Irish Probation Journal

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

Volume 6
September 2009

THE
PROBATION
SERVICE
An tSeirbhís Phromhaidh

PBNI
Probation Board for Northern Ireland

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IPJ is an annual publication distributed widely to criminal justice agencies and individuals working with offenders and victims and others, to reduce offending.

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Editorial

This is the sixth year of publication of the *IPJ*. Once again, the Editorial Committee extends its appreciation to all our contributors and stakeholders – the two probation agencies for their continued support; our advisory panel and publishers; and not least you, the readers.

This edition has topical and focused contributions to engage a range of interests. Fergus McNeill develops on his recent Martin Tansey Memorial Lecture by painting the bigger picture of where he sees probation going within the criminal justice system, which in turn is linked to the Sentencing Framework implementation programme in Northern Ireland, and how desistance theory can guide and animate work with offenders in current strained socio-economic circumstances. When resources are scarce, they must be applied to best effort, hence there will be interest in the articles on the value of risk assessment, inter-agency working and programmes to address offending behaviour. Many such intervention strategies have been developed and structured over the years and now form an indispensable part of modern probation practice. If we ever start taking them for granted, we have only to read the article on the history of probation in North-East Ireland to see how much effort has been made over decades to establish the case for properly organised and adequately resourced services. (The concluding article on proba-tion's history in the Republic is too lengthy for publication in this year's edition so will be considered for 2010.)

A key role of the *IPJ* is to provide a forum for sharing good theory and practice. In addition to the articles already mentioned, we include a discussion of ethics and criminological research and an updating of developments within the Garda Síochána Special Projects Unit. The journal also details current developments such as the EU Framework Decision, which is to be the subject of a major CEP conference in Dublin in October, and managing curfews by electronic monitoring, one of several initiatives introduced to Northern Ireland as part of the 2008

Criminal Justice Order. It is too early to appraise their significance or evaluate their impact but we look forward to including features on these and similar developments (e.g. revisions to the assessment of risk of serious harm and public protection sentences) in future editions. The *IPJ* will continue to function as a vehicle for the articulation and teasing out of ideas and new practices.

Since last year's edition there has been extended contact with universities in both jurisdictions, and we hope both staff and students will find the contents of the journal stimulating as well as informative. Already these are available on the websites of the two agencies, www.probation.ie and www.pbni.org.uk.

Where we can, we will endeavour to make articles more widely available electronically. Potential authors of articles for the *IPJ* are invited to reflect on the implications of an expanding readership. Probation, like so much else in our society, is rapidly evolving and those involved in planning or leading change have an opportunity to explain to us all what they are about. Over to you!

David O'Donovan   Jean O'Neill
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September 2009

Probation, Rehabilitation and Reparation*

Fergus McNeill†

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

Keywords: Probation, punishment, rehabilitation, reparation, payback.

Introduction

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

> … the question of 'rehabilitation' is today prominent less by its contentiousness than by its growing irrelevance. Many criminologists will probably go on for some time yet rehearsing the time-honoured yet never resolved *querelles* of penal ideology – but by far the most seminal departure is precisely the abandonment of sincere or duplicitous declarations of 'rehabilitating intent' in the thinking of contemporary practitioners of the penal system. (Bauman, 2000: 210–211)

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

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

Rehabilitation: A very short history

It is very difficult to pin down exactly what rehabilitation means. Is it a concept or a theory or a practice? Is it a process – the process of *being* rehabilitated – or is rehabilitation the outcome of that process? Is it merely a means or mechanism, a way of bringing about change and restoration, or is the reinstatement of an errant citizen an end in itself? Is rehabilitation a right of the person being punished or is it their duty to rehabilitate themselves? Does the State have the right to compel or

require the offender to be rehabilitated, or is it a duty that falls on the State to make provision available to make rehabilitation possible? And in the midst of all these questions, when Bauman says that rehabilitation is dead or dying, which of these things does he have in mind?

Two decades ago, Edgardo Rotman (1990) produced a very useful book on rehabilitation called *Beyond Punishment*. In a brilliant and brief introductory chapter, he summarises the history of rehabilitation and elucidates four models, in rough chronological order. For Rotman the story begins with the rise of the penitentiary, as a place of confinement where the sinner is given the opportunity to reflect soberly on their behaviour and on how to reform themselves, perhaps with divine help. This ideal stressed the reformative potential of both contemplation and work, sometimes in combination. But the religious ideas of rehabilitation expressed in the penitentiary evolved rapidly in the nineteenth and early twentieth centuries with the emergence of the 'psy' disciplines (psychiatry, psychology and social work). The idea that rehabilitation was about reforming the sinner, bringing them to acknowledgement of their wrongdoings, invoking repentance and requiring some penance before restoration was progressively supplanted by a more scientific or medical model. Here, rehabilitation was understood as a form of treatment that could correct some flaw, physical or psychological, in the individual, thus remedying the problem of their behaviour. Moving through the twentieth century, this more medical or therapeutic version of rehabilitation was itself displaced, to some extent, by a shift in emphasis towards a model based on social learning in which our behaviours are understood as learned responses that can be unlearned. In this context rehabilitation is recast not as sort of quasi-medical treatment for criminality but as the re-education of the poorly socialised.

Rotman (1990) himself, writing in the wake of over 20 years of severe criticism of rehabilitation as a concept and as a set of practices, advanced what he calls 'rights-based rehabilitation', linking this to arguments about the proper limits of punishment and the duty of the State to provide the opportunity for the offender to be restored. For Rotman, the collateral consequences of punishment, including for example the social exclusion that follows release from prison, is morally intolerable because the legally mandated punishment ought to have ended. Whereas the pains of confinement may be legitimate, the pains of release are not.

