washington, DC: Department of State
- Doyle, D.M., Murphy, C., Murphy, M., Coppari, P.R. and Wechsler, R.J. (2019), "'I felt like she owns me": Exploitation and uncertainty in the lives of labour trafficking victims in Ireland', *British Journal of Criminology*, vol. 59, no. 1, pp. 231–251
- Faulkner, E.A. (2018), 'The victim, the villain and the rescuer: the trafficking of women and contemporary abolition', *Journal of Law, Social Justice and Global Development*, issue 21, pp. 1–14
- Gallagher, C. (2019), 'Garda operation aimed to raise awareness on sex purchasing laws', *Irish Times*, 30 April
- GRETA (2017), *Report Concerning the Implementation of the Council of Europe Convention on Action Against Trafficking in Human Beings by Ireland, Second Evaluation Round*, available at <https://rm.coe.int/greta-2017-28-fgr-irl-en/168074b426> (accessed 16 August 2019)
- Immigrant Council of Ireland (2017), *TRACKS: Identification of Trafficked Asylum Seekers' Special Needs, Training Toolkit*, Dublin: Immigrant Council of Ireland
- Mostajabian, S., Santa Maria, D., Eemann, C., Newlin, E. and Bocchini, C. (2019), 'Identifying sexual and labor exploitation among sheltered youth experiencing homelessness: a comparison of screening methods', *International Journal of Environmental Research and Public Health*, vol. 16, no. 3, p. 363
- Office of the United Nations High Commissioner for Human Rights (2000), *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children Supplementing the United Nations Convention Against Transnational Organized Crime*, available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx#main> (accessed 16 August 2019)
- Okech, D., Choi, Y.J., Elkins, J. and Burns, A.C. (2017), 'Seventeen years of human trafficking research in social work: a review of the literature', *Journal of Evidence-Informed Social Work*, vol. 15, no. 2, pp. 102–121
- Perraudin, F. (2018), 'Care system struggling to cope, says children's commissioner', *The Guardian*, 31 July
- Probation Service (n.d.), *Strategic Plan 2018–2020: One Vision, One Team, One Standard*, available at [http://www.pprobation.ie/EN/PB/0/826F04C24F3C2868802582B7003C7AC8/\\$File/Strategic%20Plan%202018%20%E2%80%93%202020.pdf](http://www.pprobation.ie/EN/PB/0/826F04C24F3C2868802582B7003C7AC8/$File/Strategic%20Plan%202018%20%E2%80%93%202020.pdf) (accessed 16 August 2019)
- Stanoyoska, A. and Petrevsk, B. (2012), 'Theory of push and pull factors: a new way of explaining the old', available at <https://www.researchgate.net/publication/283121360> (accessed 16 August 2019)
- United Nations Office of the High Commissioner for Human Rights (2014), *Fact Sheet No. 36, Human Rights and Human Trafficking*, No. 36, available at: <https://www.refworld.org/docid/5566d0e84.html> [accessed 12 August 2019]

United Nations Office on Drugs and Crime (2016), *Global Report on Trafficking in Persons 2016*, available at https://www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf (accessed 16 August 2019)

Williamson, S.H. (2017), 'Globalization as a racial project: Implications for human trafficking', *Journal of International Women's Studies*, vol. 18, no. 2, pp. 74–88

Safer Injecting Facilities: Will They Work in an Irish Context?

Caroline Bates*

Summary: Legislation was introduced in Ireland in 2017 to enable the establishment of safer injecting facilities (SIFs). The legislation was introduced amid much public debate about the benefits of these facilities and concerns that they raise. This article considers the context and policy development in Ireland around the introduction of SIFs, in addition to exploring the debates about their operation. The findings from a small-scale research study, conducted by the author as part of a master's programme in criminology and criminal justice in University College Dublin in 2018, are outlined. The focus of this research was to gauge the views of members of An Garda Síochána ($n = 5$) based in the Dublin metropolitan area on the potential for SIFs to operate effectively and efficiently. Gardaí were identified as appropriate participants as they are often the first point of contact with street drug users and have an awareness of how the introduction of SIFs may impact on policing strategy and operations.

Keywords: Safer injecting facilities, National Drugs Strategy, policing, Ireland, addiction, legislation.

Introduction

Safer injecting facilities (SIFs) can be described as hygienic environments where people can inject illicit drugs under the supervision of healthcare professionals (Schatz and Nougier, 2012). They are also referred to as 'user rooms', 'consumption rooms', 'health rooms' or 'fixer rooms' (O'Shea, 2007) and their main objective is to provide a safe environment with medical supervision for high-risk injectors who typically inject on the streets (Hedrich, 2004). The introduction of a pilot SIF was one of the commitments in the programme for government: 'We will support a health-led rather than criminal justice approach to drugs use including legislating for injection rooms' (A Programme for a Partnership Government, 2016: 56).

In 2017, the Misuse of Drugs (Supervised Injecting Facilities) Act 2017 was passed: 'An Act to provide for the establishment, licensing, operation and

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regulations of supervised injecting facilities for the purposes of reducing harm to people who inject drugs; to enhance the dignity, health and well-being of people who inject drugs in public places; to reduce the incidence of drug injection and drug-related litter in public places and thereby to enhance the public amenity for the wider community; and to provide for matters related thereto.¹

There has been much debate about the introduction of SIFs in Ireland. To date the pilot injecting facility in Dublin has not opened and campaigners for its introduction have acknowledged that more work needed is to alleviate the concerns of local people and businesses who have objected to the opening of the facility. There are also unresolved questions for those involved in law enforcement, particularly policing. Questions have been raised about what happens to individuals detected in possession of drugs in the vicinity of an SIF and how Gardaí will police this issue. Will policing policy and practice change as a result of the introduction of SIFs?

