3rd ANNUAL IRISH CRIMINAL JUSTICE AGENCIES CONFERENCE
(Lead Collaborator: The Probation Service)

"Evidence-Informed Decision Making: Putting Research into Practice in Criminal Justice"

DUBLIN CASTLE CONFERENCE CENTRE
Upper Yard, Dublin Castle
28th June, 2016

CONTENTS

Conference Welcome and Opening
Vivian Geiran, Director, The Probation Service

Members of the Judiciary, Secretary General of the Department of Justice and Equality, distinguished guests, colleagues, ladies and gentleman, I am delighted to welcome you all here, to Dublin Castle, today - for the third Annual Irish Criminal Justice Agencies Conference, on the theme: *Evidence-Informed Decision-Making: Putting Research into Practice in Criminal Justice*. I am particularly delighted to welcome some colleagues and friends from abroad today - specifically: Directors of Probation in Northern Ireland (Cheryl Lamont), Guernsey (Anna Guilbert) and Jersey (Brian Heath). This is, I believe, a landmark event in the developing engagement between the Department of Justice and Equality, the wider family of Justice agencies and the academic and research community.

I would like to thank the Association for Criminal Justice Research and Development (the ACJRD), the Department of Justice and Equality, colleagues in the other criminal justice agencies, as well as academic and research colleagues, for their support and encouragement in developing this practice-research engagement, and in growing this partnership as a real priority, as well as ensuring that this Conference has become a reality.

Today's Conference brings together key criminal justice bodies, with researchers and important figures from the academic community in Ireland and internationally, to develop the engagement between us all, to *further* enhance the already strengthening relationship between research academia and practice in criminal justice. It is an opportunity to share knowledge and expertise and to improve the knowledge base and services for the benefit of all, not only in the Republic but also on the island of Ireland, and elsewhere.

But, why bother? *Why* is it so important to make the link - and develop that link and engagement - between research and practice, and to put what we learn from research, into practice? Well, while research for its own sake is always interesting, and to be valued, there are other reasons we should do it: including to inform our stakeholders on how we are doing, and to develop policies that are evidence-informed. I believe though, that its real added value is when it helps those of us delivering public services to do our jobs better; not just do them *well*, not even just do them *better*; but to be the very *best* we can be. Our communities, and our service users, deserve no less. I do recognise that not every aspect of the value we add to the lives of individuals and of communities, can be easily measured. Nevertheless, much of the outcomes of our work *can* be measured and we must ensure that we do so. We must evaluate what *can* be evaluated, while part of our task is to find creative and realistic ways of assessing the 'harder to reach' areas of the impact of our services.

A commitment to research and evaluation helps an organisation to improve its operations and services, and to ensure it can maintain its ability to continually address new challenges, and explore new opportunities, as well as address gaps and continually improve performance and the contribution that each individual member of staff can make. The Department of Justice and Equality, and its agencies, recognise that imperative, and we are committed to improving the knowledge and data systems, and accessibility to them, to enable and support data analysis, research, and the service development it enables.

Arising from the findings of the review of the Department of Justice and Equality, the so-called 'Toland' report, and more particularly from the recommendations of the Report on the Strategic Review of Penal Policy, published in 2014 by Minister Frances Fitzgerald TD, the Department of Justice and Equality has identified data, information and research as a key area in which the Department and its agencies must build capacity and capability. I, as a member of the Department's Management Board, have been tasked with chairing a cross-agency working group on Justice data and systems interoperability.   That group, with representatives from the relevant justice agencies and units within the Department itself, has been working for some months now and making good progress, in capturing and linking existing data sources, identifying priority areas and projects for development, and facilitating collaboration in operational system connectivity - to enable joined-up service delivery - and research. You will have an opportunity to hear more about aspects of this work over the course of today.

The Probation Service, in common with other Justice agencies, is committed to deliver high quality services, to learn from experience *and* evaluation, and to constantly improve performance, informed by research evidence and, in turn, practice development.   We acknowledge, as part of that commitment, that robust and credible research and evaluation is necessary both as a measure of best practice in quality professional service delivery, and also in developing and providing a strong evidence base in turn, for that practice.

Probation Service staff, service users, and other stakeholders, whether Courts, other criminal justice agencies, government, communities, the general public or persons engaged with the Probation Service, expect services with an assurance of quality, and to be accountable.   Research and evaluation conducted by researchers, both as part of their academic development and during their subsequent careers, represent an important contribution to that critical process and the developments arising.

The Probation Service has worked consistently over recent years to refine data management systems and processes to provide important information and data for analysis, in a timely and user-friendly way. In Probation, Prisons, and more widely in the Justice system, we are wholehearted in our commitment to support research and evaluation in our work and new developments. In the Justice family of organisations, there is a shared focus on promoting research and supporting researchers, including student researchers, and the more established academic community, in studies and reviews of the operations of the criminal justice system; all in pursuit of better and more effective actions and outcomes for all concerned.

We welcome proposals for research and, when funding is available, commission research studies. As our economy recovers and finances strengthen, I look forward to the Probation Service, and the wider Justice sector, commissioning new research studies in the near future.

This year the Probation and Prison Services are hosting and facilitating PhD candidates and Masters students in their research projects as well as studies by academics and graduates on a range of important and valuable issues.   Later this Summer we hope to invite applications to conduct commissioned research and evaluation studies on specific matters

of interest and relevance to our work, particularly themes and issues in cross-cutting areas, for example, prisoner resettlement and offending by women.

The Probation Service and the Irish Prison Service have an established and very important research co-operation agreement with the Central Statistics Office (CSO) for the preparation of recidivism studies. Studies have now been published for 2007, 2008 and 2009. Further studies will be published this year and it is hoped to continue to develop and expand this data reporting and analysis in the coming years. The Central Statistics Office has a uniquely valuable role to play in relation to data analysis and research in Ireland, and we are delighted to have the ongoing opportunity to work with them.

I would like to take this opportunity to acknowledge the important role that the *Irish Probation Journal* has played since its inception in 2004 in publishing new articles and studies by young researchers and established academics on criminal justice topics and issues. The *Irish Probation Journal* was established as a cross-border partnership by the Probation Service and the Probation Board for Northern Ireland and has been published annually for the past twelve years. The 2016 edition will be published this coming November. It will be available free online, as all previous editions are, on the Irish Probation Service and the Probation Board for Northern Ireland websites.

It is not only important that research and evaluation is carried out, but also that it is published and shared, to increase our knowledge and to be tested further. Research reports must not just be 'us' talking to ourselves. Published research has a huge role to play in informing our stakeholders and citizens generally about how we are doing, and in contributing to penal policy debate. The *Irish Probation Journal* provides just one such forum for debate and dialogue, and promotes the sharing of good practice, and plays an important role in stimulating innovative thinking. It also provides a valuable peer-reviewed opportunity for academics, researchers and practitioners to present their knowledge, research findings and examples of better practice to a wide readership. In addition, the Journal offers a forum for continuous learning and development, not only for authors and readers within the two probation services, but also for the wider criminal justice readership; international colleagues and beyond.

The Journal is, at the moment, one of the few publications in Ireland for criminological studies and articles. While I am proud of the ground-breaking role that the Journal has played thus far, I will look forward to the development of more journals and publications in Ireland, featuring serious criminal justice studies and commentaries.

I want to thank ACJRD for their work in the organisation of this conference. The ACJRD, of course, has a longstanding commitment to research and development in criminal justice in Ireland - since long before it was popular or profitable! This year, ACJRD nears the 20th anniversary of its establishment - by a visionary group who saw, even then, the importance of research and how it can impact on policy and practice development. One of the key factors in the success and the longevity that ACJRD has enjoyed has been its interagency and multi-disciplinary nature: it really has worked hard to include all key stakeholder interests; and done so successfully. Today's organisers have put together a really exciting and energising programme, featuring some of the best Irish and international experts.

I look forward to today's plenary papers, to the workshops, and most of all to the entire collective engagement that all of you have to make to today's event and what we can benefit and gain from it.

Thank you.

Pictured (L-R):   **James Martin**, Department of Justice and Equality, **Prof. Ioan Durnescu**, University of Bucharest, **Dr. Niamh Hourigan**, University College Cork**, Maura Butler**, ACJRD Chairperson, **Prof. Fergus McNeill**, University of Glasgow, and **Vivian Geiran**, Director, The Probation Service

Prisoner Population and Trends
James Martin, Assistant Secretary, Department of Justice and Equality

This paper was published on the Department of Justice and Equality website www.justice.ie 28 June 2016 "Prisoner Population and Trends" - discussion paper.

Introduction
This paper was originally prepared for the Management Board of the Department of Justice and Equality to consider possible mechanisms that would give early warning of any significant increase in prisoner numbers.

Prisoner numbers - trends to date
Period 1925-1969
Figure 1 in the appendix sets out prisoner numbers for the period 1925-2015. Effectively the prisoner population for the State was in the region of **400 to 700 person**s from 1925 until the end of the 1960's with a slightly higher peak (777) during World War Two. By any standard the State had a low prisoner population during these decades. There are a number of possible explanations including strong social controls, poverty, high incarceration rate in other institutions (asylums, industrial schools), mass emigration, particularly of young males and an absence of any significant level of drug trafficking.

Period 1970 - 1980
The prisoner population climbed significantly from 1970 onwards reaching over 1,000 persons by 1972. It then stayed close to that level for nearly 10 years until 1981.

Period 1980 - 2005
There was a period of steady increase nearly every year from 1981 (1,196) until it reached **3,165 persons** in the year 2001

- an increase of 2,000 prisoners over a 20 year period. This period saw social and economic change, the population increased by 20% and the full effect of subversive influences and the drug trade were felt. From the year 2001 until 2005 prisoner numbers remained stable at approximately **3,100 persons**.

Period 2005 onwards
Between 2005 and 2010/2011, the prison population in custody increased by 1,300 reaching **4,440 persons** in 2010 and if you include those on temporary release, the total increase was over 1,800. (Temporary release had been used to relieve pressure in the prison system. Including temporary release numbers gives a more accurate picture of the demand on prison capacity.) This was a very fast and significant increase over a four to five year period. It peaked in 2010/2011 and then started to decline.

On 29th January 2016, the numbers in custody were 3717 (with 408 on temporary release giving a total of 4,263 in the system). The numbers in custody are now 700 less than 2010 (if you include those on temporary release, 850 less than 2011).

Overall
As regards recent history then, we had a gradual increase in prison numbers from 1980 to 2000, followed by a period of stable numbers and then a sudden and very significant increase in prisoner numbers in the three year period 2007 – 2010/11, followed by a gradual reduction in the following five year period. One possible interpretation is that the prisoner to population ratio reached a mature/modern level in the year 2000 at

80 to 100 prisoners per 100,000 and we have stayed roughly within that band since 2,000 with fluctuations (see Figure 2).

Why an accurate forecast of prisoner numbers is desirable

The Irish Prison Service (IPS) has no control over the number of committals to prison and it cannot refuse to accept prisoners.

It is important to note

(i) However, decisions made within the Department and the Criminal Justice system can indirectly influence the number of committals.

(ii) The IPS has some control over managing the numbers in custody by the use of temporary release either structured (e.g. Community Return, Parole Board recommendations) or unstructured. The IPS has greater freedom and control in this respect than most prison administrations. However, the excessive use of unstructured temporary release brings the criminal justice system into disrepute and there are limits on its use.

Ideally a prison system needs a certain amount of spare capacity for operational reasons, including surges in committals, and cannot operate at 100% of capacity without leading to problems. On 23rd December 2015, the IPS was operating at 90% of bed capacity but a number of prisons were at 100% or more.

The capacity of the prison system depends on the number of cells (and the persons per cell) so the capacity of the prison system cannot be quickly altered to accommodate an increase in numbers without leading to overcrowding. It takes a minimum of two to three years to build or make additions to a prison including, getting sanction for the expenditure,

planning, tendering, construction and commissioning. If a new site is required, the process can be even longer.

If the prison system is to avoid constant crisis and have adequate capacity, an accurate forecast of future prison numbers is of significant value in deciding whether to increase capacity and by how much. However, it is not only of importance to the IPS, it should also be a factor in determining criminal justice policy generally. For example, the level of emphasis on non-custodial sanctions or early release may obviate the need to build a new prison (or require a new prison). The number of prisoners in custody is clearly influenced by criminal justice policy and implementation.

Previous attempts

The first attempt at a forecast of prison numbers was done internally in the "Prisoner Population Projection 2005-2015" prepared by the IPS in December 2005. The IPS reviewed a number of statistical models but none were deemed suitable although some aspects of different models were incorporated into the approach chosen by the IPS. In essence, the 2005 IPS model assumed that there would be no significant change in committal levels and the forecasts were then constructed on expected release dates for those serving more than one year. The presumption of no change in committal levels was based on the experience of 2001-2004. On this basis alone the prison population was expected to increase by 447 over 10 years due to longer sentences. Unfortunately, the presumption about no change in committal levels turned out to be wrong (if understandable). Presented in December 2005 the carefully researched study gave no hint of the size of a five year sustained increase in prisoner

numbers that commenced the following month.

A second attempt at forecasting was undertaken in 2009 and involved contracting the task to outside experts. The "Report on Prisoner Population Projections 2009-2024" was submitted to the IPS on 26th November, 2009 by J. Schweppe and J. Saunders, University of Limerick. My understanding is that the authors, having considered many models, thought that the number of variables potentially affecting the prison population was so great that they opted for a relatively simple model based primarily on linear regression with low, medium and higher models. They did point to the weaknesses of their approach and the need to regularly update. Although presented in 2009, the model failed to anticipate the decrease in the prison population from 2010 onwards.

While not a forecast, the Department did in 2010 attempt an Analysis of Prisoner Population and Trends. This was shared with agencies and academics and no obvious flaw was identified in its approach. The analysis confirmed that it is the number of longer term prisoners that have the most effect on the total prison population. 80% of the prison population is serving a sentence of longer than one year. In the period 2005 to 2009 there was an increase of **48%** in the number of persons being committed to prison with a sentence of more than one year, most marked in 2007 (see Figure 3). The actual numbers were not huge going from 1,193 in 2006 to 1,503 in 2007 (+310) but they have a cumulative and disproportionate effect. (An analysis of later figures up to 2014 confirms this effect). The total number of committals of prisoners with sentences with one year or more evened off (with some

fluctuations) in 2008-2012 and have declined sharply in 2013 and 2014 to less than 1,300. (See Figure 3 below.) The analysis did not indicate that the proportion of longer sentences had increased significantly but rather the number of serious cases being dealt with seemed to have increased. (The figures at Figure 2 show that during this period the rate of incarceration rose sharply going from 76.4 prisoners per 100,000 in 2005 to more than 97 per 100,000 in 2010).

Allowing for the fact that prison population projections are fraught with difficulty (see below), the worrying thing is not so much that our two attempts at long term projections proved inaccurate but that we cannot even anticipate trends reliably over the next 12 months.