How did these models play out in Scottish probation history? Documentary research suggests that we can distinguish five eras that cast

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

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

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

This focus on a 'responsibility model' (Paterson and Tombs, 1998) lasted only six or seven years. In 1997 the first major criminal justice

social work disaster, the murder of a seven-year-old boy called Scott Simpson by a sex offender on a supervised release order – Stephen Leisk – triggered a new focus on public protection and risk management and led the Minister then responsible (Henry McLeish – more on whom later) to declare that 'our paramount purpose is public safety' (Scottish Office, 1998 – see also Robinson and McNeill, 2004).

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

Rehabilitation: Critique

I will return to developments in Scotland shortly, but first it is useful to remind ourselves of what went wrong with rehabilitation and why it became so heavily criticised in the 1970s. This story is not so well known in Scotland, and I think it might not be so well known in Ireland; I suspect that in both jurisdictions, when the English and the North Americans were struggling with the 'nothing works' agenda, the Celts were not paying much attention. It may not be an exaggeration to suggest that, at least as far as probation was concerned, the 1970s and 1980s involved a kind of hibernation of rehabilitation in Scotland (see McNeill and Whyte, 2007). Primarily because of organisational changes wrought by the Social Work (Scotland) Act 1968, rehabilitation was not being practised enough to be critiqued and so the 'nothing works' movement did not have the impact in Scotland that it did elsewhere. Nonetheless, critiques of rehabilitation are as important now as they were in the 1970s.

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

I have suggested that the types of therapeutic programme and discourse which are usually discussed are the types which are least common in practice, and that the types which are usually ignored are the most common in practice. (Johnstone, 1996: 178–179)

Table 1. Two versions of rehabilitation

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

Source: Johnstone (1996).

As Table 1 illustrates, Johnstone (1996) distinguishes between what he calls a medical–somatic version of rehabilitation (the one that gets critiqued) and a social psychological version (the one that gets practised). Briefly, in the medical version, the causes of crime are material; that material cause operates on the individual, who is conceived as an object on whom these forces operate. Evidently this is a very deterministic model. The role of the individual in relation to their treatment is passive; they are a patient in the same way that they would be in respect of any other material medical problem. The treatment targets are highly individual; little attention is paid in this model to the environment or to the social context and the social pressures that might relate to human behaviour. As a Dutch colleague put it to me recently, this is a 'between the ears' model of rehabilitation.

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

The significance of the distinctions between these two models rapidly becomes clear when we examine critiques of rehabilitation. In this respect, an edited collection by Bottoms and Preston (1980), ominously entitled *The Coming Penal Crisis*, emerges as a remarkably prescient piece of work. Bottoms (1980), in a chapter that deals with the collapse of the

rehabilitative ideal, sums up its flaws and failings. First of all, rehabilitation was seen as being theoretically faulty in that it misconstrued the causes of crime as individual, when they are principally social and structural, and it misconstrued the nature of crime, failing to recognise the ways in which crime is itself socially constructed. Secondly, rehabilitative practices had been exposed as being systematically discriminatory, targeting coercive interventions on the most poor and disadvantaged people in society. Thirdly, rehabilitation was seen as being inconsistent with justice because judgements about liberty had come to be unduly influenced by dubious and subjective professional judgements hidden from or impenetrable to the offender. Through the development of the 'psy' disciplines, experts emerged with the supposed capacity to 'diagnose' what was wrong with the offender, and the offender was cast as a victim of his or her lack of insight. By implication, unless and until the offender was 'corrected' by the expert, s/he could not be treated as a subject. Fourthly, it was argued that rehabilitation faced a fundamental moral problem concerning coercing people to change. Finally, at the time when Bottoms was writing, the empirical evidence seemed to suggest that, despite its scientific pretensions, rehabilitation did not seem to work.

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

So what do we do about these criticisms? Bottoms (1980) – and this is where his prescience is really striking – suggests five directions we could take in the wake of the crisis around rehabilitation. First, we could revisit rehabilitation and try to fix what is wrong with it; that is, by attending to consent, by committing adequate resources and by conducting our rehabilitative activities in a way which is respectful of liberty. In other words, we could ensure that the intrusions that rehabilitation imposes on the offender are never greater than is merited by their offending behaviour. Secondly, we could embrace a justice model, focused on proportionality and the elimination of arbitrary discretion; at

least if we cannot get rehabilitation right we can try to get fairness in the system. Thirdly, we could take a more radical perspective, a kind of penal abolitionist position, and confront the problem that you cannot have 'just deserts' in an unjust society because the cards are stacked against some people. Their pathways into the criminal justice system are not just the result of their choices, and when we fail to respect the social context within which their behaviour emerges, we are not doing justice at all. Fourthly, and this is a more conservative response, we could pursue incapacitation and general deterrence and try to eliminate the threat that offenders pose, embracing overt social control. Finally, we might turn towards a more reparative ideal that takes the rights and interests of victims more seriously.

The story that unfolded in the 1980s and 1990s is, of course, a complex one. There was in fact a flurry of writing about new approaches to rehabilitation, including Rotman's (1990) work (see also Cullen and Gilbert, 1982). The new rehabilitationists (see Lewis, 2005) proposed four principles to guide rights-based rehabilitation: the assertion of the duty of the State to provide for rehabilitation; the establishment of proportional limits on the intrusions imposed; the principle of maximising choice and voluntarism in the process; and a commitment to using prison as a measure of last resort. I have argued elsewhere (McNeill, 2006) that in policy and practice, however, in both Scotland and (especially) England and Wales, what emerged was a 'what works' paradigm increasingly influenced by the preoccupation with public protection and risk reduction. Under this paradigm, probation officers intervene with or treat the offender to reduce reoffending and to protect the public. What is critical about this paradigm is that the 'client', if you like – the person or social group that the probation service is serving – is not the offender. Rather probation is trying to change offenders to protect the law-abiding (see McCulloch and McNeill, 2007). Within this paradigm, practice is rooted in professional assessment of risk and need governed by structured assessment instruments; the offender is less and less an active participant and more and more an object that is being assessed through technologies applied by professionals. After assessment comes compulsory engagement in structured programmes and offender management processes as required elements of legal orders imposed irrespective of consent (at least in England and Wales, if not in Scotland as yet).