Drugs policy in Ireland

Ireland's drugs epidemic started in the late 1970s and early 1980s with the spread of opiates across Dublin. Heroin use was initially a Dublin-based phenomenon (Department of the Taoiseach, 1996, cited in O'Gorman, 1998). This new drug scourge was mainly concentrated in areas of poverty with high levels of unemployment (O'Gorman, 1998). O'Gorman highlighted that the government's response to the emergence of this problem was through medical interventions rather than tackling the wider social issues.

In 1991, the Department of Health released the Government Strategy to Prevent Drug Misuse, which focused on the reduction of supply and demand of drugs. The 1996 Task Force on 'Measures to Reduce the Demand for Drugs' recognised the link between drug misuse and socio-economic disadvantage. It recommended the establishment of drug task forces in areas experiencing high levels of drug misuse and of economic and social deprivation. It also recommended the establishment of a national drug strategy team (Drugnet Ireland, 2011). Since 1996, a number of government departments have been responsible for drug policy in Ireland. The Department of Tourism, Sport and Recreation published the 2001–2008 National Drug Strategy (NDS). The Department of Community, Rural and Gaeltacht Affairs published the 2008–2016 NDS and the Department of Health published the current NDS.

¹ <https://data.oireachtas.ie/ie/oireachtas/act/2017/7/eng/enacted/a0717.pdf>

The strategy 'Reducing Harm, Supporting Recovery: A Health-Led Response to Drug and Alcohol Use in Ireland 2017–2020' (Department of Health, 2017) identifies a set of key actions to be achieved between 2017 and 2020. It states clearly that treating alcohol abuse and drug addiction as a public health issue, rather than as a criminal justice issue, helps individuals, families and communities. It outlines the importance of providing person-centred services that promote rehabilitation and recovery. The strategy has a clear vision to achieve 'A healthier and safer Ireland, where public health and safety is protected, and the harms caused to individuals, families and communities by substance misuse are reduced and every person affected by substance misuse is empowered to improve their health, wellbeing and quality of life' (Department of Health, 2017).

The introduction of SIFs is outlined under objective 2.2 of the strategy: 'Reduce harm amongst high risk drug users'. The escalating risk of overdose and drug-related deaths is highlighted, with a corresponding need for access to needle exchange and harm-reduction advice promoting sexual health and screening programmes. It states that there is a recognised problem with street injecting in Ireland, particularly in Dublin city centre, and outlines how this practice poses a significant health risk for people who use drugs, and results in discarded needles that present a public health risk to others. The strategy states that mounting public concern and campaigning by harm reduction advocates led to a proposal for the establishment of SIFs to ameliorate these problems. Strategic action 2.2.29 of the strategy states a commitment to the establishment of a 'pilot supervised injecting facility and evaluating the effectiveness of the initiative' in order to provide enhanced clinical support to people injecting drugs and to mitigate the issue of public injecting (Department of Health, 2017). Although the objective is clearly identified, the document fails to go into detail around the structure and the range of services to be provided. There is little information/comment about how this facility will assist Ireland's injecting population.

Debate on SIFs

The public dialogue and discourse in Ireland has continued, with strong argument and counter-argument. The fact that the pilot facility has not yet opened demonstrates the need to provide a meaningful response to concerns as well as to continue to build awareness and understanding of how SIFs can contribute to harm reduction and safer communities.

The establishment of SIFs in the community is likely to be an ongoing concern to the public. One widespread concern is that SIFs are sending the wrong message in that a tolerance of drug misuse is implicit. Elliott *et al.* (2002) stated that the introduction of SIFs should not be interpreted as condoning drug use. Instead, it should be seen as a responsible harm reduction policy that responds to the immediate risks associated with injecting. They noted that in cities that have established SIFs, the population of drug users had decreased. Tony Duffin, CEO of the Ana Liffey Drug Project in Dublin – a campaigner for SIFs and an advocate for a health-based approach to drug misuse – takes the position that there should never be criminal proceedings for those found in possession of drugs for personal use (Duffin, 2018).

However, political will and support remain inconsistent. Derek Byrne (2015) states that politicians need to assure the public that they are being ‘tough on drugs’. If they are perceived to be encouraging the use of illicit drugs, they run the risk of not being re-elected. Grainne Kenny (member of Europe Against Drugs – EURAD) opposes SIFs, stating: ‘The acceptance of injection rooms by a State according to UN experts promotes tolerance towards illegal drug use and trafficking running counter to the provisions of the UN Conventions on Narcotics signed into law by the Irish Government.’ She points out that some communities perceive these facilities as a marketing opportunity for drug dealers and that this could cause serious problems for Gardaí who would patrol the perimeters of the proposed SIFs (Kenny, 2015).

Freeman *et al.* (2005) designed a study to evaluate the impact of SIFs on crime rates. It showed that there was little to no change in theft or robbery incidents in the immediate area surrounding the SIF. Most importantly, their study demonstrated that the opening of an SIF did not lead to an increase in drug use or drug supply. Hedrich (2004) documents a different scenario in Hanover, Germany in the early 2000s. When police cracked down on drug use in the city centre, a new meeting point for users was established outside an SIF. The number of weekly clients went from 390 in 1999 to 680 in 2000.

A significant amount of international research has shown that medically supervised injecting facilities (MSIFs) can save lives, reduce public injecting and drug-related litter, and save money. A study on the first SIF in Vancouver found a significant reduction in public drug injecting, from 4.3 to 2.4 daily average; abandoned syringes and drug-related litter also halved in the study, with drug-related litter going from a daily 601.7 items to 305.3 (Bosler, 2017).

The European Drug Report describes growing evidence of the benefits of injecting facilities, which include reductions in risky behaviour, overdose

mortality and transmission of infections, as well as increased drug users' access to treatment and other health and social services (European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), 2017). Belackova and Salmon (2017) suggest that community support of SIFs increased as enhancements in public order and public amenity became apparent.