Forecasting prisoner numbers
The prisoner population on any day is a product of the number of committals minus the number of releases. However there are a huge number of variables involved in both, which makes forecasting prison numbers notoriously difficult. These variables include:

- demographics;
- economic activity;
- social change;
- crime rate;
- criminal justice and penal policy as well as legislation;
- Garda activity and capacity;
- DPP decisions;
- Court activity and sentencing;
- policy decisions on release.

Our two attempts at forecasting to date both failed to predict a change in trends within 12 months of their production and certainly could not be relied upon for planning. The experience in other

jurisdictions is not encouraging either. The IPS attended a EuroPris workshop in 2014 and it was clear from presentations by UK, Canada, Denmark and Belgium that no country has an entirely successful model. Countries such as Belgium were moving away from long term projecting.

Longer term prisoners

Our experience to date does indicate that the key factor in determining the underlying trends in the prison population is the number of persons being committed to prison with longer term sentences (more than one year). (Increases in this category can have an accumulator effect - an increase of the numbers being committed with a 10 year sentence from 50 to 60 persons per year will have a net increase in the prison population of 75 (with standard remission) before the numbers being released balance with the committals.) You cannot completely ignore short term (one year or less) prisoners because they represent a large volume of committals and at any one time they form 10% of the prison population. Remand prisoners, most of which are short term, constitute 15% of the prison population. However, in both cases it would require a very significant shift in volume before they would have any significant effect on total prison numbers. Between 2005 and 2009 the number of short term committals more than doubled but their proportion of the total prison population actually decreased. Release policies affect numbers in custody. However, they have limited effect on the total number when for example temporary releases are included as in Figure 1.

Prison statistics are generally reliable and give a concrete indication of the factual situation at a particular point in time.

They are updated on a daily basis. How can we improve our forecasting of trends using current figures? *Should there be a focus in daily/monthly/annual prison **statistics** on the cohort of prisoners being committed with longer sentences, with a comparison with previous years so that any changes or trends which have the potential to affect the prisoner population are immediately obvious? (A similar focus on the numbers of prisoners serving such sentences, might if properly developed, also give a clearer idea of what the underlying prison population trend is?).*

However, Prison statistics are of limited value in forecasting trends as they only come into play after the prisoner has arrived. *Could we identify potential prisoner population trends using **court statistics?*** In this regard, we may be only really interested in Circuit Court (and Special Criminal Court) statistics. The Central Criminal Court deals with rape and murder and while sentences are significant, the numbers are relatively small. Sentences from the District Court are normally 12 months or less and so have little effect on the prison population. Similarly remands in Ireland are normally for relatively short periods and so unlikely to significantly affect the prison population. However, it is difficult to predict the number of persons who will be convicted and their sentences and the statistics are unlikely to be available much in advance of Prison statistics. *What might be useful is an advance indication of the capacity of the Circuit Court to process criminal trials and any backlogs.* That would give some advance warning of whether there is likely to be an increase or decrease. However, the position varies between different Circuits and it is not clear whether such information could be made available.

The cohort of offenders that we are interested in have to be processed through the Office of the **Director of Public Prosecutions** before being sent forward for trial. Only cases for which the Gardaí have completed their investigation and may be suitable for prosecution are submitted to the DPP. The DPP's office therefore should have the raw material on the numbers who are to be prosecuted and who are likely to receive a sentence of more than 12 months. Furthermore there is a natural time lag between a file being received, a decision being made to prosecute and the outcome of a trial. *This might give advance warning in the region of up to 12 months ahead of prison statistics as regards trends for the key group of longer term prisoners?*

Offenders will not be prosecuted, convicted and committed to prison unless their crimes are detected and investigated by the **Gardaí**. However, it does not follow that an increase in a particular crime detected by the Gardaí will in due course lead to an increase in committals of the type we are interested in. (A crime has to be investigated, a perpetrator identified, evidence gathered, a file submitted to the DPP, a decision to prosecute, a trial, a guilty verdict and finally a sentence.) While crime statistics and information held by the Gardaí may be useful in predicting trends, it is not clear that there is a direct link to the size of the prison population, or that the data

is sufficiently detailed to be directly relevant in predicting trends in committals particularly as regards committals of longer term prisoners.

Demographics have an indirect link with the prisoner population, particularly the number of young males who are most likely to engage in offending behaviour. The total population of the State has increased by 50% since 1975 but our prison population has increased by 370%. The increase in population was clearly a factor but by no means the most significant one.

Conclusion

Our own experience and that in other jurisdictions is that estimating future prisoner numbers is difficult and generally unreliable. It would be a significant improvement if we could forecast trends for the next 6 - 18 months and I would recommend that efforts are concentrated on this target initially. The data for such forecasting may be found in a focus on committal trends for longer term prisoners and data from the DPP's office which would show underlying trends. This combined with an analysis of other issues that affect committal and release rates may give a more reliable indication of future prisoner populations albeit restricted to a rather short time period. Detected crimes and Garda data might be of value for longer term projections.

FIGURE 1 - Average or snapshot of numbers of prisoners 1925 -2015

year	numbers in custody	numbers on temporary release	total in system	*Projected numbers in custody 2005 study*	*Projected total numbers in system 2009 study*
1925	674				
1935	617				
1945	733				
1955	396				
1965	560				
1975	1017				
1985	1863				
1990	2108				
1995	2121				
2000	2948				
2/12/ 2003	3,234	262	3496		
3/12/2004	3,147	261	3408		
7/122005	3,157	123	3280	*3179*	
7/12/2006	3,287	137	3424	*3312*	
5/12/ 2007	3,334	183	3517	*3345*	
5/12/2008	3,695	438	4133	*3409*	
4/12/2009	4,040	718	4478	*3490*	*3942 - 4255*
30/11/2010	**4,440**	656	5096	*3580*	*4036 - 5030*
30/11/2011	4,313	811	**5124**	*3606*	*4130 - 5612*
30/11/2012	4,298	805	5103	*3615*	*4224 - 6194*
30/11/2013	4,099	745	4844	*3616*	*4318 - 6776*
28/11 2014	3,777	715	4632	*3615*	*4412 - 7358*
30/11/2015	3755	411	4336	*3626*	*4505 - 7940*
2016					*4599 - 8522*
2020					*4975 - 10850*
2024					*5350 - 13178*

(1) Figures 1925-2000 taken from Crime and Punishment in Ireland 1922-2003 edited by O'Donnell, O'Sullivan and Healy,

(2) Figures 2003- 2014 supplied by Irish Prison Service

(3) Forecasts are "Prisoner Population Projection 2005-2015" prepared by the IPS December 2005 and "Report on Prisoner Population Projections 2009-2024" submitted to the IPS on 26 November 2009 by J. Schweppe and J. Saunders, University of Limerick.

FIGURE 2 - Number of Prisoners per 100,000 of population

In 2013 (latest year Council of Europe figures are available) the European average was 133.5 prisoners per 100,000 persons. England was 147.2 and Sweden with proportionately one of the lowest prison populations was 61.4. Ireland with 88.5 has a relatively low prison population by European standards

Year	Population of State (i) 1925-2003 estimate based on census nearest to date, so indicative only (ii) 2004-2015 figures from CSO sources	Number of prisoners per 100,000 Indicative only, figures with * are Council of Europe data and can be compared to other European states. Differences arise as prisoner numbers fluctuate during a year and population numbers are revised.
1925	2,972,000	22.7
1935	2,968,000	20.8
1945	2,955,000	24.8
1955	2,898,000	13.7
1965	2,884,000	19.4
1975	2,978,000	34.5
1985	3,541,000	52.6
1990	3,526,000	59.8
1995	3,626,000	54.1
2000	3,917,000	103* (74.4)
2003	3,963,000	90.1* (81.6)
2004	4,045,200	77.8
2005	4,134,800	76.4
2006	4,232,900	74.3* (79.5)
2007	4,375,800	80.4* (76.2)
2008	4,485,100	84.8* (82.4)
2009	4,533,400	88.1* (89.1)
2010	4,554,800	97.4* (97.5)
2011	4,574,900	93.1* (94.3)
2012	4,585,400	94.3* (93.7)
2013	4,593,100	88.5* (89.2)
2014	4,609,600	83.1* (81.9)
2015	4,635,400	81

FIGURE 3 - Prison Committals with sentences more than 12 months

year	1-2 years	2-3 years	3-5 years	5-10 years	10+	life	total
2005	465	259	225	143	35	17	1,114
2006	458	281	250	166	20	18	1,193
2007	509	333	360	231	47	23	1,503
2008	610	359	346	219	65	20	1,619
2009	440	408	469	240	70	22	1,649
2010	453	351	420	282	44	18	1,568
2011	636	380	472	227	39	22	**1,776**
2012	461	447	494	227	31	22	1,682
2013	348	335	398	173	31	22	1,307
2014	350	343	346	165	28	25	1,257

FIGURE 4 - Annual Report Snapshot

Snapshot Date	Numbers in custody	% of Bed Capacity	Number on Temporary Release
28th November, 2014	3,777	92%	715
30th November, 2013	4,099	93%	745
30th November, 2012	4,298	98%	805
30th November, 2011	4,313	96%	811
30th November, 2010	4,440	100%	656
4th December, 2009	4,040	100%	718
5th December, 2008	3,695	102%	438
5th December, 2007	3,334	96%	183
7th December, 2006	3,287	96%	137
7th December, 2005	3,157	94%	123
3rd December, 2004	3,147	95%	261
2nd December, 2003	3,234	95%	262

What Good is Punishment?[1]

Professor Fergus McNeill, University of Glasgow

The following paper, on which Professor McNeill's plenary speech was based, is taken from McNeill, F. (2016) '*What (good) is punishment?*' in Farrall, S., Goldson, B., Loader, I. and Dockley, A. (eds.) *Justice and Penal Reform: Reshaping the Penal Landscape.* London: Routledge.

Abstract

Focusing in particular on debates about the rehabilitation of 'offenders' as a key purpose of criminal sanctions, this chapter aims to explore whether we can and should reframe such activities as actively productive of some social good(s), as opposed to being concerned merely with the minimization of social harm(s). If so, what exactly are these goods, and what are the implications of recognizing them for how we do justice?

Key words: Punishment, rehabilitation, justice, sanctions

Introduction

Sociologists of punishment have long recognized that both crime and punishment serve important and useful social functions. Perhaps most famously, Emile Durkheim (1984) argued that social solidarity depends on the unity of moral beliefs in social groups. Punishment of crime is always a passionate collective reaction to violations of these core,

shared beliefs; its rituals are important as a means of allowing us to communicate, reaffirm and reinforce them. As Garland (2013a: 25) puts it in a recent reexamination of Durkheim's work on punishment, offending shocks 'healthy' (i.e. well-socialized) consciences into punishment as a reaction:

'*The essence of punishment*', [Durkheim] claims, '*is irrational, unthinking emotion driven by outrage at the violation of sacred values or else by sympathy for fellow individuals and their sufferings*'. (Ibid.: 25).

The notions of crime and punishment as, respectively, a stimulus for and crucible of moral communication suggest the possibility of positive framings of the challenges posed by crime. Yet contemporary penal policy tends to be preoccupied merely with reducing harms by preventing crime, protecting the public or reducing reoffending. The unlikely analogy of plumbing might help to make clear the differences between these positive and negative perspectives. Most of the time, when we think about plumbing - and when we call plumbers - it is because we are concerned about flaws (or leaks) in our plumbing systems. We know that, left unattended, even very minor leaks have the capacity to destroy the fabric of our homes, and to diminish their value. Major leaks can do serious damage very quickly and can make life in our homes intolerable. A good plumber, we tend to think, is one who fixes leaks swiftly and efficiently - minimising our losses and restoring our comforts.

But there is another way to think about plumbing; the way that architects, for

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example, might think about it. For them, plumbing is a central design feature in any property, the purpose of which is to bring two of the necessities for human life - heat and water - to wherever they are needed (and, of course, to remove some of the waste that human life inevitably produces). Perhaps for architects, the 'true' purpose of plumbing is to make human life comfortable in a given space and thus to allow humans dwelling in the space to thrive.

My suggestion is that, much of the time, when we think and talk about criminal justice, we think and talk as if its institutions are like leak-repair or leak-prevention services. For example, we talk about the importance of crime reduction, tackling the fear of crime, reducing reoffending, managing serious and dangerous offenders, reducing risk. In contrast, the central argument I want to advance in this short chapter is that perhaps *we should judge criminal sanctions not so much by the evils (or harms) they reduce as by the goods they promote*. In other words, I want us to think like architects of justice.

That said, the problem with architects is that they have a tendency to build edifices; at their worst, ambition or vanity gets the better of them, and they build large, wasteful and unsustainable buildings that the next generation has to tear down. So it has been with punishment. In the middle of the 20th century, the ambition to do something positive with punishment, and the vanity of assuming too readily that we knew what to do, constructed an intrusive and expansionist penal welfarism (Garland, 1985). Despite its benign intentions, welfarism often neglected the human dignity and rights of the subjects it aimed to rehabilitate or reform. Counter-

movements pressed the case for a much less ambitious and, they hoped, a much less harmful philosophy of just desserts (Von Hirsch and Ashworth, 2005) and of limiting retributivism (Morris and Tonry, 1991; Frase, 2004). Yet, what we have witnessed at least in some Western jurisdictions in the last 30 years is not a shrinking penal state that accepts a modest assessment of its limits and an expanded conception of its duties but rather the opposite. At least in Anglophone jurisdictions we more commonly find an expanding penal state with a hollowed out sense of its obligations, and a desire to contract out or otherwise devolve to others any obligations it can (Wacquant, 2009). If nothing else, the story of mass incarceration makes clear enough that penal expansionism has no need of a positive narrative; to the contrary, it feeds on fear and insecurity rather than on hope and aspiration.

So, while my instinct is to heed the injunctions of critical criminologists (like Christie, 1993) and to favour penal reductionist and (wherever possible) abolitionist strategies, and while I recognise that a positive agenda can become an expansionist one, I aim here to consider whether and how the articulation of a positive agenda for criminal justice might in fact exercise a moderating and modifying effect on the penal state. In seeking to develop these arguments, I will focus primarily on the sanctioning end of the justice system, and more specifically on the relationships between punishment and rehabilitation (for a more detailed discussion, see McNeill, 2014).

What sort of good is (criminal) justice?
One of the 20th century's preeminent political philosophers, John Rawls,

famously wrote in his magnum opus *Theory of Justice* that: '*Justice is the first virtue of social institutions, as truth is of systems of thought*' (Rawls, 1971). Those familiar with his work will understand that he was discussing justice in the broadest sense. His mechanism for exploring the nature and meaning of justice required us to imagine ourselves as rationally self-interested amnesiacs deliberating about social institutions from behind a 'veil of ignorance' (that is, to imagine ourselves capable of reasoned argument but freed from privileging our own interests and positions). From this position, he argued, we could intelligently but disinterestedly work out how to order society and to address the enduring tensions between liberty, equality and welfare. His conclusions need not concern us here; the central point is that he saw justice as the core virtue (or quality) of social institutions and not merely as a mechanism for delivering *other* social goods. In this he drew perhaps on Aristotle who, in the *Nichomachean Ethics* distinguished between constitutive and productive ends. The latter are ends that are good only insofar as they produce some other good; the former are good in and of themselves.