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

From rehabilitation to payback?

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

My interest in reparation has various roots, but most recently it has been revived by the report of the Scottish Prisons Commission (2008), a commission appointed by the Cabinet Secretary for Justice to examine the proper use of imprisonment in Scotland. The Commission was chaired by Henry McLeish, the abovementioned one-time Minister for Home and Health in the Scottish Office (pre-devolution) and later a First Minister of Scotland. The report (often referred to as the McLeish report) was published in July 2008; the Criminal Justice and Licensing Bill currently before the Scottish Parliament contains a range of measures that respond to the recommendations of this report. The report contains a very sharp analysis of why the Scottish prison population has risen rapidly in recent years, to a level roughly twice that of Ireland. The key conclusion and central recommendations of the report are these:

> The evidence that we have reviewed leads us to the conclusion that to use imprisonment wisely is to target it where it can be most effective - in punishing serious crime and protecting the public.
>
> 1. To better target imprisonment and make it more effective, the Commission *recommends* that imprisonment should be reserved for people whose offences are so serious that no other form of punishment will do and for those who pose a significant threat of serious harm to the public.

2. To move beyond our reliance on imprisonment as a means of punishing offenders, the Commission *recommends* that *paying back in the community should become the default position in dealing with less serious offenders.* (Scottish Prisons Commission, 2008: 3; emphasis added)

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

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

In essence, payback means finding *constructive* ways to compensate or repair harms caused by crime. It involves making good to the victim and/or the community. This might be through financial payment, unpaid work, engaging in rehabilitative work or some combination of these and other approaches. Ultimately, *one of the best ways for offenders to pay back is by turning their lives around.* (Scottish Prisons Commission, 2008: 3.28; emphasis added)

Several ways of paying back are identified here and elsewhere in the report – through restorative justice practices, through financial penalties, through unpaid work, through restriction of liberty (meaning in this context electronically monitored curfews) and, perhaps most interestingly in this context, through 'paying back by working at change'. Working at change in turn is linked to engagement in a wide range of activities that might seem likely to address the issues underlying offending behaviour (drug and alcohol issues, money or housing

problems, peer group and attitudinal issues, family difficulties, mental health problems, and so on). The report also recognises the need for offenders to opt-in to rehabilitative modes of reparation; their consent is required for both practical and ethical reasons.

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

Around the time of the publication of *Scotland's Choice* (Scottish Prisons Commission, 2008), the UK Government published a report on *Engaging Communities in Fighting Crime*, written by Louise Casey. This sought solutions to perceived problems of public confidence in criminal justice in general and community penalties in particular. The research evidence about public attitudes to punishment in general and to probation in particular is, in some respects, complex (see Allen and Hough, 2007). First of all, there is no public opinion; there are different opinions from different members of the public; different opinions from the same people depending on what you ask them, how you ask them, what mood they are in and, probably, what has happened to them in the past 24 hours. There is strong evidence that it is something of a myth to suggest that 'the public' are universally punitive in response to offenders. Though most people tend to say that sentences are too lenient, if they are provided with case histories and then asked to suggest a sentence, they tend to sentence similarly to or more leniently than real judges.

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

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

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

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

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

> Casey is absolutely right to utilise emotive appeals to the public in order to increase public confidence in the criminal justice system. Justice is, at its heart, an emotional, symbolic process, not simply a

matter of effectiveness and efficiency. However, if Casey's purpose was to increase confidence in community interventions, then she drew on the exact wrong emotions. Desires for revenge and retribution, anger, bitterness and moral indignation are powerful emotive forces, but they do not raise confidence in probation work – just the opposite. To do that, one would want to tap in to other, equally cherished, emotive values, such as the widely shared belief in redemption, the need for second chances, and beliefs that all people can change.

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

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

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

Moving forward: Alternatives to punishment or alternative punishments?

Historically, in many jurisdictions, probation and criminal justice social workers have tended to consider themselves as providers and advocates of (usually rehabilitative) *alternatives to punishment*, rather than as

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

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

It may be, therefore, that Duff's work provides some of the conceptual resources with which to populate the concept of payback constructively. To the extent that the new centrality of reparation compels criminal justice social work to engage in punishing offenders, his notion of constructive punishment and his insistence on the links between social justice and criminal justice might help to buttress a Scottish social work version of payback from drifting in the punitive and probably futile direction of its namesake south of the border. There are other sources that we could also draw upon usefully. Shadd Maruna's (2001)

groundbreaking study of desistance, *Making Good: How Ex-convicts Reform and Rebuild their Lives*, is one of several desistance studies that have begun to reveal the importance for ex-offenders of 'making good', and of having their efforts to do so recognised. In a sense, the relevance of the concept of 'generativity' – referring to the human need to make some positive contribution, often to the next generation – hints at the links between paying back and paying forward, in the sense of making something good out of a damaged and damaging past (see McNeill and Maruna, 2007). Bazemore's (1998) work on 'earned redemption' examines more directly the tensions and synergies between reform and reparation, and the broader movements around 'relational justice' (Burnside and Baker, 2004) and restorative justice (Johnstone and Van Ness, 2007) provide possible normative frameworks within which to further debate and develop these tensions and synergies.