What is clear from the debate and research is the need for a coherent and integrated communications strategy to explain to stakeholders and the wider public the purpose and potential benefits to communities of SIFs, if they are to be successfully established.

Research methodology

This research study was conducted to explore the individual views of a small sample of Gardaí about SIFs. The questions posed aimed to gather any queries, challenges or fears experienced by the participating Gardaí.

Strategic sampling was the approach used to select participants. This technique directs questions at a certain group of people who have shared similar experiences or situations (Davies, 2007). For this research, the sample included five members of An Garda Síochána and was conducted using a qualitative interviewing methodology. There is a dearth of primary Irish research regarding SIFs, therefore primary research, albeit on a small scale, was essential. There are many alternative qualitative approaches that could have been used to complete this research, such as focus groups and participant observation. The researcher believed that interviewing was the most effective way to source primary information as one-to-one conversation allowed participants to provide in-depth and high-quality information. Mason (1996) supports the use of interviews as they are relatively informal but still generate quality data through discussion. Also, interviews allow the participants to direct the flow of the conversation.

Interviews were conducted with members of diverse age and rank within An Garda Síochána. They took place in July 2018 at three Garda stations in the Dublin Metropolitan area.

Findings

All findings are based on five qualitative interviews carried out by the researcher. In analysing the data collected, four themes became apparent: existing harm reduction methods in Ireland, the establishment of SIFs in Ireland, the changing role of the Gardaí, and international SIF models. For the purpose of confidentiality, participants are referred to as P1, P2, P3, P4 and P5.

When participants were asked 'Goal two of the National Drug Strategy is to minimise the harms caused by the use and misuse of substances, do you think this is already being done in Ireland?', four of the five participants agreed that yes, harm reduction methods have been established in Ireland. All participants added some variation of the following:

There has been many strategies and policies. Perhaps they are well-intentioned, but they do not work. (P4)

A disappointed attitude to harm reduction in Ireland was common among participants. Unlike other participants, P4 gave their own professional experience of dealing with drug users in the inner city. P4 explained that in 1996, they had worked closely with local drug users in the area. In recent years, they have dealt with the children and grandchildren of these drug users, implying that no strategy or harm reduction method has stopped the cycle of addiction.

While all participants were aware of Ireland's latest National Drug Strategy, only P3 felt confident in their knowledge of the overall aims and workings of the strategy. Three of the five participants stated that they had little in-depth knowledge of the strategy. P2 stated they had not received professional briefing about the strategy, or how to adhere to it. Although unenthusiastic about most harm reduction strategies in Ireland, P1 commented positively on the Drug Treatment Court for its humanitarian treatment of drug users. The Drug Treatment Court redirects those who plead guilty to drugs charges to a rehabilitation setting instead of a criminal one.

When asked 'Would the introduction of SIFs benefit Ireland's injecting population?', only two participants firmly believed that it would. The remaining three participants were undecided. All participants discussed how SIFs might be beneficial in removing drug paraphernalia from the streets. All participants noted that this could be the most valuable aspect of their introduction, acknowledging the lack of recognition given to drug users, their intended target audience. P4 stated:

the reason I feel they [the Irish government] are setting up these SIFs is to take drug paraphernalia off the streets. (P4)

P3 was the only participant who focused on the benefits of SIFs for the injecting drug user. Although they acknowledged the effect SIFs would have

on removing needles from the streets, they saw this as a result of their establishment, and not the purpose. Only P3 and P4 commented on the advantages to SIF clients of their introduction. P4 strongly felt that an inter-agency approach should be adopted when establishing SIFs. These agencies should include mental health services, GPs, the Probation Service, Social Welfare, An Garda Síochána, the justice system and law-makers.

For all participants, the changing role of the Gardaí as a result of SIFs was their biggest concern. This is also where opinions differed most significantly between participants. P1 and P2 were quick to remind the interviewer that as the Misuse of Drugs Act (1977) stands, possession of illegal drugs is a criminal offence. P1 and P2 agreed that current drug legislation is quite specific in that controlled drugs are unlawful and if an individual is detected in possession of illegal drugs, Gardaí will charge them. However, in an SIF, using drugs for personal use is not a criminal offence. This raised some complexities for participants. For example, if someone was caught with the possession of drugs for personal use on the street, and stated that they were going to an SIF, should they be prosecuted or allowed to continue? Participants wondered how the Gardaí were intended to police what seemed like a grey area. P1 gave an example of this conundrum.

If a SIF was opened tomorrow, we're obliged to uphold the law. We just stand outside and stop everyone going in. I am sure we will find drugs on them, that's me doing my job as I am supposed to. (P1)

P4 also shared their confusion regarding the changing role of the Gardaí in relation to SIFs, and a lack of clear communication on how SIFs are to be policed. They highlighted their concern regarding how Gardaí patrolling the streets will be accountable for dealing with SIFs and their clients. As no drug possession laws have yet been changed, P1 feared that

different guards will have different interpretations of it [the legislation] and it will cause absolute chaos. (P1)

Contrary to other participants, P3 believed that the establishment of SIFs will not modify the role of police in society. P3 believed that their establishment could work in favour of the Gardaí, explaining that SIFs would take injecting off the streets, which would eliminate the constant altercations Gardaí experience with the current injecting population. P3 addressed the issue of

possession of illegal drugs outside SIFs. Unlike other participants, P3 emphasised the importance of each Garda assessing the legitimacy of each individual in possession of illegal drugs. P3 stated that if an individual is stopped and searched under the Misuse of Drugs Act 1977 in the vicinity of an SIF, discretion should be maintained to assess the legitimacy of the individual. However, there does not appear to be any clear guidance on the criteria for assessing an individual's 'legitimacy'. If an individual states that they are intending to use the drugs at the nearest SIF, then they will be allowed to continue. P3 adds:

If it is a thing that they say they are going around there and they see them somewhere else doing a drug deal, you deal with it like we always have. (P3)

P3 recognised the need for co-operation with all stakeholders for this to be achieved. As seen previously, this is the main challenge in the effective running of SIFs in Ireland.