However, even if justice is properly understood as a constitutive good of the good society, it is also a productive good for humanity. Perhaps the simplest way to sum this up is in the common slogan, '*Without justice there is no peace*'. In other words, reciprocal social relations of cooperation are essential to human and social life (just as they were to human evolution); without an established network of reasonably reliable reciprocities, we can enjoy peaceful co-existence neither at the level of the community nor at the level of the state. In similar vein, at a recent Howard League

conference, the British historian Bettany Hughes explained that the oldest surviving human text (from Ancient Babylon) contains the text '*Ana shulmi u balaatu*', meaning '*To peace and to life*'; the phrase is interpreted as a greeting or salutation that was used when social or kinship groups came together. It is perhaps a statement of mutual respect that had to be uttered to make discussion (and trade) possible between unfamiliar groups for their mutual benefit.

This brief and superficial excursion into philosophy and ancient history is simply offered by way of recalling what is at stake both in 'offending' and in punishment (see also Atwood, 2008). Offending (whether by individuals, groups, corporations or states) offends because and to the extent that it violates these fundamental principles of mutual recognition and respect, and the reciprocal social relations that recognition and respect should permit and entail. Offending thus constitutes an unjust distribution (of recognition, respect and/or reciprocity), as the offender fails to return the recognition, respect and/or bonds of reciprocity from which she/he has benefited. The classical explanation of retributivist punishment (which also dates back at least to Aristotle) is that it seeks to secure or to restore a 'just order' of things. In this sense, punishment is a productive good; it aims to remedy an imbalance (in the scales of justice or in the honoring of obligations of reciprocity) and to restore the proper equilibrium in human and social relationships.

However, as we have already seen, following Durkheim, punishment is also a *communicative* good; by affirming and expressing our values, it says something to us and about us as a community; it reminds all of us how we understand our

common obligations of respect, recognition and reciprocity. Even so, Durkheim also argued that we can punish in ways that are *'pathological'* or ill-adapted to our social and political circumstances, and to the state of development of our society (see McNeill and Dawson, 2014). For Durkheim (1973), the development of moral individualism in modernity, amongst other influences, should have produced a shift from repressive to restitutive forms of law and punishment.

More generally, it is clear that there are many possible ways to restore balance and to communicate and affirm values. Most fundamentally, we can punish in ways that willfully damage offenders and their interests, or we can punish (or rehabilitate) in ways that elicit a more positive form of redress. The choices we make about the forms of penal power and the penal mechanisms we deploy in this respect are historically, sociologically and politically contingent. And they have profound consequences.

Two forms of penal power
In a recent paper that offers a compelling argument for the development of comparative analyses of the contours of 'penal states', Garland (2013b) identifies 'modes of penal power' as one of the key dimensions of any comparison:

'Penal power takes different forms and may be oriented toward different ends. The power to kill, the power to incarcerate, the power to supervise, the power to levy fines, the power to transform individual conduct, and the power to transform families or communities are distinct forms, and they each may be deployed as means to different ends. For purposes of comparison, one wants to know which

modes of exercising power are deployed by a particular penal state and in what proportion' (Ibid.: 500-501).

Garland also notes, following Foucault (1975/1977), that these modes of penal power are also inevitably also modes of 'power-knowledge'; the discourses, rationalities and technologies of punishment in any society and in any system, will have profound consequences.

For Garland, 'negative' penal power is incapacitating; 'positive' penal power is capacity building. This distinction is not difficult to comprehend; indeed, it is implicit not just in sociological analyses of penal discourses and practices, but also in the philosophy of punishment itself. Retributive punishment remedies the imbalance that crime creates by taking something away from the offender; it slices something off - or cuts the offender off from or out of society altogether. It may take life, liberty, time, property or reputation and status - or some combination of these. In essence retributive punishment imposes some form of loss or suffering on the offender as a negative compensation for the unfair advantage that offending has illicitly produced. Though this is negative power, the term 'incapacitation' is perhaps too clinical or managerial a term for what is going on in this kind of punishment, since retribution is also demonstrative and communicative. Psychologically and etymologically, retribution is not far away from revenge (in Latin, 'revindicare'), though the latter term also implies that the purpose of the pain imposed on offender is to release (or more literally to 'vindicate') the victim's pain or loss.

Positive approaches to punishment, whether rehabilitative, reparative or restorative, tend to aim at grafting the

offender back into the social body rather than severing him or her from it. There are important differences in the methodologies and priorities of these three approaches. Rehabilitation - to the extent that it focuses on the offender and not the victim - requires no metaphor of balance, whereas reparation and restoration can and do share retribution's desire for justice-as-balance. But, like rehabilitation, reparation and restoration aim to sanction in ways which build capacity rather than imposing loss; they aim to enable and elicit goods from (and sometimes for) the offender; to enhance life, (positive) liberty, time, property, reputation and/or status. These enhancements are conditional, to be sure - but they are in theory made available in and they are valued by these penal philosophies and practices. If (and only if) the offender 'makes good' then the balance is restored without the need for exacting loss upon him or her.

There are risks involved with both forms of power. The problem with the exercise of negative penal power is obvious; it harms those upon whom it operates. Moreover, it does a great deal of unintended collateral damage to others associated with the offender (principally their partners and children, on which see Condry, 2007; Comfort, 2007). Additionally, since most of those on whom this incapacitating, diminishing power operates have to return to (or continue in) life in the community, it risks damaging their ability to do so lawfully and constructively. Garland (2013b: 478) makes this point himself in commenting on the multiple 'disqualifications and disabilities that follow felony conviction' in the USA. He adds:

'In all societies, the stigma of criminal convictions and sentences of imprisonment creates difficulties for ex-offenders when they try to secure employment, find housing, form relationships, or resettle in the outside world. But in the United States, these de facto social consequences of conviction are exacerbated by a set of de jure legal consequences that extend and intensify the sanction in multiple ways. Disfranchisement, either temporary or permanent; disqualification from public office and jury service; ineligibility for federal housing benefits, education benefits, and welfare assistance; liability to court costs and prison fees; exclusion from various licensed occupations; banishment from specified urban areas; and where the offender is a noncitizen, deportation - all of these are concomitants of a criminal conviction for millions of individuals… the result [is] that potential employers, landlords, and others are legally permitted to discriminate against an individual on the basis of his or her prior convictions, or on the basis of prior arrests, even when these were for minor offences or offences that occurred many years previously'. (Ibid.: 478-79).

If, as some have argued (e.g. Joliffe and Hedderman, 2012), the consequence of these civil disqualifications and disabilities is that the exercise of negative penal power is itself criminogenic, then ironically it harms not just the offender but the punishing community itself.

The dangers of positive penal power are somewhat different - although also familiar. As I noted in the introduction, too optimistic and enthusiastic an assertion of positive penal power (especially of the rehabilitative sort) can easily become de-coupled from the constraints of the metaphor of balance. If punishment is doing the offender good (and thus doing us all some good

somehow), then why sets limits of proportionality upon it? Of course, this is the lesson of history; rehabilitation's infamous (if often over-stated) demise in the 1970s and 1980s was at least partly the result of a failure to season optimism about the 'appliance of science' with first, respect for human rights, and second, a thorough, cautious and critical appraisal of research evidence.

Garland (2013b) also makes an important practical point about the exercise of these two forms of penal power. For all its disadvantages, the exercise of negative penal power - precisely because of the limit of its ambition (to incapacitate) - lies wholly within the ambit of the penal system; penal actors can incapacitate without cooperation from other social systems and services, or from civil society more broadly. Exercising the positive form of penal power, by contrast, depends to a very great extent on collaboration not just between justice agencies (policing, prosecution, courts, probation, prisons), but with services, systems and actors outside of the penal system (e.g. education, health, housing, welfare, etc.). The penal system has it within its own grasp to exclude, but not to integrate.

Four forms of integration
In some recent papers (McNeill, 2012a, 2014; Kirkwood and McNeill, 2015), I have been seeking to refine an understanding of what rehabilitation and reintegration might mean and what they might require. My ideas first evolved in the context of a somewhat technical debate about evidence based practice in 'offender rehabilitation' (McNeill, 2012a). In that paper, I began with a review of current arguments about what a credible 'offender' rehabilitation theory requires, exploring some aspects of current debates

about different theories, before going on to locate this specific kind of contemporary theory-building in the context of historical arguments about and critiques of rehabilitation as a concept and in practice. More pertinent in the context of the current discussion, in the third part of the paper, I examined the nature of the relationship between 'desistance' theories (explaining how and why people stop offending and progress towards social integration) and rehabilitation theories, so as to develop my concluding argument: that narrowly conceived debates about the merits of different forms of 'psychological rehabilitation' have been hampered by a failure to engage fully with debates about at least three other forms of rehabilitation (legal, moral and social) that emerge as being equally important in the process of desistance from crime. The concluding discussion of the paper is introduced with a quote that deploys the metaphor of mobility:

'To the extent that felons belong to a distinct class or status group, the problems of desistance from crime can be interpreted as problems of mobility - moving felons from a stigmatized status as outsiders to full democratic participation as stakeholders' (Uggen et al., 2006, p283).

Drawing on evidence from desistance studies - which often examine and rely upon the lived experience of rehabilitation and reintegration - I argued that rehabilitation is a social project as well as a personal one. Whether cast in deontological terms as being concerned with the requalification of citizens, or in utilitarian and correctional terms as being concerned with their re-education or re-socialization, rehabilitation raises profound political questions about the nature of (good) citizenship, about the

nature of society, about the relationship between citizenship, society and the state, and about the proper limits of legitimate state power.

The practical challenges of 'delivering' or 'transforming' rehabilitation ultimately rest upon these shaky and underarticulated philosophical foundations, and at least some of rehabilitation's problems come from the failure of some of its proponents and practitioners to engage adequately with these moral and political questions. Such engagement requires 'psychological or correctional rehabilitation' (which is principally concerned with promoting positive individual-level change in the 'offender', developing his or her motivation, skills and capacities) to articulate its relationships with the three other forms.

The first of these concerns the practical expression of Cesare Beccaria's (1764/1963) concern with the requalification of citizens; this is the problem of 'legal or judicial rehabilitation' - when, how and to what extent a criminal record and the stigma that it represents can ever be set aside, sealed or surpassed. Maruna (2011) has recently argued cogently that efforts to sponsor rehabilitation and reform must address the collateral consequences of conviction - most notably its stigmatising and exclusionary effects - or be doomed to fail. No amount of supporting people to change themselves and their behaviour can be sufficient to the tasks and challenges of rehabilitation and desistance, if legal and practical barriers to reintegration are left in place. The most obvious of these barriers relates to the effects of criminal records in terms of labour market exclusion (Armstrong, McGuinness and McNeill, 2013).

However, I also argue that such barriers are not just legal - they are moral and social too. A solely psychological conception of rehabilitation is inadequate to the moral and social offence that crime represents. In simple terms, doing something for or to the 'offender', even something that aims to somehow change them so as to reduce future victimisation, fails to engage with other key aspects of dispensing justice. Perhaps most importantly in moral terms, as I noted above, rehabilitation offers no moral redress *per se*; it operates only on the individual 'offender', not on the conflict itself and not on the victim or the community (Zedner, 1994). Critically, reparation - and reparative work in particular - seems capable of fulfilling this function in ways rehabilitation cannot, perhaps principally because reparation seems better able to convey (not least visibly) that redress is being actively provided. Rehabilitation, by contrast, is typically a private and secretive business, incapable of responding to the late-modern re-emergence of appetites and demands for more expressive forms of justice (Freiberg, 2001; Pratt, 2007).

Reparation perhaps speaks to the insistence that moral demands have to be satisfied, and moral communication secured, before 'moral rehabilitation' can be recognised (see also Duff, 2001). In simple terms, a person who has offended has to pay back before she/he can trade up to a restored social position as a citizen of good character; as Bazemore (1998) has argued, redemption needs to be earned. This is not necessarily bad news for rehabilitation; as the Scottish Prisons Commission (2008, para 33) noted, '*one of the best ways for offenders to pay back is by turning their lives around*'. But it does mean that rehabilitation theories and practices need to engage much more

explicitly with questions of justice and reparation.

In a later paper further developing the model (McNeill, 2014), this time with reference to the philosophy and sociology of punishment, I add more explicit recognition of the reciprocal duties implied in moral rehabilitation; duties that are owed by the 'offender', the community and the state to one another. In addition to the offender's obligation to make good, the community and the state must accept a duty to support reintegration that rests on two principles. Firstly, to the extent that the community and the state bear some complicity in permitting or exacerbating criminogenic social inequalities, they too must make good. Secondly, even under a retributivist approach to punishment, the polity has a duty to make sure that the punishment ends and that there is no punishment beyond the law ('nulla poena sine lege'). Yet, as I have already argued here, following Garland (2013b), criminological and sociological evidence about the enduring unintended effects of punishment both for individuals and for their families suggests that this duty is commonly neglected *de facto* and *de jure.*

Ultimately, even where psychological issues are tackled, legal requalification is confirmed and reciprocal moral debts are settled, the question of 'social rehabilitation' remains. In European jurisprudence, the concept of 'social rehabilitation' entails both the restoration of the citizen's formal social status and the availability of the personal and social means to do so (Van Zyl Smit and Snacken, 2009). But in using the term, I mean something that is '*broader, deeper and more subjective; specifically, the informal social recognition and acceptance of the reformed ex-offender*' (McNeill, 2012a:

15). That, rather than the advancement of the 'science' of personal reform, is perhaps the ultimate problem for rehabilitation in practice. It lies at the root of the hostile correctional climate that bedevils and undermines rehabilitation (Garland, 2001; 2013b), and it lies behind the mistranslation, corruption and misuse of rehabilitation theories.

Conclusions: Judging sanctions

In a very recent paper on 'pathways to integration', Steve Kirkwood and I compare models of and data about 'ex-offender' and asylum seeker reintegration (Kirkwood and McNeill, 2015). In looking at the latter population, we draw heavily on the work of Ager and Strang (2004), who were commissioned by the UK Home Office to develop a framework and indicators for integration to be used in evaluating the work of projects that assist asylum seekers and refugees in the UK. Ager and Strang did so on the basis of extensive empirical work with asylum seekers themselves. They outline ten 'domains' of integration, clustered in four categories:

- Means and markers: Employment; Housing; Education; Health.
- Social connections: Social bonds; Social bridges; Social links.
- Facilitators: Language and cultural knowledge; Safety and stability.
- Foundation: Rights and citizenship.

The first category is described as 'means and markers' because they are both an indication of the extent to which an individual is 'integrated' as well as being resources or opportunities that should assist people to integrate in other ways. The second category draws on research and theory into social capital, which is constituted by the social resources

available to a person through their formal and informal social networks, including family members, friends and work colleagues etc. (Coleman, 1988). Ager and Strang (2004: 4) define the three domains as follows:

1. Social bonds (connections within a community defined by, for example, ethnic, national or religious identity);
2. Social bridges (with members of other communities); and
3. Social links (with institutions, including local and central government services).