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

I worry that under the rubric of public protection and risk, probation risks losing sight of the obligation to try to maintain some kind of balance between these purposes and these constituencies. When public protection is too dominant, probation services find themselves requiring something of the offender but with less recognition of the obligations that flow in the other direction. I understand very well the lure of recasting rehabilitation as risk management and protection; I can see why it seems to make sense to probation services to try to reconstruct their business around making a contribution to public protection when we live in an age of insecurity. Maybe making good to offenders does not have much cachet or cannot seem to attract much public or political support in these conditions. But, as I have argued elsewhere (McCulloch and McNeill, 2007; McNeill 2009b), there is a paradox with protection and there are risks with risk. The paradox is that the more that probation promises to protect, the more vulnerable the public will feel; the promise to protect

us confirms the existence of a threat to us. Even an exceptionally effective probation service will sometimes have to deal with serious further offences, and when it does its credibility as an agent of protection will be too easily dismantled. The political dangers of this position have become obvious in the wake of recent events in England.

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

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

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Post-qualifying Training in the PBNI

Noreen O Neill★

Summary: The continued professional development of staff is essential in order to maintain a highly skilled workforce that is well trained and able to practise in an environment that demands high levels of competence from Probation staff. There have been a number of changes in recent years in social work education and training which have been designed to improve social work practice and management at both undergraduate and postgraduate levels. These changes come at an opportune time in that, as a consequence of the Criminal Justice (Northern Ireland) Order 2008 and the Sentencing Framework Implementation process, the Probation Board for Northern Ireland (PBNI) has recruited a number of social work qualified staff who now have the opportunity to engage in the new post-qualifying framework. There are also opportunities for established Probation staff at practitioner and manager levels. While social work is not the identified qualification for Probation Officers in England and Wales, it remains the core qualification for Probation Officers in Northern Ireland. In this paper the author highlights the importance of continued professional development for social work qualified staff within PBNI.

Keywords: Post-qualifying framework, Northern Ireland Social Care Council, Northern Ireland Post Qualifying Education and Training Partnership, modules, requirements, accreditation.

Introduction

Social work education and training in Northern Ireland has gone through a number of significant changes in the past few years. A programme of reform began in 2001 and the first part of this programme was completed with the launch of the Honours Degree in Social Work in 2004. Upon completion of this degree, graduates are required to complete satisfactorily an Assessed Year in Employment (AYE) before

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being deemed fully qualified. A consequence of this development in qualifying training for social work was the review of post-qualifying education and training in Northern Ireland. As a result of this review, a new Northern Ireland post-qualifying framework for post-qualifying education and training provision was developed and introduced in April 2007.

However, post-qualifying training is not new to Northern Ireland. The PBNI had been very much involved in post-qualifying training since its inception in 1991 with the establishment of the UK-wide PQ framework. This was regulated by the General Social Work Community, and candidates were required to demonstrate six competences, PQ 1–6, at a post-qualifying level. In 2003 the number of candidates participating in post-qualifying training increased significantly with the expectation that newly qualified Probation Officers complete the PQ1 (consolidation of qualifying level competences) within a two-year period. For those candidates who wished to further their development through post-qualifying, PBNI offered an accredited More Complex Work programme that evidenced competence at PQ 2–5 levels. PQ6 (Enabling Others) competency was achieved in a number of ways, notably successful completion of the Practice Teachers Award.

While a significant number of Social Workers/Probation Officers throughout the UK achieved success through the UK PQ framework, there was a recognition that there was a need for a more flexible approach in Northern Ireland for PQ – an approach that would offer all social work agencies seamless learning opportunities, alignment to cover a range of structures and opportunities, comprehensive provision and academic and professional pathways. The flexible nature of the framework should enable candidates to match their training to their developmental needs at various stages of their careers.

One of the strategic priorities in the PBNI Corporate Plan (2008–2011) relates to organisational excellence and the assertion that 'We will provide new opportunities for continuous learning and development for all staff'. Post-qualifying training can provide the opportunity for social work staff to take responsibility for their learning by involving themselves in one of three awards that are outlined in this paper. The recent legislative changes have had significant implications for PBNI, as the organisation is now dealing with an increased responsibility and workload. This will necessitate new bodies of knowledge and expertise and there will inevitably be an increasing emphasis on professional development for all PBNI staff.

When we consider continued professional development (CPD) and post-qualifying (PQ) training, an assumption could be made that they are one and the same. Patricia Higham (2009, p. 1), however, tells us that CPD and PQ are related terms with somewhat different meanings.

> Continued professional development (CPD) denotes flexible learning and development undertaken after successful completion of a professional qualification. Although CPD learning does not always have to be assessed or result in an award, CPD activity should always result in personal and professional development. CPD, a broader concept than PQ, is the over-arching concept within specific PQ awards and activities are located.
>
> Post-qualifying education and training (PQ) is designed normally as specific assessed modules or awards whose content and assessment are prescribed by a social work regulatory body, and whose aims are to develop social workers' practice in accordance with employers' requirements. The principle of demonstrating practice achievement underpins PQ.

Post-qualifying training therefore allows for recognition of the continued professional development of social work staff at all levels and to have this training accredited.

Aims of the new Northern Ireland PQ framework

These are threefold:

- to develop practitioners beyond beginning levels of competence in specialist areas of practice
- to promote inter-professional learning and multi-professional practice
- to develop leadership and management skills.

The NI PQ framework became operational on 1 April 2007 and is an education and training framework for social workers wishing to develop and enhance their skills and qualifications throughout their career in the social work profession. It has a range of professional requirements that can be achieved through a modular approach to education and training leading to three professional Northern Ireland Social Care Council awards.