In order to address these issues, participants were asked: 'In other European countries such as Portugal, the decriminalisation of drugs has been introduced. Do you think this is necessary in Ireland before introducing SIFs?' Two participants answered yes, this would be necessary in Ireland; two participants disagreed with the decriminalisation of drugs; while one participant was ambivalent around decriminalisation, stating that European results remained inconclusive.

One argument against the decriminalisation of drugs was the possible attraction of drug dealers to SIFs. If drugs, mainly heroin in this context, were decriminalised, would drug dealers flock to these establishments in the hope of supplying vulnerable addicts with the drugs? P1 noted this and stated:

If you are a dealer and you go down to the drug treatment centre or near enough to it, they can supply these people with drugs. It is a ready-made market for them. (P1)

P3 was adamant that drug dealing would not be tolerated in or near an SIF. P3 suggested that CCTV systems be installed to monitor activity surrounding the premises. If persons were caught selling or distributing drugs, they would be punished as usual under the Misuse of Drugs Act 1977.

It is important to acknowledge the difference between the current legalisation and decriminalisation. If the decriminalisation of possession of

illicit drugs for personal use was introduced in Ireland, people detected for possession of drugs for personal use could be offered rehabilitation instead of a prosecution under current legislation. P3 recognised that the introduction of regulations and guidelines for SIFs is not a matter for the Gardaí alone, stating that:

whatever is decided, we will implement. That's what our role is. We are not really politically opinionated on what is right or wrong. (P3)

To address the issues highlighted above, both P2 and P4 recommended introducing the SIF model used in the Netherlands. Participants were aware that a synthetic substitute for heroin was chemically produced in the Netherlands and distributed to clients in place of heroin. Firstly, this diminished the risk of clients injecting 'bad gear', as all substitutes produced pass through quality control. Secondly, it reduced the opportunity for drug dealers to prey on clients, as they no longer had to source their own supply. P4 praised this model as it included all stakeholders in the establishment of SIFs, including the public.

Discussion

Only one participant felt comfortable in their knowledge of Ireland's current drug policy, the National Drugs Strategy (Department of Health, 2017). While all participants were aware of the strategy, one admitted having only a 'gist of what's in the document and its aims' (P4). Only two of the five participants believed that establishing SIFs in Ireland could help Ireland's injecting population. Although all participants acknowledged the potential benefits of removing drug paraphernalia from the streets, they were less convinced that it would benefit the injecting population, its intended audience.

Although the ethos of Ireland's latest Drug Strategy is to provide drug treatment from a health-led approach, the potential benefits of SIFs for the injecting population are not outlined in any detail. Participants acknowledged the strategic actions by the government, including the introduction of legislation, but concluded that they are 'well intentioned, but will not work' (P4). All participants stressed the need for support from local stakeholders in establishing SIFs. P4 said that establishing SIFs in isolation will not work, and that 'letting them in to inject and letting them back out on the street to mix with drug dealers, homelessness and mental health will not work' (P4).

Discussion of decriminalisation of drugs for personal use resulted in divided opinions among participants. While two participants did not see it as necessary for the establishment of SIFs, two viewed it as vital. Participants in favour of decriminalisation agreed with the EMCDDA (2011), which stated that decriminalisation does not mean legalisation. Put simply, those caught in possession of illicit drugs for personal use will be referred to rehabilitation programmes rather than prosecution.

While expressing admiration for the Portuguese model, one participant claimed that 'drug deaths increased massively' (P5) subsequent to decriminalisation. Upon further examination, the researcher found an overwhelming amount of literature in disagreement with this statement. In fact, a study carried out by Hughes and Stevens (2007) reported a drop in drug-related death figures after 2001. After re-evaluation of this harm reduction strategy, Greenwald (2009: 17) confirmed this statement, saying 'The total number of drug-related deaths has actually decreased from the pre-decriminalization year of 1999 (when it totalled close to 400) to 2006 (when the total was 290).' Although drug-related deaths had decreased, Hughes and Stevens (2007: 5) pointed out that this could be a result of 'changing drug patterns', with cannabis becoming more prevalent and opioid use decreasing.

The SIF model used in the Netherlands was discussed in detail by two participants. This model takes an inter-agency approach while working with clients. Stakeholders such as GPs, the Department of Social Protection (DSP), housing and the Probation Service came together to make a clear plan for each client. Most importantly, P4 commented on how 'the community were brought into it and that client went through the system and became a respected member of the community'.

Both P2 and P4 acknowledged the manufacturing of synthetic heroin provided to clients of SIFs in the Netherlands. Although this is significantly controversial, the researcher could not locate any significant academic literature around it.² A report on the Netherlands (EMCDDA, 2017) briefly mentioned the manufacturing of synthetic drugs as a means of eliminating illicit drug trade, but not for the safety of drug-using individuals. P2 praised the use of synthetic heroin, stating that 'you cannot let someone walk by you with "bad gear", they could collapse and die'.

Although participants noted the possible benefits of SIFs, they believed that, as proposed in Ireland, SIFs will not work. P4 highlighted how they

² 'Dutch cut overdose deaths by dispensing pure heroin', https://www.cleveland.com/metro/2018/07/in_amsterdam_the_government_pr.html

'could work as part of a jigsaw, but unless it's structured around other agencies, it will fail'. Strike *et al.* (2015: 3) recognised the caution expressed by stakeholders, stating that 'community stakeholders who express ambivalence towards SIFs desire evidence about potential SIF impacts relevant to local contexts and that addresses perceived potential harms'. Participants highlighted the need to educate stakeholders, especially residents and local businesses, around the potential benefits of introducing SIFs to their communities.