The third category (language and cultural knowledge and a sense of safety and stability) relates to aspects that are necessary for facilitating integration, whereas the fourth category asserts to the role of formal rights and obligations, including legal grounds to remain in the host society, and political engagement.

Ager and Strang (2004: 5) define someone as being integrated when they achieve public outcomes within employment, housing, education, health and so on which are equivalent to those achieved within the wider host communities; when they are socially connected with members of a (national, ethnic, cultural, religious or other) community with which they identify, with members of other communities and with relevant services and functions of the state; and when they have sufficient linguistic competence and cultural knowledge, and a sufficient sense of security and stability, to confidently engage in that society in a manner consistent with shared notions of nationhood and citizenship.

This overall framework conceives of integration as a *process* as well as defining successful integration as *achievement* across a range of domains (Ager & Strang,

2008). The authors also point out that if this definition was applied to members of the host society it would inevitably highlight that not all members are equally 'integrated', if at all. However, they suggest that the benefits of integration are such that this is a goal that should be worked towards for *all* members (Ager & Strang, 2004). This framework therefore functions as a sort of 'ideal' that might be used to guide service development and evaluation in terms of policies and practices directed at asylum seekers and refugees, although it holds the potential to be applied to other members of society as well.

There have been criticisms of Ager and Strang's model. Behind its elegance and simplicity lie a set of highly complex problems that face late-modern societies: How do we understand nationhood, citizenship and belonging? Exactly what sorts of reciprocity, trust and social connection are invoked in the concept of social capital? Is that capital available where it is needed or not? Perhaps most importantly, whose responsibility is reintegration? As I have already noted above, in criminal justice the responsibility tends to be placed squarely on the offender or the community (Miller, 2014) but the state has duties too (McNeill, 2012b).

Without dismissing the seriousness and complexity of these problems, I want to conclude by arguing that, if nothing else, the concept of integration at least invites us to ask some challenging questions about our approaches to punishment - and to set those charged with imposing and administering sanctions a positive and challenging metric within which to assess their achievements or failures. I doubt that many criminologists or practitioners would suggest that our present systems

and practices of punishment would score positively against these measures of integration.

Perhaps if, instead of asking whether a sanction prevents an offender from re-offending, we were to ask whether it supports his or her longer-term reintegration, we might come to judge punishment and rehabilitation differently. We might also come to recognise our own moral involvement with punishment as citizens. In the process, we might also be compelled to address some difficult questions about whether and why we think we have any right to punish (in an unjust society), and what the ways in which penal power is exercised on our behalf say about us, to us and for us. I can't help but suspect that it is from confronting these questions - rather than questions about what might work best to reduce crime - that we will learn most about how to be architects of safer and peaceful societies, as opposed to plumbers of leaky ones.

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The Process of Re-entry: An Ethnic Approach
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Hello everybody.

It is indeed a great privilege to be here and to share with you our preliminary results from our research. For the last five or six Conferences I have been asked to speak after lunch - I still don't know if it's a good thing or not. I know that in England they call it "The Graveyard Slot", but I like the German version more - they call it the "Schnitzelkoma" (food coma). I think that is more illustrative.

Anyway, I will try to share with you our preliminary findings from our research which is an ethnographic one. I know that there is a lot of research going on in Ireland on Travellers and I am looking forward to sharing and discussing with you our results and to learn from each other.

I would like to start by saying that the research which we are now doing in Bucharest aims to develop the advanced understanding of the re-entry process from the prisoners' or ex-prisoners' perspective. We have sixty participants who have all been released from prison and we use a typical kind of methodology for ethnographic studies like in-depth interviews, observations, scales, photos and also questionnaires. Some of the findings which we are able now to present are based on the research done with the sixty participants, half of them being Roma and the remainder of them being Romanians (non-Roma). It is good to understand from the beginning that we use the Council of Europe definition for Roma - we mean Roma, Sinti, Kali and related groups in Europe including Travellers and the eastern groups from Dom and Lom. This definition covers the

wide diversity of groups concerned including persons who identify themselves as Gypsies. So in our research we were careful to consider Gypsies and Roma and those who define themselves as Roma.

In order to identify Roma people, we used a questionnaire that looked at the cultural characteristics of this group for the last three generations. At the end of the questionnaire we had a question about the ethnic origin or ethnic identity. It was really a sort of forced self-identification because it's quite difficult for somebody to describe themselves as speaking Roma, or coming from a very large family, or having different occupations that are specific to this kind of group for the last three generations, and then to say they are non-Roma. It was a self-identification but there was also a process behind that to help them disclose their own identity in a free way.

It is also important to mention that most of the Roma in Romania are not nomadic. They are stable with fixed addresses.

The results which we can share with you are actually based on interviews, observations and photographs up to one year after release. We went through all these stages from the pre-release, first week, first month, six months and one year. What we noticed after employing this methodology is that the process of re-entry is actually a process with some quite clear stages.

Anticipation
The first stage is a pre-release one which we called "Anticipation" because it is dominated by hope, anxiety and uncertainty - uncertainty especially

regarding the date of release but also uncertainty regarding the life after release. In terms of identity we noticed that a lot of prisoners define themselves, or identify themselves, as second class citizens but there were also some participants/prisoners defining themselves as average or changed men.

In terms of expectations, most of them discussed about family reunion, getting a job or dealing with other issues. Health issues are also quite present in their narratives. Before their release, almost all participants were very optimistic about their chances to succeed after release. They all spoke about a second life or a second chance or being reborn. It is important to see that the starting point after prison is a positive one and I think we should do more to use that in our interventions.

What we did was we waited for them at the gate on the day of release and we tried to accompany them everywhere they would go. Most of them went back home. Some people went to the pub or to visit some relatives, some went to the graveyard. In this respect we noticed that there are three kinds of Welcoming Rituals and it's really important to bear this in mind together with the rites of passage described by Professor Shadd Maruna. I think most of our rituals are quite connected to what Professor Maruna described in his papers. What we discovered is that we have three kinds of welcomes.

- The first one was the **Heroes**, especially among Roma people - they were welcomed by a large number of people with a lot of noise and with a lot of recognition. There was a great deal of happiness that the person is coming back from prison, and this was quite specific for Roma people coming from large families especially with a very strong or high social status.
- The **Family Man** was waited at the gate by one, or two or maybe three very close family members.
- The **Lone Crusaders** were those who were not waited for by anybody at the gate. Most of the participants in this last category, both Roma and Romanians, were coming from very deprived areas of society.

All of them, even the Lone Crusaders, were very optimistic about their chances to succeed and to stay out of trouble and to start a new law-abiding life.

Based on the results of our research we are making an artistic film. This film has actors but we also have some of our participants involved.

Reunion and Recovery

We have noticed that the second stage lasts for one or two weeks. We call this stage "Reunion and Recovery" because the priority at this stage is the family. Family plays an important role. Family is defined in any kind of way - a wife, a mother, a father, even a niece and so on, but they are all called families. Family is important for the ex-prisoners especially in the first two weeks, not only for practical help but also for emotional and other reasons.

In Week One and Week Two we speak a lot about the prolongation of the prison behaviours - the so-called "prison syndrome". They still display a lot of the behaviours that they experienced in prison. One of these is throwing the phones. In prison, a lot of the prisoners try to get hold of mobile phones. Of course, this is illegal. Every time a prison guard comes and checks, they all throw away the phones as they don't want to be identified as being the owner of the

phone. They tend to do the same in the first two weeks after release. One ex-prisoner told me that he broke two telephones because of that, just throwing away the telephone when someone was coming into the room. Of course, this kind of behaviour can be considered to be a form of post-traumatic stress disorder.

These first two weeks can also be dominated by confusion and disorientation. We call that a "mental adaptation". The ex-prisoners feel dizzy, they get tired when there are many people around or when they see many cars around. It is also important to mention that in this period we are talking about a limited mobility, we are talking about self-confinement. Most of these people spend the first two weeks indoors with the family trying to recover the lost time as much as possible.

Also, we have some examples of re-joining the social networks, employing strategies to avoid trouble, especially strategies to avoid old friends or old partners in order to stay away from trouble. We are already speaking about a very important fear of failure, knowing that they can go back to prison if they make any small mistakes. Again, they are optimistic, especially if they are not socially isolated. They are optimistic about their chances to start a new life and not go back to prison.

We asked the participants to take photographs in their first month outside of prison. We asked them to identify three of the most important pictures. We discussed these pictures with them and we then have the narratives of each picture. This helped us understand from the visual perspective what is really important for them and what is really significant for them in this period. In the pictures we received there were a lot of

family members, children, wives, being present, and also concerns about their medical health and so on. It was interesting and we used some of these pictures to make an exhibition at the University. It was important to be able to show these kinds of pictures to the general public in order for the public to understand better not only the pictures but also the stories behind the pictures - the pictures about the challenges and the priorities of these first two weeks.

Activation
And then after the first two weeks, we have Week Three and Week Four which we call the Third Stage. We call this "Activation" because the priority at this stage is to become economically autonomous, to become independent and useful. Family is still important for both Roma and non-Roma people but in different ways. For example, what we noticed is that for Roma people the strategies which they employ to become economically active were rather entrepreneurial. Romanians were trying to find a job but most of the Roma people were trying to create a job or even trying to get involved in the kind of informal economy like selling flowers, selling telephones on the street and so on. This was not the case among Romanians.

Again, for Romanians, re-integration and becoming economically active again was a rather independent, individual project, while for the Roma people, becoming economically active was a community and a family project. Everybody was interested in helping the Roma participants to find a job to be able to put some bread on the table.

As in the literature, social networks are really important. Of course, if Roma people come from large families they had

more chances to find a job or to create one. But at the same time we have to say that the Roma people tend to live in more deprived geographical areas, so the geography of their community is also important. Many Roma come from very run-down communities with limited or even no legal opportunities. It is shocking to go and visit these communities. If we take into consideration the fact that they travel quite a little especially after release and the services are not available in their neighbourhood, we can understand how difficult it is for them to find the help that they need, so they rely a lot on their informal social networks which are very important especially at this stage.

Consolidation or Relapse

After Week Four we noticed that those who manage to find a job and start to have different concerns and different interests, even different narratives, enter the "Consolidation" stage when they are not talking about prison so much. Even when we ask them, they say *"Ok it's in the past now, we want to start something new. We have a job now, we have colleagues, we have different priorities."* It is important for them to be able to start to become economically active.

If they have no social network, it is almost impossible for them to find a job. We are now in the process of looking into employment strategies in more detail, but it looks like we make it impossible for them to find a job and secure a job. It is not only us, the society, but it is also them, their knowledge, their capacity, and their competences. They don't know where to look for work, they don't know how it is to have a job and so on, so it is a very complex and very important issue and we want to look into this in more detail.

So, as I said, if they have no social networks to count on, the probability of finding or creating a job is very limited, is very small, and therefore they start to think about new ways of generating income and getting some resources. We notice that at this stage they start to romanticise the prison life. When they get released, most of them describe imprisonment as hell, as an impossible experience, but after four weeks outside we start to hear narratives like *"the real imprisonment starts after release"*, *"in prison is better than being outside because in prison we have three meals a day and sometimes we can find a coffee with some help but outside the prison nobody is giving any help".* And therefore it is worse to be outside. So they start to romanticise prison life and then they go back to their old friends and their old habits and usually they resume their criminal career.

The conclusion that we draw so far is that the personal and social sectors that are already identified in the literature are confirmed, especially the importance of the family, employment, hope, identity - but they seem to play different roles at different stages at the process of re-entry, so it's important to know what are their priorities and when, because it is only by doing that, we will be able to offer the support that the ex-prisoners need at different times.

To summarise, it looks like the process of re-entry goes through these five stages: Anticipation, Recovery, Reunion, Activation, and then we have Consolidation/Relapse. But this is just a sort of airplane view - there are a lot of individual differences, life is complex, we are not able to find an identical situation among these sixty people so there is a lot of diversity. This model is not necessarily

linear and one-directional. Some participants go into jobs, come out and sometimes they oscillate between consolidation and relapse, especially as some of them are quite involved in this informal or the so-called "hassle" economy and this kind of economy cannot produce enough income in order to support a decent life, resulting in "in-work poverty". Therefore, we see quite a lot of people, although getting a job, just giving up the job after one week or two because they don't find it useful for building up the new identity and new journey.

The priorities that were identified were quite common among the participants and were quite common in principle for both Roma and Romanians. We also had a focus group with some of our participants, trying to test with them if this kind of process is fair and we are happy to report that they confirmed that this is how the process looks like.

Just to look at the ethnic dimension of the process, we tried to summarise the differences between Roma and non-Roma (especially Romanians) in terms of the attitude to crime, attitude to offenders, forms of support, level of solidarity, sources of solidarity, relevant structures, available legal opportunities, neighbourhoods and occupational strategies. There are quite a few differences between these two groups and I think the most important ones relate to the importance of the family and the attitudes to crime and to offenders. It looks like in the Roma communities crime is not seen as something necessarily bad or negative. Most of the time it is defined as something that happens and now we have to do our best to make it impossible to repeat. The stigma among Roma people is not as strong as among Romanians. Therefore, the general attitude in the Roma communities is to accept the ex-Prisoner rather than to reject or even hide, like in the Romanian communities. It was really painful for us to see, in some cases, among the Romanian participants that not even the whole family knew that they were serving a prison sentence. Sometimes they thought they were abroad for work, in Spain, Italy or Ireland, and sometimes the children did not know that they were in prison, so you can imagine the drama and the situation of these people.

The other big difference between these two groups is, as already mentioned, in terms of employment, where Roma people tend to be a little bit more entrepreneurial; they are more inclined to create a job rather than to pick up an already created one from the labour market.

Thank you.

What is Evidence? Knowledge, Reason and Power in Criminal Justice Practice in Ireland

Dr. Niamh Hourigan, Department of Sociology, University College Cork

As research on criminal justice has developed over the last nine to ten years, I have come to the view that the relationship between the research which generates evidence and effective practice is extremely complex**.** During the austerity period, I have seen initiatives driven by cost-cutting rationale rather than research or evidence-based decision making that have been really effective such as the Community Returns programme. I have also, in studying the Regeneration projects in Limerick, seen initiatives which were based on research and evidence, fail abysmally in specific contexts. In delving further into how evidence can inform decision-making in the criminal justice and other related sectors, I have developed five convictions that

- Resources matter
- Context matters
- What we understand as knowledge and evidence matters
- Ideology matters
- Disciplinary perspectives matter

If any one of these areas is ignored in terms of how evidence is applied to practice, the relationship between the evidence and better outcomes can become negligible in my view. In order to grasp why these five elements matter, it is important to interrogate the core understandings which underpin the idea of evidence-informed decision-making. Most research, even in the social sciences is based on versions of scientific rationalism. In the search for evidence in the criminal justice context, the following rationale is frequently evident:

'Evidence helps people to form conclusions or judgements. It is an outward sign rather than something felt intuitively. The most reliable form of evidence is empirical evidence, based on well-designed large studies which produce results which can be applied in a range of contexts' (cantatx.org, 2016).