These are the Specific Award, Specialist Award and Strategic Award (see Table 1). These awards can be linked to academic awards including postgraduate certificate, postgraduate diploma, master's degree and doctorate. PBNI approached the challenge of the new PQ framework by assigning Probation Manager Pat Best to undertake the development of modules relating to the awards. Part of this work involved coordinating with the University of Ulster and the PQ Partnership. PBNI's strategy has therefore been to design 'in-house' programmes at each level in order to provide opportunities for continuous professional development for social work staff in line with learning and development policy.

Table 1. Summary of professional/academic achievement for all three PQ awards

Award type	Requirements	Professional achievement	Academic achievement
Specific (new staff)	Three general, three core	PBNI/Criminal Justice module evidences three requirements at Specific Level. In order to achieve the full Specific Award it is necessary to complete three further PQ requirements through an individual assessment route.	30 credits towards the MSc in Professional Development
Specialist (established staff)	Nine general	PBNI Criminal Justice/ Probation modules (×3) and nine requirements leading to the Specialist Award	90 credits towards the MSc in Professional Development. For candidates who have achieved 30 credits at Specific Level: with a total of 120 Credits this will lead to a Postgraduate Diploma in Social Work Professional Development
Leadership and Strategic (middle and senior managers)	Nine general	Leadership and Strategic Award (modules to be devised)	90 credits towards the MSc in Professional Development

These programmes, being accredited by both the Northern Ireland Post Qualifying Education and Training (NIPQET) Partnership and the University of Ulster, will enable staff to accrue both professional and academic credits towards the abovementioned awards. The advantages for PBNI are high-quality, externally validated processes that will enhance the performance and credibility of staff. The benefits of in-house programmes are that PBNI is already delivering good-quality training inputs to staff which can then be accredited. Staff are not required to attend courses at university and their learning and development is more applied and integrated in the work situation.

Specific Award

The Specific Award is primarily intended to enable new practitioners with a basic qualification in social work to develop the range of knowledge and skills associated with competence 'in depth' in a specific area of work. The aim of this award is to produce well-rounded practitioners who are confident and competent in a particular area of work and to prepare them for movement into more specialist working.

The NI Specific Award has six PQ requirements and three core requirements that describe the range of professional activity appropriate to this award. In November 2007 the Probation/Criminal Justice Programme was validated at Specific Level by the NIPQET Partnership and University of Ulster as part of the MSc in Professional Development for Social Workers. Within this programme, probation staff are tasked to evidence three of the six requirements that were deemed to be most relevant to probation practice. The three core requirements are integrated and are evidenced through the three general requirements. The module involves candidates producing three pieces of work for assessment, including two written assignments and one direct observation.

Successful completion of the Criminal/Justice Programme (three PQ requirements) will result in the achievement of the Probation/Criminal Justice module; candidates can also claim 30 credits towards the MSc in Professional Development and three requirements at Specific Level. An important outcome of this involvement in PQ study at an early stage in a Probation Officer's career is the opportunity for practitioners to demonstrate their move 'from competence to capability' (Higham, 2009, p. 203). This is essential given the responsibilities of new practitioners,

which include assessment of risk and needs, supervision of offenders, provision of reports, partnership and multidisciplinary work. Practitioners' ability to reflect critically on their practice will also ultimately benefit service users, as will working with a competent, informed professional.

For any staff who wish to achieve the full Specific Award (i.e. all six PQ requirements), this can be achieved through individual assessment routes, i.e. verbal assessment, direct observation or assignments.

Since January 2008, 18 new Probation Officer staff have enrolled in this programme, at various stages – either on completion of their AYE or on commencing employment with PBNI. The completion date for the first cohort of probation staff (10) for the Criminal Justice/Probation Module is June 2009. A further 13 Probation Officers will commence the Criminal Justice/Probation module at Specific Level on successful completion of their AYE throughout 2009/2010.

Support for the new post-qualifying framework has been and will continue to be provided by staff from PBNI's Learning and Development Unit. Support to date has been in the form of information sessions, practice workshops and individual support to both candidates and Practice Assessors. Close liaison with the relevant post-qualifying staff at the University of Ulster has also been essential.

Specialist Award

Work in conjunction with the UUJ and the NIPQET Partnership has led to the development of a framework for the accreditation of a Probation/ Criminal Justice Programme at Specialist Level. The Specialist Award is intended to meet the needs of those involved in complex decision-making requiring high levels of professional responsibility and accountability. Probation staff can commence this award on completion of the PBNI/ Criminal Justice Module at Specific Level and must have three years' post-qualifying experience or be able to provide evidence that they are working at a specialist level. Staff at this level need to develop high levels of specialist knowledge, skills and expertise in their work. There are nine PQ requirements that describe the range of professional activity required within this professional grouping, and when all nine are met the NI Specialist Award is achieved.

The design of the Specialist Award programme follows a similar format to that of the Specific Award programme, with three modules

each accruing 30 academic/professional credits towards a possible 90 credits towards the MSc in Professional Development and a full Specialist Award in social work. The plan is for this programme, once accredited, to be implemented during 2009.

The three modules are:

1. Specialist Practice in Probation/Criminal Justice
2. Inter Professional Work in Probation/Criminal Justice
3. Managing and Enabling Change in Probation and Criminal Justice.

Methods of assessment for these modules include a case project, verbal presentation, assignment and a direct observation.

This means that staff will be enabled to accumulate credits within their place of work and at a pace that suits their individual needs for continued professional development. These modules will be particularly beneficial for Probation Officers who can move into the various specialist areas within their practice and complete modules at various stages throughout their career.

The new modules have been designed to reflect adult learning approaches and people taking responsibility for their own learning and working at their own pace: 'Adult learners need to see that the professional development learning and day-to-day activities are related and relevant' (Speck, 1996).

The new modules devised at post-qualifying Specific and Specialist Levels should enable probation staff to make a clear link between post-qualifying training and their daily work.