The potential location of Ireland's first SIF was discussed in detail by participants. Extended delay in the establishment of a pilot SIF has been due to planning permission requirements. All participants disagreed with 'just plonking it in the city' (P2) and understood how an SIF could affect businesses and tourism. P2, P4 and P5 discussed the harm reduction project, Merchants Quay Ireland (MQI), as a possible location for an SIF. Participants stated that, in their view, this location was not suitable. One participant noted that this location already generates a number of complaints due to the high level of drug users attending.

The participants suggested locating SIFs in the suburbs of the city. P5 recalled that in other European cities, SIFs are located in industrial estates where they do not interfere with the retail or residential populations. While noting their belief that SIFs should be located outside the city, all participants recognised that accessible transport links to the SIF were vital for its clients.

For all participants, the changing role of the Gardaí in relation to SIFs was the most concerning issue. With no proposed changes to the Misuse of Drugs Act (1977), four out of five agreed that each individual Garda would be left with the responsibility to assess the legitimacy of individuals stopped in routine drug searches. P4 acknowledged that one guard might say 'OK, there is nothing I can do, it's an injecting centre'; while another would be 'to the letter of the law', charging all individuals who are in possession of illicit drugs. P3 was the only participant who did not see this as an issue, suggesting that SIFs 'will run more fluidly than people think'. P3 was confident in the individual Garda's ability to assess the legitimacy of individuals. Literature in this area suggests that the exercise of informed and well-managed discretion is necessary in policing. A study by Rhodes *et al.* (2006: 914) described similar caution and concerns in Russia. It quotes a police Chief Inspector: 'If he [a drug user] is walking around completely spaced out, with saliva running out of his mouth, then, I am sorry, but he's in a public place and should not disturb the public order.'

Recommendations

Recommendations made by participants on the establishment of SIFs in Ireland included the following.

- A multi-agency approach to the introduction and running of SIFs should be adopted, including all key stakeholders, especially communities, the Gardaí, service providers and decision-makers.
- A communication strategy should be in place to ensure trustworthy information, open dialogue and constructive engagement among all interests in the operation of SIFs.
- Sufficient funding should be available to avoid harm reduction projects 'competing against each other' and a central authority should have overall responsibility to manage and co-ordinate funding fairly.
- Two participants agreed that a legislative provision for decriminalisation of drugs for personal consumption would benefit Gardaí in police SIFs and enable referral of individuals to a rehabilitation setting. This option merits further examination in the overall context of health and criminal justice policy development.

Conclusion

This study set out to explore a Garda perspective on the introduction of SIFs in Dublin. This was a small research study with a very limited sample. It is not possible to draw reliable inferences or conclusions regarding overall Garda perceptions or opinions. The views expressed, however, do suggest that there is considerable work to be done to clarify issues, develop solutions and develop community and inter-agency strategies. This would support the development of action plans to explore, inform and evaluate the overall impact of SIFs and their contribution to addressing personal, social and societal needs in tackling the issue of drug abuse and addiction on our streets and in our communities.

Editorial postscript

Dublin City Council refused planning permission for a drug injection centre, citing lack of a policing plan and impact on local tourism (Power, 2019).

The Report of the Working Group to Consider Alternative Approaches to the Possession of Drugs for Personal Use (Department of Health and

Department of Justice and Equality, 2019) was launched on 2 August 2019. The report recommends that possession of drugs for personal use should never be punishable with imprisonment and recommends a system of multiple cautions with diversion to treatment as an alternative option.

References

- Belackova, V. and Salmon, A. (2017), *Overview of International Literature – Supervised Injecting Facilities & Drug Consumption Rooms*, available at https://www.researchgate.net/publication/323445212_Overview_of_international_literature_-_supervised_injecting_facilities_drug_consumption_rooms_-_Issue_1 (accessed 22 June 2018)
- Bosler, D. (2017), *The Case for Medically Supervised Injecting Facilities*, Sydney: The McKell Institute
- Byrne, D. (2015), 'Derek Byrne: No need for moral panic over injection houses', *Irish Times*, 24 December
- Davies, M. (2007), *Doing a Successful Research Project*, New York: Palgrave Macmillan
- Department of Health (1991), *Government Strategy to Prevent Drug Misuse*, Dublin: Stationery Office
- Department of Health (2017), *Reducing Harm, Supporting Recovery: A Health-Led Response to Drug and Alcohol Use in Ireland 2017–2025*, Dublin: Stationery Office
- Department of Health and Department of Justice and Equality (2019), *Report of the Working Group to Consider Alternative Approaches to the Possession of Drugs for Personal Use*, available at <https://health.gov.ie/wp-content/uploads/2019/08/Report-of-Working-Group-Alternatives-Possession-of-Drugs.pdf> (accessed 19 August 2019)
- Drugnet Ireland* (2011), 'Drugs policy in the new programme for government', available at https://www.drugsandalcohol.ie/15009/1/Drugnet_37_-_Draft_4_-_as_signed_off.pdf (accessed 15 June 2018)
- Duffin, T. (2018), 'We need to help people who use drugs make healthier choices, not treat them as criminals', *thejournal.ie*, 29 May
- Elliott, R., Malkin, I. and Gold, J. (2002), *Establishing Safe Injecting Facilities in Canada: Legal and Ethical Issues*, available at: https://www.researchgate.net/profile/Richard_Elliott3/publication/8456156_Establishing_safe_injection_facilities_in_Canada_legal_and_ethical_issues/links/00b49516d81f148dd5000000.pdf (accessed 20 June 2018)
- EMCDDA (2011), *2011 National Report: Portugal*, Luxembourg: Publications Office of the European Union, available at: <http://www.emcdda.europa.eu/html.cfm/index191616EN.html> (accessed 1 July 2018)
- EMCDDA (2017), *Netherlands: Country Drug Report*, Luxembourg: Publications Office of the European Union, available at <http://www.emcdda.europa.eu/system/files/publications/4512/TD0616155ENN.pdf> (accessed 15 July 2018)