This model emphasizes large scale empirical research projects, consistency of findings and cross-site replication of the results of research. The model by which research and empirical evidence is applied to practice generally operates as follows:

- Identify a key problem and desired outcomes
- Locate the research that addresses the outcome
- Assess the extent to which current practices are consistent with the research
- Develop a strategy based on the research and implement it
- Evaluate the impact of new practices on desired outcomes

There tends to be very strong support for evidence informed practice at managerial level in a range of sectors as it puts an end to trial and error practice. This approach also promotes consistency in practice and provides guidance as to how resources should be invested by focusing on what works. Evidence informed practice also provides the opportunity for increased accountability both individually and collectively and makes programmes more transparent. However, there are also several problems with this view of evidence-informed practice which do not

receive enough attention from either practitioners or researchers. Firstly, this approach undervalues intuitive knowledge which is specific to individuals and difficult to capture in research. Secondly, it undervalues work programmes and teams which are already doing good work and doing it well. Thirdly, this is a problem centred approach and starts with a presumption that there is a weakness or something that needs to be improved or solved. We less frequently find research conducted which identifies examples of good practice in the field which are already functioning successfully. In addition, this approach can very easily ignore or neglect the specific demands of contexts which may be distinct or not considered in the broader research. Finally, evidence informed practice can and has been used to cut resources from programmes which are working but may have difficulty proving their effectiveness through evaluative methods.

I want to interrogate some of these issues by focusing on the context where I have done most of my research, Limerick city. When I began the Understanding Limerick research project in 2007, nearly 48% of the population of St. Patrick's institution were from Limerick city. There were more than two hundred clients being overseen by The Probation Service. Today, the numbers of young people from Limerick who are being detained is far lower and the number of young people who are being supervised by the probation locally has decreased dramatically. Despite the scale of this success, there is very little evidence which specifically identifies the projects, interventions and initiatives which delivered these positive outcomes. There is not really any evidence that points to one specific project or intervention having generated this dramatic change. The best guess of experts such as Eileen Humphreys is 'all of it' or elements of 'all of it'. For those who want to see Limerick city become a more peaceful place, this is really good news. However, for those who insist that evidence-informed practice and decision-making is the way forward in terms of criminal justice practice, it's not such great news because there is no clear evidence as to what worked. As a researcher with an expertise on Limerick however, we can make some guesses as to what worked.

Resources

The first thing that made a difference was a dramatic increase in the volume of resources devoted to Regeneration areas in this city and particularly into criminal justice, diversion and youth work interventions. One of the major flaws in evidence-informed interventions in the criminal justice area is that often the evidence is gathered in ideal contexts where those making the interventions have adequate and sufficient resources to do the work. However, the findings of research are often subsequently applied in contexts where practitioners have nothing like those resources. There are very clear examples of this pattern in terms of the child protection system here in Ireland. There is lot of evidence, for instance, about how best to support a child in care and indeed, the carer, based on a specific model of how many children are allocated to each social worker - a caseload which almost never accurately reflects average caseloads in the Irish context (O'Brien, 2016). In this context, evidence informed decision-making is impossible to represent as the evidence-based research is inappropriate to the resource base allocated to the situation in which it's being applied.

Attention to the Specific Demands of the Context

The criminal justice problems in Limerick city were linked to the prominence of drugs distribution networks, a phenomenon which contributes to crime globally (Hourigan, 2016). However, in Limerick, this activity had become intertwined in a complex way with a local inter-family feuding. Within this context, there were also complications generated as a result of the inter-weaving of inter-family tensions within the Travelling community into some, though not all, criminal gang networks. The problems were localised to some specific areas of the city and again, the layout of these estates (which were effectively cul-de-sacs) contributed to the problem as did the regime of fear operating in those contexts (Hourigan, 2011). While a range of the youth based and diversionary interventions which were put into operation in Limerick were based on research and evidence informed decision-making, they were successful because they were adequately resourced and the overall regeneration focus of the project allowed for attention to be directed to specific elements of the context (spatial elements, child protection elements, ethnicity elements).

Changes were made not only to overall strategy but also to national legislation through the *Criminal Justice Amendment Act 2009* to reflect the challenges of that particular context, particularly in terms of reluctance of witnesses to testify against senior figures in these networks. Therefore, even without detailed research, it is possible to identify some elements of the Limerick Regeneration approach which were effective. However, we see some of these strategies being applied in the current inter-gang feud in Dublin and they are not nearly as effective

– why, because the context is different. The two family networks involved are much more trans-national in their mode of operations. The areas serving as core bases of operation are not cul-de-sacs but in some cases, central areas of Dublin's inner city where the movement of individuals cannot be monitored as easily (Lally, 2016). This difficulty in applying the same approaches to distinct contexts demonstrates that there is always a danger that an emphasis on evidence informed decision-making in criminal justice contexts can lead to a form of intellectual laziness. As a result, practitioners may apply models which have been found to be successful in other contexts but which fail to take account of the demands of the current context.

However, my biggest concern about evidence informed decision-making is that it privileges a certain type of knowledge: A type of knowledge that is open, transparent, verifiable and de-values knowledge which is more intuitive and personal. In his comparison of the cultural understandings of East and West, philosopher Thomas Kasulis describes this difference as follows '*how I know my car needs fuel differs from how I know my child is worried about something*' (2002, p.28). Knowing that your car needs fuel is based on scientific rationalism however, knowing there is something wrong with your child is based on intimacy, intuition and experience. He gives a number of examples where this type of knowledge is valued in professional contexts. Kasulis highlights the role of judges of events such as gymnastics or diving where rules and guidelines exist about mistakes but where decisions about distinguishing between the two or three top performances are left to the discretion of the judges' experience and his intuitive sense of what's right. He also interrogates

the complexities of medical diagnosis where there is often lots of evidence to inform decision making but where research indicates that physicians will still often rely on their intuitive sense and experience in evaluating of how the patient is and how they are communicating about their illness. He comments:

'To diagnose a case, the physician must evaluate the scientific data in light of how the patient acts and speaks. Is the patient a hypochondriac who exaggerates symptoms? A self-appointed expert who tries to make the symptoms fit their own diagnosis? A likely candidate for a psychogenic disorder?' (Kasulis, 2002, p.48)

It is important for practitioners to be aware of how much these kinds of intuitive understandings are already filtered out of research because to include them in data findings would compromise ethical guidelines or code of practice within particular professions. Our emotions and our emotional reactions to individuals can often inform our practice and our intuitive response to people. However, Barter and Renold (2003) note that these emotions are often filtered out of research findings because they are deemed to be 'epistemologically irrelevant'. Shane Blackman notes '*there has been a reluctance to describe emotion in fieldwork accounts and empirical research. This hesitancy stems from the fear of losing legitimacy, or being discredited...there is a disciplinary requirement and an ethical demand that [research] should be clean*' (2007, p. 701). Therefore, in using evidence to inform decision-making in criminal justice, it is important to recognise that the evidence may only be telling us part of the story because of the ethical constraints and structural conditions within which it was produced.

Research is hugely important however, it is important to acknowledge that there are some kinds of knowledge which can be hugely beneficial to 'good practice' which are almost impossible to capture through conventional empirical research as this research often filters out these elements in the way that findings are reported. In order to bridge the gap between these intuitive knowledges and more open verifiable knowledges, it is vital to develop research methods which are better at mapping intuition and emotion which are often linked to experience or simple understanding of human nature. It is also critical to develop professional spaces where this knowledge can be valued.

Finally, I think it is also very important for practitioners to be critical about how and why evidence is used in particular contexts. There is no doubt that evidence informed decision making and practice can increase transparency and accountability. In its own right, this can be a very good thing, protecting clients and practitioners alike. However, in a range of sectors including my own, a growing emphasis on transparency and accountability, has been used not to deliver better quality practice but increase productivity under highly straightened conditions where the quality of practice often diminishes. In seeking to achieve 'better outcomes', we must always ask who benefits from these improved outcomes - clients, staff or managers. It is rare in my experience that single strategies deliver better outcomes for everyone in all these categories. It is no accident that the emphasis on transparency and accountability which has developed in public sectors across

advanced industrial societies has gone hand in hand with increasingly growing neo-liberalism where many of those public services have been cut to the bone. Cris Shore and Susan Wright comment:

'*Accountability is not always as democratic and empowering as it appears. On the contrary, we shall argue, a peculiarly coercive and disabling model of accountability has emerged. There are three main reasons for this; first because accountability is elided with policing, second because it reduces professional relations to crude, quantifiable and above all, inspectable demands, and third, because it is introducing disciplinary mechanisms that mark a new form of coercive neo-liberal governmentality*'. (2004, p.101)

I think that given this broader context, it is very important for practitioners to be both critical and reflexive about the disciplinary perspective which underpin the evidence which they are using to inform their decision-making. I think this is particularly critical in the area of criminal justice and diversion where there has been a strong leaning towards psychological and cognitive behavioural approaches which have achieved notable success. I commend this work and indeed, I am particularly impressed with the achievements of diversion projects in contexts such as Limerick where I am familiar with the day-to-day challenges faced by practitioners. However, it is important to acknowledge that this model does, in many ways, locate the reasons for the behavioural challenges at the level of the individual. It also puts the responsibility for dealing with the behavioural challenges at the level of individual. Within this model, society in many ways is let off the hook.

We know that since 2008 Irish society has become more unequal and that those who are most vulnerable have been hit hardest (Allen and O'Boyle, 2013). We have seen the consequences of cuts to education, cuts to services and the lack of opportunities for young people in the conventional workforce, even young people who are highly educated and have all the advantages that life can give. As Head of an academic department, I spend much of my time at the moment dealing with young graduates who can't get jobs and are taking unpaid internships, living at home with their parents because they can't afford the high rents in Ireland's towns and cities. Many are still paying off student loans to cover spiralling fees. If this very privileged group feel that their opportunities have constricted during the last five years, if they feel that society isn't cutting them a fair deal, how must those who are at the very bottom of the socio-economic spectrum feel? How much more has our society failed them and how much more tempting is a life of excitement and potential wealth through crime? This is the society we have created and I think in developing evidence informed decision making models for criminal justice we have to acknowledge its deep injustices. These injustices do significantly impact on the individual's capacity for change regardless of the positive contributions which research and evidence informed decision-making can make to professional practice within the criminal justice system.

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Pictured (L-R): **Judge David Riordan**, **Gerry McNally**, The Probation Service, **Dr. Niamh Hourigan**, University College Cork, **Prof. Fergus McNeill**, University of Glasgow, and **James Martin,** Department of Justice and Equality

Conference Closing

Tánaiste and Minister for Justice and Equality, Ms. Frances Fitzgerald TD

Good afternoon ladies and gentlemen.

I am delighted to join you today for the closing discussions at the 3rd Annual Irish Criminal Justice Agencies Conference.

I would like to thank Maura Butler and the ACJRD for again partnering with the Justice Sector in order to put together today's event. Thank you also to Vivian Geiran and all in The Probation Service, which took on the role of lead agency in planning this year's conference. I also want to warmly thank Judge David Riordan who chaired today's research roundtable, and all of the plenary and workshop speakers who have contributed to the conference proceedings.

I am greatly supportive of this annual conference series as providing a forum for reflection and engagement on key issues facing the criminal justice system and the public it serves. The two previous conferences addressed penal reform and engagement with young people respectively and gave us an opportunity to drill down into those issues.

Today's conference theme is a cross cutting one, with significance for every facet of our criminal justice system. I think it is fair to say that in comparison with some other areas of public policy in Ireland, the evidence base for our work in the field of criminal justice has not been as strong as we would like. There are particular challenges faced for those wishing to advance criminological insight in an Irish context. Not least are difficulties with data availability and compatibility within and between our systems. The outrage that crime naturally elicits also colours debate and clouds opinions. But, if anything, this makes it even more imperative that we carefully consider the evidence when considering policy interventions.

None of these challenges have deterred those working in the field, however. There is now a growing body of researchers working in the criminological area, providing valuable insight, and I am pleased so many could participate today.

The opening presentation from Jimmy Martin this morning addressed the particular challenges faced in forecasting for the number of persons imprisoned, and provides a good example of the difficulties faced in comparison with some other areas of long term public service planning.

Nor has there always been the same tradition of feedback and interaction between research and practice as is some other areas of social policy. This afternoon, Dr. Niamh Hourigan addressed important aspects of the role played by evidence in criminal justice practice, and the difficulties in moving from conceptual models of good practice to complex realities of implementation. Many of you here today will, whether as practitioners or researchers, be familiar with the often uneven and uncertain way in which academic research, evidence gathering and evaluation feeds through into policy and practice.

Today's conference, and the work which will flow from it, is therefore very welcome. Notwithstanding the difficulties I have noted, there are good examples of how we are improving our knowledge and research base, how it is impacting on

policy making, and ultimately finding expression in better societal outcomes.

Developments in recent years in the management of sex offenders and in the operation of the SORAM model are examples. So too is the improved understanding we are gaining from the work the CSO is carrying out on recidivism analysis, and the related area of the community return programme. I would also like to acknowledge and praise the work carried out by the editors and contributors to the Irish Probation Journal over many years, in providing a forum for interaction between research and practice in an Irish context.

More generally, I would also point to the work of the Penal Policy Review Group which conducted a wide ranging strategic review of penal policy taking into account relevant work already completed here and elsewhere. Its recommendations are strongly informed by evidence and are being overseen by a Penal Policy Implementation Oversight Group independently chaired by Dr. Mary Rogan, the reports of which will be published on an ongoing basis.

As a former Minister for Children and Youth Affairs, I am also very encouraged by the work being carried out in evaluating the impact of interventions for children and young people, which I note was addressed by Mary Rafferty and Aisling Sheehan from the Centre for Effective Studies during one of today's workshop sessions. This programme of evaluation, and its translation to implementation, has a bearing on issues faced in the criminal justice sector. As well as suggesting models which might be applied, the implications of the results emerging for interventions within the justice sector are also of interest.

As Tánaiste and Minister for Justice and Equality I want to assure you of my commitment to supporting work to improve our evidence base and to bring the benefit of research and analysis into policy and practice.

It is worth pausing to note how central the question of evidence and engagement is to the Vision for the Civil Service, which is set out in the Civil Service Renewal Plan.

That Vision sets out the Civil Service's Mission as being to

· To offer *objective and evidence-informed* advice to Government, respond to developments, and deliver Government objectives while striving to achieve *optimal outcomes in the long term national interest*, and
· To serve citizens and stakeholders efficiently, equally and with respect, in a system that is *open, transparent and accountable*

In the Department of Justice and Equality, and across the civil service, we are investing to give effect to this commitment. Under the leadership of the Department's Chief Information Officer, Alec Dolan, the Department has established an IGEES Unit (part of the Irish Government Economic Evaluation Service) to work alongside other research and analysis programmes in the Department, to provide high standards of analysis and input into decision making.