Leadership and Strategic Award

The Leadership and Strategic Award in social work also has nine requirements and is for staff who demonstrate high levels of competence within and outside their agency context. These staff are moving beyond the detail of their own practice and need opportunities to explore a wider perspective where they can influence developments and influence others. In the future a further development for PBNI will be to provide opportunities for staff to accrue credits at this level. An individual assessment route is available at present for any staff who are working at this level.

Since the start of the NI PQ framework in April 2007, 30 Probation Officers have enrolled for the PBNI/Criminal Justice module: this gives a real sense of PBNI's commitment to continued professional development. Thirty probation staff have already achieved the full PQ UK Award, and a number of staff have achieved credits towards this award – a considerable achievement, and one that reflects the commitment of probation staff to their continued professional development.

Challenges

While PBNI has a considerable record of achievement under the UK PQ Framework, the challenge for PBNI as an agency in terms of ensuring the continued professional development of its workforce is to provide the opportunities to ensure that staff are aware of and can avail of the appropriate training/resources in order to meet their developmental needs. A question often posed by practitioners is what is the benefit of post-qualifying study? The commitment and resolve of staff as adult learners is a crucial aspect of professional development and, as mentioned above, probation staff have already demonstrated a considerable commitment to their professional development. The Probation Officer's responsibilities are many and varied, and an ability to reflect critically on knowledge, skills and values can only be of benefit to the service user.

A significant amount of training is provided within the agency on a regular basis with the ultimate aim of ensuring that probation staff have the necessary skills and knowledge to cope with the professional task. A challenge is to align as much training as is relevant to the new NI PQ framework at all levels.

At present, all new probation staff are engaged in PQ training at certain levels; established staff will need support and encouragement to involve themselves in such training. Other challenges are workload easement and time for study/reflection.

The fact that in PBNI the Practice Assessor is now at middle manager grade has helped to increase awareness for staff at this level of PQ training, and has also enabled PQ to be part of the supervision process.

Conclusion

Continuous professional development is important for all staff in an environment that demands high levels of professionalism from

probation/social work staff. The benefits include personal growth, opportunity to gain credits for academic growth, career advancement and, most significantly, improvement in the quality of service delivery. Post-qualifying training through the Criminal Justice/Probation modules can offer opportunities for staff to evidence their continued professional development at all levels, and provides formal recognition of expertise.

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The Emergence of Probation Services in North-East Ireland

Brendan Fulton and Bob Webb*

Summary: This paper is the result of integration of two journeys into the past from the contrasting perspectives of the voluntary and statutory sectors. It looks at the emergence of the probation services in North Eastern Ireland and focuses on Belfast as the model. It examines the socio-economic and cultural factors that influenced the kind of probation service that appeared and shaped its early evolution. It traces the history of the voluntary societies that provided the first police court missionaries, and examines their motivations. It makes the case that, rather than being a foreign idea transplanted, the concept emerged in a garden with suitable soil and from plants that were already flourishing: the stunted growth of the early years had more to do with the gardeners and the weather. The authors use recent publications (Whitehead and Statham, 2006; Vanstone, 2007; McNally, 2007) as a base from which to pick out the distinctive features for the area now constituting Northern Ireland and how these influenced the evolution of the probation services here.

Keywords: Probation Act 1907, charitable institutions, industrialisation, church, prison.

Introduction

Belfast was conducive to the development of probation services because its size and importance brought statutory investment supplemented by strong philanthropic and charitable movements. Religious revival and temperance/abstinence movements became dominant forces during the second half of the nineteenth century and shaped the actions of the charitable and social drivers. The relative absence of class tension between the clergy and laity in the Catholic, Presbyterian and Methodist

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Churches contributed to those Churches – rather than the Church of Ireland, the ex-established church in Ireland – emerging as the key court missionary societies in the area, unlike South-East England.

Alternatives to sentencing had government support because of pressures on prisons and criticism of the harshness and inflexibility of sentences. Nevertheless this did not translate in the manner envisaged, and three factors assisted the slowing down or the obstruction of the take-up of the probation idea as a key alternative: (a) lack of central control of courts, in contrast to police and prisons; (b) the independence of the magistracy; (c) changes in the social standing of the missionaries in the first half of the twentieth century.

Perhaps most significantly, the 1907 Act, by giving authority to a service that had already evolved into place, didn't entail any new strategic thinking locally, and it would be another 30 years before such thinking was applied.

The year after the Probation of Offenders Act 1907 came into operation there was a foundation of accredited agents or missionaries of voluntary organisations in Belfast from which to select the first probation officers to supervise the new probation orders. From the evidence available, continuity was the outcome of the new legislative framework. The Act gave authority to the magistrates in each area to appoint persons as Probation Officers for a period of one year. This contract was renewable on a yearly basis. The magistrates used these powers to appoint Probation Officers already attached to the Presbyterian Temperance Committee (PTC) and Belfast Central Mission (BCM; Methodist). These were organisations with the most modern PR tool of the day – photography. Hence we are left with enduring images of two key personalities: W. H. Collins (PTC) and Elizabeth Curran (BCM). Collins was a Presbyterian church elder and worked firstly as a missionary for the Belfast City Mission. He was inspired and motivated by evangelicalism. He left the Mission when the Presbyterian General Assembly's Temperance Committee appointed him as its police court missionary on 1 August 1908. He maintained his probation and temperance work until his death in 1914, when he was replaced by James McAdam (BCM). Miss Curran seems to have maintained her dual roles of probation work and mission work with the BCM until 1919. Miss Curran and Mr McAdam continued to practise in the probation services until the 1940s.

Pre 1907 Probation Act context

Probation has often been viewed as the introduction of an English concept to the island of Ireland – one that had difficulty in adjusting to this setting. However, when one looks at the social and economic developments here in the north-eastern part of the island in the nineteenth century, probation services seem to have emerged seamlessly. This is particularly visible in Belfast, which was the fulcrum of change. By the end of the nineteenth century that citadel had been transformed from a market town to one of the most significant cities of the Empire.