- Freeman, K., Jones, C., Weatherburn, D., Rutter, S., Spooner, C. and Donnelly, N. (2005), 'The impact of the Sydney Medically Supervised Injecting Centre (MSIC) on crime', *Drug and Alcohol Review*, vol. 24, pp. 173–184
- Greenwald, G. (2009), *Drug Decriminalisation in Portugal*, Washington, DC: Cato Institute
- Hedrich, D. (2004), *European Report on Consumption Rooms*, available at https://d1trxack2ykyus.cloudfront.net/uploads/2015/08/consumption_rooms_report.pdf (accessed 10 July 2018)
- Hughes, C. and Stevens, A. (2007), 'The effects of the decriminalization of drug use in Portugal', Oxford: The Beckley Foundation, available at <https://kar.kent.ac.uk/13325/> (accessed 5 July 2018)
- International Drug Policy Consortium (2012), *Drug Consumption Rooms: Evidence and Practice*, available at https://www.drugsandalcohol.ie/17898/1/IDPC-Briefing-Paper_Drug-consumption-rooms.pdf (accessed 19 August 2019)
- Kenny, G. (2015), 'Why EURAD opposes shooting galleries', available at http://www.cannabisskunksense.co.uk/uploads/site-files/Ireland_Injection_rooms_May_2015_Gazette.pdf (accessed 15 June 2018)
- Mason, J. (1996), *Qualitative Researching*, London: Sage
- O'Gorman, A. (1998), 'Illicit drug use in Ireland: an overview of the problem and policy responses', *Journal of Drug Issues*, vol. 28, no. 1, pp. 155–166
- O'Shea, M. (2007), 'Introducing safer injecting facilities (SIFs) in the Republic of Ireland: "Chipping away" at policy change', *Drugs: Education, Prevention and Policy*, vol. 14, no. 1, pp. 75–88
- Power, J. (2019), 'Dublin City Council refused planning permission for drug injection centre', *Irish Times*, 26 July
- Programme for a Partnership Government, A (2016), available at https://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme_for_Partnership_Government.pdf (accessed 19 August 2019)
- Rhodes, T., Platt, L., Sarang, A., Vlasov, A., Mikhailova, L. and Monaghan, G. (2006), 'Street policing, injecting drug use and harm reduction in a Russian city: a qualitative study of police perspectives', *Journal of Urban Health*, vol. 33, no. 5, pp. 911–925
- Schatz, E. and Nougier, M. (2012), *Drug Consumption Rooms: Evidence and Practice*, available at http://www.drugconsumptionroom-international.org/images/pdf/briefing_paper_dcr.pdf
- Strike, C., Watson, T., Kollal, G., Penn, R. and Bayoumi, A. (2015), 'Ambivalence about supervised injection facilities among community stakeholders', *Harm Reduction Journal*, vol. 26, no. 12, pp. 1–5

Book Reviews

Pervasive Punishment: Making Sense of Mass Supervision¹

Fergus McNeill

Bingley, UK: Emerald Publishing, 2019

ISBN: 978-1-78756-466-4, 264 pages, paperback, £24.99

From my reading of *Pervasive Punishment*, I found that Fergus McNeill paints a thought-provoking and creative picture of how Probation supervision is used to organise, process and manage offenders. There are seven chapters in the book and each one contains a preamble to the main theme of the chapter in the form of a narrative involving four fictional characters. I enjoyed this novel approach to criminological storytelling. There's Joe, a middle-class offender whom I felt was an interesting choice; Pauline, his world-weary Probation Officer; and Norm, Pauline's line manager. Finally, there is Petra, who is cited to a lesser extent in the narrative and who convenes a self-help group.

I felt that the concept of supervision of offenders and its relationship to pervasive punishment was highlighted clearly in some parts of the book. Fergus McNeill focuses on media headlines that may often give the impression that some offenders 'get off' relatively lightly in court adjudications. However, as those of us working in Probation can agree, involvement in the criminal justice system has consequences, irrespective of social class.

McNeill's use of Joe, a qualified accountant, in the narrative accords with his reference in the book to a middle-class offender who arguably 'walks free from Court'. While judicial leniency might be perceived to be the case, the lived lives of offenders and the fall-out from being on a supervision order can have far-reaching consequences. McNeill invites us to take the perspective of the person who allegedly 'walks free', and in so doing we are given an idea of some of the challenges faced.

It is all too easy to sit in front of an offender during supervision and feel

¹ Reviewed by Susan Cummins, Probation Officer, The Probation Service (email: sccummins@probation.ie).

some level of complacency. However, on listening to the songs and the evident pain of those on supervision, I was reminded of the difficulties faced by offenders when attempting to carry on as normal with their lives. Remaining in your employment, avoiding exclusion in your community and continuing to sustain relationships are real challenges. The book also made me think again about my own interactions with offenders and the centrality of reflective practice in criminal justice social work.

McNeill's book examines supervision largely from a Scottish perspective, but he also draws on comparative analysis with the US and other parts of the UK. He very usefully charts the expansion of supervision, from a community-based sanction to forming part of a suspended prison sentence. Given the book's topic, pervasiveness of punishment that is meted out through Probation supervision, it clearly illustrates how supervision serves to widen the net of the intrusive reach of the criminal justice system.

The book shows how managerialism has made the transition from a corporate setting to influencing current models of social services. This represents a move away from the idea of social work as a client-focused service to one of programmed interventions, delivered during a period of supervision and informed by structured risk assessments. As we all use risk assessments to underpin and inform our reports and court proposals, I was dismayed at the perceived absence of social work values, but perhaps they were implied? I felt that this was best captured in Norm's comment to Pauline that her role is not to help Joe but to stop him reoffending, as if the two were mutually exclusive. Whatever happened to the care and control approach, a cornerstone for effective interventions with clients?