At one of the workshop's earlier today, Hugh Hennessey from the new IGEES Unit gave a flavour of some of the projects we are initiating. These include developing an end to end model of the criminal justice system, preparing a cost of crime model, and developing an evaluation

framework and capacity in the Department.

This work, and our understanding of how the criminal justice system operates, is hugely dependant on data. As I have said, limitations in data and its compatibility have long been problematic for policy makers and researchers. I am pleased to say, therefore, that the criminal justice agencies are working together on proposals to improve data interoperability under the aegis of the Criminal Justice Strategic Committee. This programme aims to improve the availability of data to support operational activity and policy making, but also to inform broader research and debate on criminal justice issues.

A key part of the Department's research programme is to facilitate more open policy dialogue with academia, external specialists and other stakeholders. As many of you know, the Department's Chief Information Officer recently chaired a Roundtable on Research which drew together representatives of most Irish universities and research institutes, as well as Departmental researchers, heads of policy Divisions and a number of agencies.

The objective of this introductory meeting was to explore how the research community and the Department might best work together to increase our appetite and capacity to use available funding or resources, while ensuring that outputs are better utilised in policy development.

The roundtable discussions chaired by Judge Riordan today are also extremely helpful in continuing and broadening this engagement. I look forward to the further development of a more structured

dialogue and engagement with the research community, as part of our ongoing work to improve the quality of policy making and better meet society's needs.

One interesting sectoral initiative related to the development of research thinking by the Department of Justice and Equality, which I would like to mention, and which I expect was raised in workshop discussions today, has been the recent establishment of the first all of Ireland Postgraduate Research Network on Domestic, Sexual and Gender-based Violence. This network is facilitated by Cosc – the National Office for the prevention of such violence. This project is being taken forward as an action embedded in the Second National Strategy on Domestic, Sexual and Gender-based Violence 2016 - 2021.

The main aim of the Network is to improve knowledge and understanding of the issues faced, and to encourage the development of rigorous and critical domestic, sexual and gender-based violence scholarship. It will provide a platform for multi-disciplinary engagement and dissemination of researchers' work, and promote dialogue and collaboration between researchers, policy makers and NGOs in different sectors and disciplines.

Membership of the Network is initially limited to doctoral candidates. I understand that other post-graduates will be invited to participate in activities and events, as appropriate. I look forward to hearing more about the Network's activities and seeing its impact feeding through into policy and service delivery.

I am optimistic about the plans we are making and encouraged by the goodwill and enthusiasm displayed today.

As I have said before, the ACJRD has a long tradition of bringing together a wide range of officials, practitioners, academics, NGOs and many others with an interest in review and reform of the criminal justice system. It provides an excellent and informal forum for the exchange of ideas and experience and I would like to again pay tribute to the contribution it has made over many years.

I would like to thank you all for your participation, and look forward to reviewing the conference outcome and feedback.

Pictured: Tánaiste and Minister for Justice and Equality, **Ms. Frances Fitzgerald** TD

ROUND TABLE SUMMARIES

In the context of the overall theme of the conference, there was a Round Table discussion which aimed to draw together those who conduct criminal justice research with those who commission such research, to map out the experiences and needs of each cohort. It assembled during the non-plenary aspect of the conference for one hour during the morning and again for one hour in the afternoon of the conference.

WORKSHOP SUMMARIES

1. Linking Research to Implementation: Some Examples of Learning from Practice

Presenters: Dr Aisling Sheehan, Project Specialist, and Mary Rafferty, Senior Manager, Centre for Effective Services
Chairperson: Margaret Griffin
Rapporteur: Annita Harty

The Centre for Effective Services (CES) connects policy, practice and research to help ensure that services are developed and delivered in line with the best available evidence. CES is a medium-sized organisation with charity status. It was established in 2008.

CES provides services in the areas of policy advice, programme design, implementation, evaluation and knowledge translation for different sectors. In order to provide programme designs and evaluation the CES needs evidence. They need to know: what works? How it works? What is not working? These are fundamental questions that CES asks while conducting its work. Evidence is needed to help policy and practice achieve the best outcomes for the population.

Evidence is broader than research and evaluation. It is not always enough to have evaluations and reviews, especially if they are not going to be put into practice. **Evidence may be known and shared but, sometimes this is not the case and this can cause confusion as to what works and what does not work in relation to implementing effective services**.

Evidence comes from research but figures cannot stand for themselves. They need to be read, heard and taken in specific contexts. It is important to take into consideration the quality of the research before implementing it into practice. It is also important to reflect upon from where the evidence has come. Who has commissioned the research? Do they have any potential biases? CES takes these questions into consideration when reviewing research. In some instances, service providers who are commissioning research may exclude certain elements of their service because they feel that they are not important. However, this can impact on the quality of the research findings and the consequent development of services.

Once evidence has been gathered and organised for its optimum use, consideration needs to be given as to how it can be used in a given setting. Training and other resources are needed to bridge the gap between what the best available evidence indicates and what is currently delivered in services.

"What is implementation? It focuses on operationalizing the plan. It is about the how, as well as the what!" - CES (2012)

Implementation is the science of incorporating innovations into typical service settings to benefit clients. However, it is also considered an art form, as it can be a messy process. Implementation differs from two other common activities: diffusion and dissemination.

Diffusion is the passive, untargeted, and unplanned spread of new practices. It is also referred to as "letting it happen". Diffusion is reliant on people having access to research; it is also reliant on people then using that research to try new practices. Dissemination is the active spread of new practices to the target audience using planned strategies. This is known as "helping it happen". These targeted audiences could be at specific events, conferences or even at roundtable events to help get new strategies noticed and used.

How implementation differs is that it is the process of putting to use or integrating new practices within a setting. It is about "making it happen". Implementation is not an event but is a process that happens in stages. These stages are:
- exploring and preparing
- planning and resourcing
- implementing and operationalising
- full implementation

All of these stages need to be completed and they cannot be skipped. Working through these stages can take long periods of time and it is important to be aware that it typically takes between two and four years to reach the full implementation stage. Each stage is associated with activities that act as enablers to help facilitate or drive implementation. Engaging in these activities can lead to more effective implementation.

In the exploring and preparing stage, different factors need to be examined. In addition to assessing the best available evidence, the following need to be considered:
- population/service user needs

- capacity to implement a given innovation
- the readiness of the innovation to be replicated
- resource availability and
- how the innovation will fit within a given context

When it comes to reviewing evidence, it is important to notice and acknowledge any limitations, such as the size, scale, and scope of the studies. Other jurisdictions may have the answers to some of our questions but sometimes the answers aren't readily available and jurisdictions and contexts can vary significantly. Synthesising evidence can help formulate better plans for implementation purposes, yet this can be a complex task. Mary Rafferty and Aisling Sheehan brought many different booklets and summaries of CES work to the workshop, including evidence syntheses. They did this to demonstrate that even the most enormous and detailed report can be condensed to help with services and policy-makers to use evidence. They also outlined some examples of work they do to support practitioners to use evidence.

"*The Empowering Practitioners and Practice Initiative (EPPI)*" is a project that was commissioned by Tusla with support from CES and is aimed at supporting practitioners to put evidence into practice. It involves working with social workers to develop knowledge and skills in using evidence to support their practice. It includes a training and capacity-building programme, the development of a professional development plan for social work, and the development of a therapeutic intervention toolkit. These components help to build upon the social worker's confidence and skills as well as supporting

the delivery of evidence informed practice.

Discussion
A question was asked as to how to get to the stage where everybody will implement a plan efficiently? There was a discussion on the need for the provision of training and supports; the evidence suggests that training is insufficient and ongoing coaching improves chances of implementation success. This requires a clear plan and implementation stages cannot be skipped. The importance of resourcing both the professional development supports and the organisational infrastructure needed to achieve this, was discussed.

A concern that arose in the discussion of the workshop was that particular services might be difficult to deliver due to societal influences such as politics, policies and societal views. It was agreed that it may be difficult to implement certain policies if they aren't deemed as socially or politically favourable. The importance of communicating with stakeholders from the initial stages of implementation was noted. An innovation could start in a small area of the service before implementing it service-wide and if good results are being achieved, it demonstrates the value of the innovation and helps to gain support and buy-in.

2. Sexual Experience Evidence in Rape Trials

Presenter: Kate Mulkerrins, Head of Prosecution Policy & Research Unit, Office of the Director of Public Prosecutions
Chairperson: Ursula Fernée
Rapporteur: Aoife Fennelly

Kate Mulkerrins presented her examination of 27 applications made to the Central Criminal Court between 2010 and 2012 under Section 3 of the Criminal Law (Rape) Act 1981 by defendants charged with rape, seeking leave to allow cross-examination of their alleged victims' *'sexual experience'*.

She began by emphasizing the need to ensure that empirical research grounded legislative reform. In particular, she noted that we engage in law reform without ever investigating what is actually understood in the jury room.

Bacik et al (2010) previously examined the impact of the introduction of separate legal representation on the admission of sexual experience evidence in a *retrospective* study of DPP case files. The novelty of this study was that it involved prosecutors using an extensive questionnaire to *contemporaneously* record:
• the basis on which the application was made,
• the basis on which it was granted and
• how sexual experience evidence seemed to affect case outcomes.

She charted the history of the gradual implementation of restrictions on sexual experience evidence. Before 1981 it was adduced in all rape trials without restriction. The 1981 Act introduced a restriction in rape trials only, requiring application to the trial judge for leave to cross-examine a complainant on her sexual experience, and Section 13 of the Criminal Law (Rape) (Amendment) Act 1990 extended this restriction to all sexual assault trials and also to sexual history with the defendant, where previously only that involving the complainant and third parties was restricted.

Consent

The reason sexual history evidence, and its restriction, is so important is that it is commonly associated with the 'rape myth' that an individual who has consented previously to sexual intercourse is more likely to have consented to the incident in question, particularly if they have consented previously to sexual activity with the particular defendant. It is therefore deemed likely to affect a jury's decision on the question of consent. In England and Wales, as the test for consent has moved to one of objective reasonableness, allegations of promiscuity are no longer as relevant. In Ireland there is as yet no statutory definition of consent (although a current Sexual Offences Bill may well introduce one) and the Supreme Court is currently considering the law on consent.

Basis for application to adduce sexual history evidence

While several cases within this research had multiple grounds for the application, the largest proportion of reasons identified fell into the categories of 'allegation of promiscuity / displays of suggestive behaviour / nature of complainant's sexual practice', followed by 'made previous report of rape/sexual assault' and 'consensual sexual relations with accused prior to or after the incident'. Categories less often noted were: 'had sex with another party prior to/subsequent to making complaint / newly single / relationship disharmony / complainant's history of relevant sexual offending' and 'prostitution'.

The application

The prosecution contested the application in 42% of the 27 cases but in half of the remaining cases applications were not contested by the complainant, who consented to the admission of sexual experience evidence having had full separate legal representation. No applications were refused, but fourteen were granted with restrictions. The threshold seems to be a relatively easy test to meet: 70% of applications were granted in the Bacik study.

Trial outcome where sexual history evidence adduced

Of the 27 cases studied, there were 13 acquittals and 13 convictions, one on a plea of guilty entered after trial commencement and the remainder after a full trial; however, three convictions were for non-sexual offences and ten of the sample were convicted of a sexual offence, with nine convicted of at least one rape offence. While sexual history evidence was adduced in 23 cases, only 21 could be examined with regard to conviction rates due to a directed acquittal in one case and discharge of jury in another. In these 21 cases, involving 25 defendants, 48% resulted in conviction following trial and 44% in acquittal.

Comparison with trial outcomes where no sexual experience evidence adduced

The trial outcomes were compared with 105 cases where sexual experience evidence was not adduced during the same period. Of these, 47% were convicted of a sexual offence and 29% were acquitted. This is a stark difference as it shows the acquittal rate was one third higher where sexual history evidence was adduced.

Prosecutor's View

In ten cases (43%) prosecutors considered the sexual history evidence to have had no impact or a neutral impact on the complainant's case but, in two of these the prosecutor qualified this view, stating that the impact would have been adverse 'but for' intervening circumstances. In

26% of cases, prosecutors assessed the sexual history evidence adduced to have had an adverse impact on the complainant's case, though in one, the prosecutor added that this adverse impact was not 'in the circumstances' unfair to the complainant. Furthermore, in two cases (9%) the evidence was assessed to be supportive of the complainant's case. In 22% of cases, prosecutors stated they were unable to adjudge the impact and additional factors mentioned that inhibited assessment included alcohol, drugs and the fact a case was 'difficult' and 'came down to consent'.

It was stressed that research in this area has been stunted by a lack of willingness to consider ways of accessing the decision-making and understanding of juries given the required secrecy of the jury room. While this study accessed prosecutors' opinions on the impact of this evidence, it is really the impact on the decision making of jury members that needs to be explored. Other jurisdictions have used mock juries or additional individuals who sit with the jury but do not contribute to the verdict. Some interesting jury research has been conducted, for example, one study found that male-dominated juries tended to convict and female juries to acquit in sexual offence cases. In the discussion that followed it was mentioned that the opinion of a non-functioning jury member may not be equivalent to that of an individual involved in reaching a verdict as different aspects of the trial may be attended to. However, despite the challenges it was suggested that this is an area of research that needs to be addressed to truly understand the problems, if any, of sexual history evidence use.

Discussion

In the discussion afterwards a number of points were made. It was agreed that research needed to include juries and that it should be feasible to discuss wider issues of relevance to their understanding even if it could not relate to the specific case and their deliberations on it. For example, in the UK extra jurors have been used to feed back on their understanding of issues in the trial. It was mentioned that there is no literacy or IQ requirement for jurors so it is very difficult to know what is being understood.

The point was also made that the Section 3 application can be used to bully a complainant, though when these restrictions were introduced there was a very emotive debate around ensuring the rights of the accused are respected. Furthermore where a complainant wanted to contest a Section 3 application this could be detrimental to the trial.

A question was asked about the impact of the EU Victims' Directive and whether the definition of victim and emotional abuse may affect trials. However, it was stated that the Directive is very clear on procedural law not being impacted, which is where real reform can happen.

The discussion went on to the definition of consent and whether there should be a statutory definition but it was felt that it may make little difference to jurors' decisions and that, in reality, consent needed to be addressed more broadly through education as jurors will tend to fill any knowledge or understanding gap by reference to their own narrative. In addition, although force is not a required element of the rape offence, it seems possible that jurors may in fact require some evidence of overt force to convict. Conviction rates are much higher in child

cases where the impossibility of consent is clear but from the age of 15 upwards it seems more ambiguous. Finally, the impact of the media was mentioned in creating an expectation of physical evidence where, in fact, there may be none.

3. Understanding the Role of Pre-sentence Reports in the Irish Criminal Justice System

Presenter: Dr. Nicola Carr, Queens' University Belfast
Chairperson: Ailish Glennon
Rapporteur: Norma Kennedy

This workshop centred around the presentation of findings from the first draft of a research report commissioned by The Probation Service investigating the role of Pre-sentence Reports in the Irish Criminal Justice System. This research is being conducted by Dr. Nicola Carr and Dr. Niamh Maguire

Overview

Pre-sentence reports (PSRs) provide judges with information on the personal circumstances, background and attitude of the offender, advice about the offender's risk of reoffending and typically include sentence recommendations. Yet despite their potential to contribute to the sentencing process in Ireland, we know relatively little about how PSRs are constructed in practice, when and in what circumstances they are requested, how probation officers construct and 'craft' their report, how judges view or interpret the contents of the report and perhaps most significantly the impact that such reports have on sentencing practice.