The industrialisation that gathered pace during the nineteenth century was accompanied by a corresponding growth in the population. As Jones (1967) points out, the new mills acted as magnets to thousands forced off the land by famine and poverty. However, hopes of a better life would not be realised easily. The differing industries produced a hierarchy of workers and dependants. Shipbuilding and heavy engineering were more representative of the prosperity associated with Belfast by the end of the nineteenth century and involved better wages for the workers. The linen industry, on the other hand, provided meagre rewards for most of its workers and added a legacy of unhealthy conditions. This dimension reinforced the appalling and degrading poverty already visible in the city in the 1850s. A local physician, Henry M'Cormac, stated: 'I have visited abodes in Belfast where there was no fire, nor utensil, nor food, nor bedding, a little sordid straw, now on bare boards, now on the damp floor … open, untrapped sewers, with filthy stygian streams, emit during the hot months emanations the most sickening …'

These developing situations posed a challenge both to the State/civil authorities and to charitable and philanthropic organisations. We can track continuing efforts to codify, classify and differentiate in relation to those who should be the subject of attention and who should receive services. Distinctions begin to be made between the aged, the infirm, children and those who, due to force of circumstances, were worthy of support and others, characterised as idle and worthless, requiring a more punitive response. Whelan (1996) refers to the distinctions that were introduced by the Poor Law provision which insisted that 'the worthy and unworthy poor had to be separated, with the unworthy – professional beggars and rogues – confined to houses of correction and vagabonds whipped back to their own parishes'. The emergence of houses of

correction and prisons gave expression to the efforts to differentiate between criminal and non-criminal propensities. The concern to separate and differentiate was underpinned by an enduring theme, namely the desire to define in terms of 'deserving and undeserving', which had an impact on a wide range of services including those relating to criminal justice.

A revised form of the 1834 Act had been introduced in Ireland. As McCracken (1967) summarises, 'the Poor Law Act of 1838 brought another public body into existence, the Board of Guardians and resulted in the building of the Belfast Workhouse in 1841'. The Belfast Charitable Society, founded in 1752, had established a poorhouse in 1774. Strain (1961) in his account of the charitable society states: 'The levy of a Poor Rate seriously affected the finances of the Charitable Society because the public felt that once the Government was providing for the very needy through the Guardians there was no longer any necessity for voluntary effort'. However, the reality was quite different, with the workhouse designed as an uninviting last resort.

Belfast had an enviable reputation for charitable responses by its more powerful citizens. This is memorialised through the folkloric figure of Mary Ann McCracken (1770–1866), sister of the 'executed' Henry Joy. She was an indefatigable social activist and founder of the Belfast Charitable Institute. However, she was more radical than the norm for nineteenth-century philanthropists. Charitable and philanthropic groups included businessmen, industrialists, and professionals. Nevertheless, we would suggest that the predominant motivation was religious. Many of the non-clerics were active and prominent lay members of the various churches.

Setting a trend that had some echoes for the probation idea itself, the religious revival started in the USA, with prominent parts played by Ulster Protestant immigrants, before being transported back to County Antrim. 'On Sunday 29th June 1859 between thirty-five thousand and forty thousand crowded into the Botanic Gardens, a private park on the south side of Belfast' (Bardon, 1992) as part of that revival movement. Short-term changes to lifestyle seem to have been translated into a longer term more generalised adherence to religious observance and abstinence from alcohol. However, unintended consequences such as a switch over by the more dependent to the drinking of ether and methylated spirits fitted in with patterns in countries with more restrictive licensing policies.

The Catholic Church was undergoing its own revitalisation and modernisation at this time. This soon manifested itself even in the industrial heartland of the north-east. In 1865 the newly consecrated Bishop of Down and Connor, Patrick Dorrian, organised a general mission in Belfast. Bardon notes the similarities in character between the Protestant and Catholic revivals and the absence of class tensions between the Presbyterian and Catholic clergy and their laity.

The State saw itself as having a duty to care for those who were viewed as dangerous. Such responsibility was narrowly defined. A response was the creation of institutions. The Belfast Work House and the Crumlin Road Gaol emerged around the end of the 1830s.

However, as the social context was more and more recognised, both State criminological and church religious responses were modified. In line with the rise of the social gospel in criminal affairs, there was more consideration of mitigating circumstances relating to social issues. Change became discernible in the responses to children and young people in trouble or considered to be in need of protection.

Nonetheless, this move away from the punitive still relied on an institutional form. Hence in 1858 the Reformatory Schools (Ireland) Act established such schools for 'the training and reformation of older boys who had committed offences against the law'. In 1868 the Industrial Schools (Ireland) Act established industrial schools 'for the rescue and care of younger boys who by reason of family circumstances or environment or company, were in danger of becoming delinquent'. In Belfast Malone Reformatory was established in 1860, followed by St Patrick's Boys Home in Belfast as one of the first industrial schools in Ireland. These institutions were established along religious lines, with young people being sent to schools 'under the exclusive Management of Persons of the same religious Persuasion as that professed by the Parents of Guardians'. This dichotomy was to remain in place for these kinds of institutions for another 130 years, and influenced the structure of provision of sanctions in the community for 100 years. The establishment of the schools was an acceptance by the State of responsibilities in respect of social issues, but as yet there was no State-sponsored initiative to take this forward within the community itself.