It is also very clear from McNeill's book that the wider use of automation over one-to-one interactions may have arisen as a result of the semi-privatisation of the Probation Services in the UK and resultant cost-cutting measures. Pauline's workload is the subject of oversight by her manager – not new in itself, as this represents an aspect of supervision, though the focus here is primarily on performance indicators. This approach could be seen as working to the detriment of the offender's progress and to the professional development of the worker, and demonstrates how managerialism can certainly contradict if not usurp social work values.

Overall, the book was a useful eye-opener that will jolt the reader out of any sense of complacency about supervision as a totally benign influence in the life of the offender. I did recognise some similarities but also differences with our own service in the Republic of Ireland. Anyone who has an interest in

social work not only as an area of applied social policy but in its relationship to the criminal justice system should read this book. In my opinion, although managerialism will inevitably continue to form part of organisational paradigms, it should never be allowed to replace the social work values of client dignity, empowerment and the use of reflective practice in effecting and supporting real and positive change.

Probation and Privatisation²

Philip Bean

Abingdon, UK: Routledge, 2018

ISBN: 978-0-8153-5398-0, 194 pages, paperback, £24.99

We in the Probation Board in Northern Ireland, and indeed colleagues in the Probation Service in the Republic of Ireland, have been somewhat protected from the significant developments of privatisation of the Probation Service in England and Wales. From the security of the 'status quo' of our own Probation structures, we have watched the challenges of privatisation 'across the water' since June 2014. The impact on ourselves has related primarily to the endeavours by Senior Probation Officers and Assistant Chief Probation Officers to navigate the differences between the National Probation Service and Community Rehabilitation Companies (CRCs) and to determine who in England and Wales should take responsibility for the transfer of particular cases from Northern Ireland. Since June 2014 we have moreover read and seen regular media reports and had sight of Inspectorate reports on the impact of privatisation on the management of offenders in England and Wales. A lot of the media coverage has been quite negative. On a personal note and closer to home, my daughter-in-law is currently a Probation Officer with the Wales CRC.

Philip Bean's well-paced account of privatisation opens quite dramatically in the summary introduction with the line: 'the effect was that the existing Probation Service prior to June 2014 lost control of all but 30,000 of the most high risk cases with the other 220,000 low to medium risk offenders being farmed out to private firms'.

The book lays out in a readable and easy style the history of privatisation and how the Probation Service and aspects of Probation work have been

² Reviewed by Mark Nicholson, Area Manager, Probation Board for Northern Ireland (email: mark.nicholson@pbni.gsi.gov.uk).

identified as having potential for the privatised market. This mirrored at times the philosophy of government policy alongside a long-standing vibrant voluntary sector/third sector involved in delivering interventions to offenders. This is particularly reflected in Northern Ireland but also in England and Wales in the provision of services covering accommodation and substance misuse. By default, the book was for me a mini-history of the Probation Service, with the Introductory chapter reflecting that history. This is important as it contextualises how the service arrived at the possibility and indeed the reality of privatisation.

From Chapter 2, the author charts the different phases of increased government involvement, interest and intrusion of both right and left political complexion, his starting point being 'the golden age' of Probation in the period from the 1960s to the uncertainty of the 1980s and 1990s. He includes the 1984 Statement of National Objectives (SNOP) that eventually would lead to the introduction of national standards of supervision across all Probation Service areas and the significant challenges of the 1991 Criminal Justice Act. The act highlighted the protection of the public as a key responsibility of Probation and introduced the new Combination Order combining curfew and electronic monitoring. I was a Probation Officer and latterly a Senior Probation Officer in England during the 1990s and recall vividly the challenges and impact of this act on a changing professional culture and landscape within Probation. The development of evidence-based assessment during this period reinforced this change.

In Chapter 3, the perspective and response of Probation as a professional body to the proposed privatisation agenda is detailed and documented. In Chapter 4, Chris Grayling, the then Justice Minister, becomes a central figure and the reforms from his influential 2013 White Paper *Transforming Rehabilitation* are documented.

Two further chapters detail privatisation work in a balanced way, without necessarily condemning privatisation, and indeed identify positive Inspectorate reports on work done by some CRCs, although this is counterbalanced by many more negative findings on the effectiveness and safe supervision of offenders by CRCs.

Chapter 6 – the final chapter, albeit probably not the final chapter of the journey of the privatisation of Probation – explores what might happen in the immediate future. The author, writing in July 2018, answers his own question: 'Is it [privatisation] working? The answer seems that it is not.' He concludes however that in the 21st century a healthy and effective Probation Service will

inevitably involve 'a mixture of the public and private', stating that a 'return to an integrated public service as of old may not be possible, but one where the public and private sectors work together may well be feasible' (p. 143).

Philip Bean's book is a welcome overview of what has clearly been a difficult and challenging period in the history and development of the Probation Service in England and Wales. In my view, the book provides a helpful, informative history of Probation in England and Wales and how privatisation has been a shadow over its development. It also offers constructive ideas as to how the future may look with an effective and safe private and public partnership in offender management.

As a footnote to this review, on 16 May 2019 the government announced that the supervision of all offenders in England and Wales from 2021 would be undertaken by the National Probation Service (NPS), which would be responsible for the supervision and management of 250,000 offenders in the community, in effect renationalising Probation work. The private sector will however still play a part through the provision of unpaid work and delivery of accredited programmes.

Is this a return to the former status quo? How ironic!

Reimagining Restorative Justice: Agency and Accountability in the Criminal Process³

David O'Mahony and Jonathan Doak

Oxford: Hart Publishing, 2017

ISBN: 978-1-84946-056-9, 256 pages, paperback, €45.00

Restorative justice has increasingly become an area of interest to criminal justice policy-makers and practitioners. This awareness of restorative justice's potential contribution has led to increased efforts to integrate the practice into various stages of the criminal justice system in numerous countries. This integration has, in turn, led to a wide array of practices under the restorative justice umbrella.