The PSR is formulated by The Probation Service at the request of the Court to assist them in deciding the most appropriate sanction for the offender. The report writing process entails the assigned probation officer conducting a series of interviews with the offender. The report provides background information for the courts on the offender's level of risk of re-offending, personal life circumstances, his/her willingness to engage in the process and also the offender's attitude towards the victim and the offence. The role of the PSR is also to encourage the further use of community sanctions. However, Probation Service figures from 2010-2014 show inconsistency in use of PSRs across the country. With limited research done on PSRs within the Irish Criminal Justice System there is no systematic analysis of the PSR's role in sentencing decisions. As a result, the Probation Service commissioned a research report to investigate the role of the PSR in sentencing decisions.

Methodology

Nine cases were selected from the Dublin Court (four from Circuit and five from District Court). Methods employed by the research team include observation of twenty one PSR interviews, interviews with nine probation officers and five judges and also a full PSR report analysis on the nine selected cases.

The research sought to investigate:
• In what circumstances are PSRs requested?
• How are they constructed in practice?
• How do judges interpret reports?

Probation Officers' Perspectives

Data from interviews with probation officers reveal that a good range of sources of information is incorporated

into the PSR, including interviews with the offender. The report writing process may help test the veracity of accounts, test motivation for engagement and test the offender's capacity to change. According to these narratives, the risks/needs assessment tool (LSI-R) which is incorporated into the PSR is useful but not a dominant part of the process and is viewed as adding value to the probation officer's own professional judgement. Interview data also reveals that the vast majority of judges tend to follow the recommendations made in the PSRs. Probation officers did however note variations in the use of PSRs across different courts.

Judicial Perspectives

Findings from interviews with the five judges who took part in the study revealed that PSRs are considered useful in assisting judges when deciding on the most suitable sanction option as these reports provide in-depth information on the offender's background. In particular, these reports can test bona-fides, highlight underlying problems and can also identify the rehabilitative potential of the offender.   Interview data also highlights how these judges were seen to be supportive of the Probation Service, PSRs and community sanctions.

Analysis Report on Nine Case Studies

An analysis of all nine case studies illustrates a serious delay between report request, its submission, sentencing and issues concerning proportionality. The non-statutory Order for Supervision during Deferment of Penalty (Adjourned Supervision) is still a strong sanctioning preference among judiciary.

Key Research Findings

- Findings from this research report illustrate congruence between recommendations made in the PSR and sentencing outcomes.
- Risk/needs assessments tools are important but not dominant in the report writing process as probation staff incorporate a wide range of different sources of information in conjunction with their own professional judgement.
- Analysis of the PSR reports highlight delays with case processing and issues around proportionality.   Adjourned Supervision is still a common judicial practice.

Points raised during the workshop discussion

Testing veracity of accounts

The question was posed as to whether the role of the PSR ought to be used as a means of testing the veracity of accounts as surely this was the role of the judge who decides on the final facts of the case. Sentencing should be decided on the facts of the case which is derived from the admissible evidence presented by the State prosecution.   Expanding on this point, it was noted that in the context of how PSRs are generated, the Probation Officers are not always in the court to hear this admissible evidence, which influences the judge's decisions. As the Probation Officer does not therefore have access to the final facts of the case, the issue then arises around the Probation Officer being dependent on criminal records and reports from Gardaí. As the PSR is requested post adjudication, the information may be incomplete and it was questioned whether it should or should not be used to test the veracity of accounts.

In response to this question, it was put forward that sentencing decisions are not based on legal factors alone as extra-legal factors are also taken into consideration

when a PSR is requested by the judge. Through the interview process with the defendant and collateral information, the PSR can in fact provide valuable information about the defendant's background, circumstances and responsivity to Probation Service intervention. Therefore, the PSR has the ability to drill down a little deeper in terms of attitude and motivation of the defendant, which may assist the judge when deciding on the most appropriate sentence for the defendant.

The role of the victim in the PSR process

It was questioned as to whether Probation Officers see their role as the voice of the victim in PSR process. It was noted that while there is no formal role on behalf of the Probation Officer to include the victim's direct viewpoint in the PSR, the offender's attitude and awareness and victim empathy is explored. The primary source of information would either be information contained in the Book of Evidence or from talking to the prosecuting Garda in regards to the impact of the offence on the victim(s).

Variation in the use of the PSR across the country

A discussion occurred around the variation in use of the PSR by judges around the country. It was noted that most judges tend to follow the recommendations of the PSR prepared by the Probation Officer. However recent research conducted by Carr and Maguire (2016) highlights that not all judges ask for these reports. It was noted that there can be a variety of reasons for judges not requesting a PSR. These include that the process of compiling a PSR can be time consuming. Judges may have a preference for opting for other forms of sanctioning such as issuing fines. As one of the roles of the PSR is to encourage the

greater use of community sanctions, some Judges may perceive the Probation Service to be under-resourced to supervise these community sanctions. These perceptions may have been borne out of the view that historically, the Probation Service has been under resourced which, subsequently, may impact on historical memory on what is available to carry out these roles. However, it was noted that The Probation Service has ongoing communication with the Judiciary at both national and local levels to enhance service delivery.

It was acknowledged that in order to further promote the use of PSRs within the Irish Criminal Justice System, informative research could further investigate the variation among judges in the use of the PSR for guiding sentencing decisions.

4. Evaluation and Research in the Department of Justice and Equality

Presenter: Hugh Hennessy, Department of Justice and Equality
Chairperson: Carmel Donnelly
Rapporteur: Tommy Byrne

This presentation gave an introduction to the analytical and evaluative projects which are currently in progress within the Department of Justice and Equality and the long term plans for progress within the next year. What they hope to achieve is awareness among practitioners, policy makers and academics alike, that the Department is cognisant of the ongoing issues within criminal justice spheres, and to highlight the role which they play at the centre of criminal justice process.

IGEES

The Irish Government Economic and Evaluation Service (IGEES) was established in 2012, by the Department of Public Expenditure and Reform. The aim of the new service is to promote an analytical and evaluative capacity and culture across the civil service. Therefore, there were IGEES units established across the majority of government departments. Within the Department of Justice and Equality, a unit of IGEES is administered by the Chief Information Officer (CIO). The overall aim of this IGEES unit is to improve the use of research, evaluation and application of data within criminal justice research. This involves liaising with the research community and understanding the research process and how it can be used within the Department. As a relatively new entity, IGEES has currently several research projects in progress within the department. Another key aspect of the work of IGEES is to develop toolkits which improve the evidence base for future policymaking. In other words, they facilitate the internal demand for research across the department by providing toolkits to give the research a much broader focus by tapping in on what research is effective and sustainable. They are enablers of policy analysis and research, essentially becoming a service within a service.

Behavioural Economics within the Department of Justice

Behavioural Economics (BE) is a method of analysis that applies psychological insights with extensive data supported trials to explain the decision making. This method may be utilised when analysing criminals in attempts to explain the processes behind their decisions. A common application of behavioural economics is called "Nudging". Nudging is a way of changing people's behaviour without limiting their choice architecture. In essence, the person may choose the exact same path as before and their motivation remains the same, but is framed differently. The Department of Justice and Equality is currently running a contest for ideas in the field of BE to develop their end goal of achieving an analytical approach to policymaking.

Economic Cost of Crime

Another project currently underway within the Department is an attempt to estimate the Economic Cost of Crime. The Department has developed its first iteration of the project in the current year having built on experience from the UK. It is important to determine the economic impact of criminal justice interventions because government bodies need to know if it is worth investing in and whether or not it works. Therefore, figures from investment and costs of the areas of the justice system, i.e. the Gardaí, Courts, Prisons, Probation Services are important because the cost of investment in them could be unfavourable to the economy of the country if investments are not working or should be allocated to another area that is not yielding optimum outputs from its work on the basis that funds are invested elsewhere.

End to End Model of the Criminal Justice System

The essence of this project ties in with the aim of IGEES within the Department of Justice and Equality, which is to develop an analytical framework on how one's policy changes impact on others in the system. Therefore, if, for example, An Garda Síochána is allocated an extra 10% of resources, what is not always discussed or witnessed is the impact which this has further down the line within the justice network.

IGEES is in the process of developing an approach of analysis that can estimate impacts on the entire system. The thrust of the model is that one agency's inputs are another's outputs. For example, the amount of people which the Gardaí process is then filtered through the DPP's office and then the Courts, before being advanced through probation and prisons. This information is what IGEES is in the progress of quantifying with the end goal of estimating probabilities to aid decisions on policy, investment and other decisions. All criminal justice agency dealings are subject to capacity and capacity is a function of resources. Therefore, the more accurately data on capacity is estimated, the greater likelihood that resources will be accurately allocated to meet needs and demands.

Because each Criminal Justice Agency exists on its own, IGEES sees it as imperative to develop models, sub models and toolkits for them so that their jobs are easier to do. A flexible and constantly updated approach is important for analysis. These sub-models take into account the inputs, processes and outputs of a particular agency. Links between other agencies are formed as a result and outcomes are predicted. The model can add value to The Probation Service for example, by taking their number of court appearances and clients and input it as their work flow. This is important because most of The Probation Service's work is outside of their control. Accurate estimations of whether their clients will reoffend or not is required because it will have a subsequent effect on resource allocation to their department which in turn impacts on other agencies in some way which needs to be accounted and provided for. The work of Probation is dependent on activity that occurs in the courts and prisons. As well as Probation

estimating whether or not potential clients will re-offend or not, the recidivism rate is also dependent on the work of The Probation Service. The recidivism rate adds to the workflow of An Garda Síochána and the process begins all over again. Currently the cost of probation in Ireland is around €35 million per annum according to the Department of Public Expenditure and Reform, and their caseload as of May 2016 is 9,500 cases. Each agency's work is dependent on another and they are inextricably linked to one another. The first iteration of the IGEES model was based on public data while their second comes from data of five of the current seven agencies. Therefore, their data quality will improve with significant development and technical analysis advancement.

Conclusion
Having being in existence for six months, the current work of IGEES within the Department of Justice and Equality is not just to do individual projects, but to execute projects that are broad and can transcend the entire criminal justice circle. The provision of models and toolkits that cover all areas encourage policy makers within the Department to co-operate because of data-based evidence to engage with and subsequently implement evidence into policy. The Department is open to new ideas and inputs in order to make them as transparent as possible.

Discussion
What was pointed out in the discussion is that there is a broader need for social/sociological research in this area. It was asked whether anything was being done to examine how figures for the department are produced, how their targets are set and whether their statistics account for unreported crimes. Crime statistics produced by the Central

Statistics Office (CSO) which are audited and evaluated are used. In addition, it was pointed out that statistics help identify discrepancies which may arise in the process of recording crime through the agencies like the Gardaí and DPP. With regard to the unreported crimes, such as domestic violence, these estimates are based on survey elements, for example the CSO will be putting out the Crime Victimisation Survey to estimate the costs of unreported crimes. These can be cross referenced with the figures of those that are reported to the Gardaí for cost estimates.

It was also asked whether the value of invisible costs of crime such as social costs were accounted for by the Department. The costs of crime which the Department estimate are mostly anticipation costs such as the consequences of crime - insurance, psychological and physical costs are all accounted for. The biggest cost of crime was not to the criminal justice system but to victims and their welfare.

5. Building Relationships with Young People in Oberstown to Improve Pro-Social Outcomes

Presenter: Pat Bergin, Campus Director, Oberstown Campus Detention Centre
Chairperson: Carmel Donnelly
Rapporteur: Megan Coughlan

Some of the core issues facing the Oberstown campus since its amalgamation have been issues of process and the question of what evidence is shaping the future of processes in Oberstown. The campus is committed to

a care model within the confines of detention. The core concept of Oberstown is that the young people referred there by the courts have had previous involvement in interventions and juvenile justice that have not been successful. In order to create an evidence-based plan for moving forward and helping these young people, the Centre for Effective Services were commissioned to look at how to create positive and pro-social outcomes for the young people in Oberstown. One of the key factors to achieve this outcome was found to be creating good relationships between staff and young people and creating relationship models which staff could follow to help young people improve their outcomes.

The first step of the research was to compile a literature review whereby children's detention centres with similar settings, environments and similar age profiles were analysed. This analysis revealed the importance of developing pro-social skills, providing a variety of activities, building relationships between staff and young people, transforming the organisational atmosphere, ensuring programme quality and providing staff development and support. Out of these, the key finding to improve pro-social outcomes amongst young people was to build good relationships between young people and staff.

Interviews, focus groups and questionnaires were then conducted in similar settings to learn what works in terms of relationships between young people and staff. This resulted in three main findings called "three levels of activity." The first level in building relationships is called "purposeful interactions." This level involves the staff taking any opportunity to build

relationships, for example walking children from A to B and using that as an opportunity to discuss issues or problems with them. The second level was labelled "arts-based activities" whereby relationships can be built through staff actively participating in activities such as playing sports with young people rather than watching from the sidelines. Lastly, the "therapeutic level" refers to the standard practice of care and support offered to young people. Overall, the three levels of activity are equally important and when used correctly can create a holistic and supportive environment for young people as demonstrated by evidence.

Another key factor to assisting in building relationships with young people is the environment of the campus. The Oberstown campus is committed to placing education at the heart of the campus rather than focusing on controlling young people. Emphasis is placed on individualised placement plans, there is a high ratio of staff to young people and approaches are being developed to work with external agencies to support young people post detention. These factors also help to create a holistic atmosphere leading to pro-social outcomes.

Ultimately, evidence has revealed many different approaches that could be employed. Oberstown has decided to focus on seven steps to create positive relationships and outcomes for young people:
(1)   There is a focus on communication: listening, collaboration and teamwork will all help to build positive relationships.
(2)   Confidence and agency are crucial. Creating positive self-esteem, self-efficacy, confidence and agency in the

lives of young people has been shown to lead to positive outcomes.
(3)   Planning and problem solving whereby young people are supported through critical reasoning and decision-making resilience against negative outcomes.
(4)   The fourth step revolves around relationships and creating trust amongst staff and young people.
(5)   Creativity and imagination make up the fifth step in which developing these skills can develop persistence, knowledge, potential and self-esteem.
(6)   The sixth step is self-control and highlights the importance reducing impulsiveness and disruptive behaviour while encouraging self-discipline and moral reasoning.
(7)   Health and well-being are important and creating knowledge of the harm associated with alcohol and drugs can assist in better outcomes for young people.

To conclude, evidence showed that there is a need for clear change and clarity over intended outcomes. In order to implement change successfully, an enabling structure was introduced through routine actions, specific activities and specialised interventions in the campus. The three levels of activity for relationship building are crucial and Oberstown will focus on relationships between staff and young people as a key factor for improving outcomes for young people. Any changes will be supported by the organisational development of Oberstown and creating a learning environment will be key to securing this change. Constant and on-going training, development and support for staff is also crucial for change to be successful. Lastly, continuous development, evaluation and review are all extremely important going forward to ensure that young people

continue to reach their pro-social outcomes.

6. Multi Agency Approach in Interviewing Victims of Child Sexual Abuse

Presenter: Det. Superintendent Declan Daly, Garda National Protective Services Bureau
Chairperson: Ursula Fernée
Rapporteur: Patrick Collins

"Tusla and An Garda Síochána are two rail tracks that run parallel and dissect with one another for the protection of children in Ireland" Det. Superintendent Declan Daly

The issue of child protection in Ireland is one that receives lots of publicity from criminal justice stakeholders, the government and media. There is a need for an interagency approach in managing child abuse cases, amalgamating the welfare of the child with the need to prosecute the offender. An Garda Síochána and Tusla work in tangent with one another when interviewing children of sexual abuse. The role of Tusla is to ensure the welfare of the child victim, whilst the role of An Garda Síochána is to proceed with a criminal investigation. In order for this partnership to work successfully there needs to be co-operation and a sharing of knowledge and expertise. A leading example of Multi Agency approach within the Irish Criminal Justice system is the Criminal Assets Bureau (CAB).

Victims of Crime have experienced a trauma; they have been deprived of their possessions, finances or dignity. Sexual abuse cases are on a higher scale and those involving children are magnified. From a criminal investigation perspective, due to the young age of the child, they may not be able to comprehend the seriousness of what has occurred and recollect the facts of the incident a second time which would hamper a successful prosecution. The Multi Agency approach taken from both agencies is illustrated by the "*One Interview Strategy*". The interview takes place in a designated interview suite, currently eight located in the Republic of Ireland. The Victim is interviewed by a "Qualified person" under Section 16(1)(B) of the Criminal Justice Evidence Act 1992 which commenced in 2008. The Interview is conducted in such a way as to cause minimum additional trauma to the child. The Specialist Interviewer is professionally trained and must complete a four week training course hosted by An Garda Síochána. To emphasise the Inter Agency approach, members of An Garda Síochána and staff of Tusla are recruited from the same geographical locations and complete the training together, therefore already developing a professional relationship and understanding prior to interviewing the victim. This prior relationship allows both parties to be cognisant of their role and that of their colleague.

Each case is unique and treated separately so there is no specific person who must lead the interview, i.e. should the child build an initial relationship with a member of Tusla, that member will conduct the interview, again highlighting the multi-agency approach. It is essential to the interview process that there is joint working between the different staff and to share relevant information on the child

circumstances which may aid the interviewer.

To further enhance the relationship between An Garda Síochána and Tusla, a Specialist Interviewing Sub-Group was formed in 2015. This was represented by members of both organisations to ensure that problematic issues were addressed and joint working was effective. Surveys and interviews were conducted with members of the sub-group to understand the key development areas. There were a number of issues which were identified such as lack of resources, the emphasis on evidence gathering, commitment of both organisations to the multi-agency approach and poor communication. The sub-group established a series of objectives which will improve the relationship between the different organisations:

- to clearly outline and agree defined functions
- to establish organised communication lines
- to develop local relationships,
- to define and understand common goals, and
- to respect the different skills and expertise which members of both organisations encompass.

The future development of the Inter Agency approach between Tusla and An Garda Síochána is the formation of the Joint Specialist Interviewing Committee and the National Protocol for Specialist Interviewing. These partnerships will allow for the continued development and professionalism of interviewing child victims to achieve two main outcomes - protecting the welfare of the child at all times and gathering the required evidence for the successful prosecution of an offender.

Discussion

There was an interactive discussion amongst those at the workshop highlighting the different Criminal Justice practitioners in attendance. A particular focus was on child offenders and the process of interviewing them - was the same technique used for child offenders as victims? There is a separate process for victims and offenders. It was noted that a highly sexualised offender may have experienced sexual abuse themselves and it is important that An Garda Síochána look beyond the initial offence committed. It was explained that it would never be the case that a social worker would interview a suspect even if that suspect was a child, and any such involvement with a social worker would be separate to the criminal investigation. The commentary was very insightful as it epitomised the contrasting nature of professionals working with child offenders.

The working hours of both organisations was discussed. An Garda Síochána as an emergency service is 24/7. Tusla has an Out of Hours service. However, there may be incidents where An Garda Síochána cannot wait for a social worker to attend an interview. Det. Supt. Declan Daly noted the practical nature of having a specialised Child Protection Unit which encompasses social workers from Tusla. The Unit, if introduced, would allow a fuller service to be provided to the victim. Also, on the policing side, it was commented that there needs to be more education within An Garda Síochána on the complexities of child sexual abuse and the resources that are required for such cases. An example provided was transcribing of an interview which could take two to three days in duration and, with the current lack of resources within

An Garda Síochána, can prove troublesome.

The Sexual Offenders Risk Assessment Management was illustrated as a successful multi-agency approach for working with sexual offenders. An Garda Síochána, Tusla, The Probation Service and Housing Authority liaise with one another for the monitoring and rehabilitation of high risk sex offenders post-conviction. The learnings and development from the relationships built can be used as a bench mark for the multi-agency approach to interviewing child victims of sexual abuse.

7. Role of the Central Statistics Office (CSO) in Developing Research for Use in the Irish Criminal Justice System

Presenter: Sam Scriven, Central Statistics Office
Chairperson: Ailish Glennon
Rapporteur: Lauren O'Connell

The purpose of this workshop was to briefly outline the role of the Central Statistics Office (CSO) as the official provider of statistics in Ireland, with a particular focus on how the work of the CSO can be used for research in the Irish criminal justice system. While the CSO produces annual and quarterly crime statistics, the focus of the workshop was on the recidivism statistics.

The CSO is an independent body which had its status formalised in the Statistics Act 1993. The 1993 Act outlines the function of the CSO and also gives authority to the Office to access and assess records of public bodies. Additionally, the Garda Síochána Act 2005 allows the CSO legal access to the PULSE database. The PULSE database provides information on offenders, crimes and the outcome of cases. This not only services the needs of government for quality statistical information, but also services the needs of research and the academic community. The information produced by the CSO can then be used for the formation, implementation, monitoring and evaluation of policy. While the CSO does not consist of researchers, the CSO provides data to researchers.

The CSO has established partnerships with the Probation Service and the Irish Prison Service to allow for research on recidivism. Using these data sources, along with the PULSE database, allows the CSO to track certain offenders to see if they offend again and if so, whether they were convicted. A matching algorithm was developed to integrate the prison and probation databases with PULSE. To determine who qualifies for the study, the CSO allows three years from the date of release from prison or probation order for a further offence to take place. Following this, two additional years are allowed for that offence to move through the court system and result in a prosecution. The CSO does not include minor road traffic offences in the research. There are currently two annual recidivism releases which are probation recidivism and prison recidivism. The next release will examine the 2010 cohort.

Recidivism is identified by first matching PULSE person profiles, finding incidents and then using filters to remove certain offences and check that the re-offence occurred within three years. The re-offence is then tracked through court proceedings to ensure that a conviction

was the outcome. The conviction must have occurred within two years of re-offence. Once this information is collated then variables of interest are explored. These variables can include gender, age and category of offence.

Results now available from the 2009 prison cohort outline the breakdown of the population in terms of male/female and age. It also outlined the percentage of those who reoffended within three years in light of this breakdown. Further still, it was possible to ascertain from the breakdown who had re-offended within one year.

Discussion

During the discussion, much was made of the potential benefits of interagency co-operation. As it stands, there is no shared offender database and there is no unique common identifier for persons on different systems. Therefore, a mix of automatic and manual cross-checking is utilised during research. While there is great linkage between offences and court outcomes on the PULSE system, the prison and probation databases are separate. This can lead to logistical issues such as variations in spelling on separate databases, along with duplicates. This can make research more time-consuming and difficult. For example, there may be false positives. Addressing this issue also proves challenging. Standardising practices is not an easy remedy as other agencies may operate differently.

Another theme which was also frequently mentioned in the workshop was that of data protection. Bona-fide researchers can apply for access to certain data held by the CSO. However, there are issues in terms of unique identifiers contained in the data. Under the 1993 Act, no information which can be related to an identifiable person can be disseminated, shown or communicated. This obviously impacts on research in that breakdowns of categories may not be as specific as researchers may like. For example, the 2009 cohort in the recidivism study contains a category of 'under 21', which is quite broad and may not be particularly helpful in the case of exploring crime committed by youths. This has the potential to prevent proper analysis. Additionally, the issue arose as to whether a better measurement could be produced while still ensuring confidentiality when considering the different cohorts of potential recidivists year by year.

A last issue which was discussed was in terms of the methodological challenges posed by recidivism research. Recidivism is a measure of re-offending behaviour and is based on re-conviction. There is no standard measurement for recidivism internationally and, therefore, this research is not comparable to other jurisdictions. Beyond this, there was some concern of arrests that fall outside of the prescribed time-frame. It has to be a subsequent offence to qualify for the study rather than an offence prior to the initial conviction. All releases and methodologies are available on www.cso.ie.

CONFERENCE ATTENDEES

Name	Organisation
Prof. Ivana Bacik	Trinity College Dublin
Pat Bergin	Oberstown Children Detention Campus
Maria Boland	
Dr. Matt Bowden	Dublin Institute of Technology
Prof. Denis Bracken	Institute of Criminology
Avril Brandon	University College Dublin
Ita Burke	The Probation Service
Maura Butler	ACJRD Chairperson
Michelle Butler	School of Sociology, Social Policy and Social Work
Dara Byrne	Office of the DPP
Hanna Byrne	Law Reform Commission
Commissioner Raymond Byrne	Law Reform Commission
Tommy Byrne	University College Dublin
Prof. Jim Campbell	University College Dublin
Dr. Nicola Carr	Children's Research Centre
Eoin Carroll	Jesuit Centre for Faith and Justice
Claire Casey	Tallaght West Childhood Development Initiative
Anita Charles	The Probation Service
Nick Clarke	The Probation Service
Dr. Geraldine Cleere	Waterford Institute of Technology
Patrick Collins	
Dr. Johnny Connolly	Trinity College Dublin
Asst. Governor Maria Connolly	Irish Prison Service
Sheila Connolly	Cork Alliance Centre
Anne Conroy	Le Chéile Mentoring & Youth Justice Support Services
Dr. Vicky Conway	Dublin City University
Asst. Comm. Eugene Corcoran	An Garda Síochána
Anne Costello	St. Stephen's Green Trust
Megan Coughlan	University College Dublin
Clare Coyle	Oberstown Children Detention Campus
Rosemary Cronin	The Probation Service
Paul Crowley	Central Statistics Office
Jonathan Culleton	Waterford Institute of Technology
Margaret Ann Cusack	University of Limerick
John Cusack	
Det. Superintendent Declan Daly	Garda National Protective Service Bureau
Richard Daly	An Garda Síochána
Larry de Cléir	The Bedford Row Family Project
Tadgh Delaney	Department of Children & Youth Affairs
Alec Dolan	Department of Justice and Equality
Michael Donnellan	Irish Prison Service
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Kirsty Doyle	Waterford Institute of Technology
Una Doyle	The Probation Service
Deirdre Duffy	Irish Council for Civil Liberties
Paddy Duffy	Irish Youth Justice Service
Prof. Ioan Durnescu	University of Bucharest
Aoife Fennelly	Trinity College Dublin
Ursula Fernée	The Probation Service
Maura Finnie	Dublin Institute of Technology
Frances Fitzgerald TD	Tánaiste and Minister for Justice and Equality
John Flavin	Irish Prison Service
Tony Foley	The Probation Service
Ruth Gallagher	Irish Human Rights & Equality Commission
Vivian Geiran	The Probation Service
Conor Geoghegan	Depaul
Patrick Geraghty	Office of the DPP
Ailish Glennon	The Probation Service
Margaret Griffin	The Probation Service
Anna Guilbert	Probation Service, Guernsey
Eoin Guilfoyle	ISIS
Dr. Claire Hamilton	National University of Ireland Maynooth
Dr. Conor Hanly	National University of Ireland Galway
Anita Harris	Coolmine Therapeutic Community
Annita Harty	University College Dublin
Dr. Deirdre Healy	University College Dublin
Dermot Hearne	Irish Prison Service
Brian Heath	Probation Service, Jersey
Hugh Hennessy	Department of Justice and Equality
Sinéad Hession	Department of Justice and Equality
Bernadette Hickey	The Probation Service
Dr. Claire Hickey	Centre for Effective Services
Dr. Niamh Hourigan	University College Cork
Dr. Nicola Hughes	Dublin Institute of Technology
Judge Gillian Hussey	
Stephanie Judge	Oberstown Children Detention Campus
Linda Kearin	KDYS
Aoife Kelly	Jesuit Centre for Faith and Justice
Nuala Kelly	Pavee Point Traveller and Roma Centre
Tricia Kelly	Irish Prison Service
Jean Anne Kennedy	Waterford Institute of Technology
Norma Kennedy	Dublin Institute of Technology
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Professor Shane Kilcommins	University of Limerick
Prof. Ursula Kilkelly	University College Cork
Cheryl Lamont	Probation Board of Northern Ireland
Philip Larragy	Release
Kate Lawler	Oberstown Children Detention Campus

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Jonah Levine	Le Chéile Mentoring & Youth Justice Support Services
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Dr. Orla Lynch	University College Cork
Michael Lynch	An Garda Síochána
Keith Lynn	Irish Prison Service
Deirdre Malone	Irish Penal Reform Trust
Andrew Mansfield	The Probation Service
Sandra Manthe	Office of the DPP
Jimmy Martin	Department of Justice and Equality
Pádraig Mawe	Office of the DPP
Pete McCann	Care After Prison
Áine McCarville	
John McCormack	Revenue Commissioners
Philip McCormack	COSC
Patrice McDonnell	Office of the DPP
Anne Marie McGuinness	Irish Prison Service
Brian McLaughlin	Office of the DPP
Marie McMahon	Law Library
Gerry McNally	The Probation Service
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Kate Mulkerrins	Office of the DPP
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Hugh O'Donnell	Institute of Public Administration
Tony O'Donovan	Irish Youth Justice Service
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Geraldine O'Dwyer	The Probation Service
Siobhán O'Dwyer	Youth Advocate Programmes Ireland

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Pat O'Sullivan	Irish Prison Service
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Doncha O'Sullivan	Department of Justice and Equality
Prof. Fred Powell	University College Cork
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Pauline Reid	The Probation Service
Ciarán Reilly	Irish Prison Service
Judge Michael Reilly	Office of the Inspector of Prisons
Judge David Riordan	
Dr. Mary Rogan	Trinity College Dublin
Rev. Alan Rufli	Church of Ireland
Suzanne Scott	National University of Ireland Maynooth
Shirley Scott	Dublin Rape Crisis Centre
Sam Scriven	Central Statistics Office
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Dr. John Synnott	University of Huddersfield
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