A recognition of the nature of this expansion, and the reality that the 'underlying theory of restorative justice has not kept pace', is the key message that underpins the overall content of this book. The first two chapters set out the range of restorative justice interventions and theories currently being used within, and influencing practices across, a number of

³ Reviewed by Darren Broomfield, Senior Probation Officer, The Probation Service (email: drbroomfield@probation.ie).

diverse criminal justice systems. These chapters provide a good overview of the current thinking and practice in restorative justice. They further serve to demonstrate the contested and, perhaps, at times contradictory nature of restorative justice theory and practice. Chapter 2 highlights the widely shared view among restorative justice theorists that the current criminal justice system is poorly equipped to provide restoration, representing almost entirely the public element of criminal harm. The argument follows that this focus on the public element cannot provide a space where personal and private harms can be addressed, necessitating the addition of a different modality, i.e. restorative justice. The chapter goes on to stress the real challenges of mapping restorative justice onto the current structures and practices of criminal justice systems.

In Chapter 3, the authors introduce the core of their argument, centred around the notion of empowerment and more specifically the concept of empowerment theory. The authors juxtapose the idea of being empowered with the lived reality, which is that many victims (and offenders) experience criminal justice as a disempowering process. Here, the authors trace the experience of double disempowerment that victims can experience: firstly, through being harmed by the criminal act and secondly, the harm experienced within the criminal justice system.

The authors contend that both the process and the outcomes of being involved in restorative justice should be empowering for parties involved. They explain that this should be done by placing the idea of agency at the heart of restorative justice processes and that outcomes should be underscored by the *accountability* produced. It is thought-provoking here that the authors recognise that accountability is something that is valued within current criminal justice practice. The difference, they argue, is that accountability within restorative justice is demonstrated by wrongdoers holding themselves to account for the harm caused rather than being held accountable by an external force. They articulate that agency is present when the parties involved have the capacity and space to have their voices heard and make choices about what happens for themselves.

Chapter 4 engages with two of the recurring issues that abound in restorative justice – victim participation and rights of the offender – through the agency–accountability framework. Connecting these strands, the authors stress the applicability of their framework in addressing power imbalances that exist between victims, offenders and the experts. They contend that it does so by recognising these imbalances, addressing them, crafting the

process and being attentive to outcomes. Here they draw on the value of empowerment theory to identify how individuals have been disadvantaged and how this assists in developing responses that address people's needs.

More specifically relating to the offender's position in a restorative intervention, this chapter illuminates what the offender can bring to the process. They stress that the offender's role needs to go beyond simple communication to a more nuanced dialogue that provides an avenue to take on accountability for the harm caused. The authors argue that the agency–accountability framework offers a clear justification for increasing offenders' sense of ownership within the process to enhance the quality of participation.

Having explored the evolution of restorative justice theory and a number of prominent themes in the field, the authors utilise the next three chapters to consider how agency and accountability occur in practice. This is a very ambitious undertaking, sweeping across an array of practice models and taking in how restorative justice is realised in a number of countries. The approach moves the reader from the periphery to the commonly used penal mediation in Europe through to 'mainstreamed' restorative justice. They begin this journey by examining practices they view as on the periphery that are 'partially restorative', i.e. those where a victim is not present. While not in any way condemning these practices, they adopt a cautious tone against the trend of using restorative justice with less serious offences. They also alert us to the potential for net widening when restorative justice is undertaken with persons at the edges of the criminal justice system.

The discussion of mediation in Europe raises the interesting point that conferencing has remained rather underdeveloped and remains on the outer reaches of criminal justice systems. This is important for the authors, who believe that a conferencing model is more able to deliver the core values of agency and accountability. In considering the conferencing model from the experiences of New Zealand and Northern Ireland, the authors draw on empirical evidence as to why a small percentage of conference participants felt unhappy at its conclusion. There was some correlation across studies between the unhappiness of victims and offenders in that they respectively felt little confidence in what had been agreed. They felt that the necessary supports had not been put in place to bring the agreed actions to fruition and closure. The authors stress the use of the agency–accountability framework as a mechanism not only to ensure that all parties have an investment in the process but also to identify the required actions.

This book's key strength is the depth and breadth of the overview it provides of restorative justice interventions alongside the challenges and debates that have emerged. In doing this, the authors' initial argument that the underlying theory of restorative justice has not kept pace with practice is well supported. Their response to this deficit is the agency-accountability framework underpinned by empowerment theory.

I think the book would have benefited from a deeper engagement with the concept of empowerment. A broader interrogation of this concept – in keeping with the thorough style displayed elsewhere in the text – might have strengthened the arguments as to its benefits in restorative justice. Further, I was left with some questions about the notion of empowerment and how far it can be integrated across a number of domains of people's lives – victims and offenders included. It would have been interesting to learn what empowerment theory tells us about the various forms of social, political and economic disempowerment experienced and how these are to be addressed, especially when they are compounded by victimisation through crime. The topic of community reintegration is also considered: what precisely is meant by this term, and ultimately how are communities to be empowered to support wrongdoers' re-entry?

I think this book will be beneficial to those engaged in the wider criminological discussion on restorative justice and to experienced practitioners as they engage at an opportune time with the challenging task of further embedding restorative justice within criminal justice systems.

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 and developing debate about work with offenders.
- 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.

Practice Pieces: Shorter practice pieces are very welcome. These offer an opportunity to describe a recent piece of practice, practice-related issues or recent practice developments in brief. Ideally around 2,000–3,000 words including references; 4,000 words maximum.

All **full-length articles** submitted to the journal are anonymised and then subjected to rigorous peer review by members of the editorial board and/or editorial advisory board 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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More detailed guidelines for contributors are available from the Editorial Committee on request and should be followed when making submissions.

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