Of course the whole process of seeking to effect social control and pursue reform and rehabilitation through some kind of confinement, be it in the form of a penitentiary or a refuge or a home, was nothing new. It was very much an integral part of the philanthropic endeavour. This

was certainly evident in relation to females – not least in the focus on the 'fallen' woman – whether they were prisoners/ex-prisoners, unmarried mothers or those who had succumbed to alcohol. Three penitentiaries were established in Belfast during the nineteenth century. The earliest was the Ulster Female Penitentiary. It was initially non-denominational but became associated with the Presbyterian Church. The Ulster Magdalene Asylum was established by the Church of Ireland and a Catholic refuge was set up at the Good Shepherd Convent, Ballynafeigh.

Whether the focus was on children in trouble or at risk or on 'fallen' women, a reforming goal was being pursued within an institutional setting. As Luddy (1995) summarises, 'Refuges for the destitute and penitent asylums were offering institutional solutions to social problems, as were the reformatories and industrial schools established for delinquent children after mid-century'. If the institutional response can be considered partial and limited in relation to social problems, it also brings into sharp relief the limited role of the State in relation to these matters.

The nineteenth century was significant for a move towards centralisation of control in criminal justice matters emanating from the 1798 Rebellion and Act of Union and the subsequent agrarian unrest and agitation. A centralised Peace Preservation Force was set up and in 1836 combined with the County Constabulary into an Irish Constabulary. The prisons were reorganised. A central inspectorate was appointed to oversee the introduction of nationwide regulations. Individual prisons remained under the authority of local boards appointed by Grand Juries. With the ending of transportation in the period after the famine, its replacement convict system was placed under central control. This dual system was ended by the 1877 Act that placed all under the authority of the General Prisons Board for Ireland and Dublin Castle. Both these forces were shaped by thinking at Westminster but evolved with distinctive Irish flavours. On account of the political and agrarian unrest that dotted the century and the subsequent implications for management, both forces remained near the centre of British Government and Dublin Castle thinking. That probably tipped the policy towards central authority and universality. The same was not to be true for courts and sentencing in a community context.

The independence of the magistrates and judges was at times of major concern also to the British Government and the Dublin Castle administration, but harder to bring under control. Judges could direct

the outcome of sentences by changes such as the definition of penal servitude being increased from three to five years (Penal Servitude Act 1864). However, with regard to alternatives, influence on behaviour of magistrates was much less easy to wield. We will later illustrate this in relation to the introduction of alternatives to sentences later in the century. The ending of transportation and lengthening of sentences brought enormous pressure on to the prison system. There was a harshness and lack of flexibility. Thinking turned to an easing of these sanctions. Some of that pressure came from magistrates themselves, who were more vulnerable than Dublin Castle to local pressures.

During the nineteenth century initial non-custodial responses of the State found expression in the 1847 Juvenile Offenders Act, the Summary Jurisdiction over Children Act (Ireland) 1884 and the 1887 Probation of First Offenders Act which formalised the possibility of offenders entering into recognisances with the courts. What we find is a legal discourse very much in tune with the 'deserving' and 'undeserving' culture, with a 'second chance' being offered to the 'deserving'. Those deemed to be deserving were subject to the nineteenth-century version of the postcode lottery. The authors have garnered this from the existence of a Chief Secretary's circular of 1892 reminding magistrates of their powers under this legislation (Beresford, 1976): 'It would appear from Returns which have been furnished by Clerks of Petty Sessions that the provisions of the Act in question are much more frequently applied in some districts and by some benches of Magistrates than by others'.[1] We have not been able to discover whether this message had any significant impact on magistrates' decision-making, but it was a plea to magistrates in regard to non-custodial sentences that was to become familiar over the next three generations. It was not until 1996 that their power to control the use of such options became substantially corralled. We contend that the wording of the 1887 legislation and the follow-up selling had long-term consequences for the idea of probation that were different from those in England and Wales. It was the first setting-out of the ideas within the word 'probation'. The elements set out at that stage were 'age', 'antecedents', 'first offender', 'character of offence', 'discharge without punishment', 'on bail to come up for judgement when required'. Dublin Castle espoused hopes for 'general use of this enactment by Courts of

[1] Chief Secretary's Circular, 23 May 1892, re The Probation of First Offenders Act, 1887, Dublin Castle.

Summary Jurisdiction in cases where such course would be justified by the character of the offence, the youth of the offender, or other circumstances'. Even though the restriction of first offence was removed in 1907 and 'the character of the offence' was only one of the considerations, these two elements seemed to become embedded in the DNA of the Probation Order, so to speak, for the next couple of generations. In 1964 77% of probationers were still first offenders and 86% were under 17 years. Only 4% were 21 years or over.[2]

It seems reasonable to assume that courts were more likely to make use of these alternatives to sentencing if they had a degree of reassurance that someone in the community was providing surveillance or support to those being adjudicated upon. One obvious sector was that of employers. They had already been known to influence the development of working out schemes and post-release licence for Irish prisons.[3] The Churches in their outreach mode could undertake such roles.

In pursuance of the evangelistic and moral reform aims, reinforced by the religious revivals, misuse of alcohol was a prime target. The temperance movement developed during the nineteenth century. Father Mathew's crusade (see Connolly, 1999) had considerable impact within the Catholic community, and Protestant middle-class opinion was mobilised against the spirit trade. In the second half of the century the temperance cause once again gathered momentum, and total abstinence became the dominant feature within the Protestant churches (for a fuller discussion of the 'drink question' see Malcolm, 1986).

The Catholic Church was more divided on the issue but, taking inspiration from the Catholic total abstinence movements in England and America, Father James Cullen established the Pioneer Total Abstinence Association of the Sacred Heart. The abstentionist position continued to grow in strength into the early twentieth century, as reflected in the Catch-My-Pal movement founded by the Presbyterian minister, the Rev. R.J. Patterson. It established branches throughout the North of Ireland, and its strength and mobilising capacity was displayed when it was able to bring 20,000 people onto the streets of Belfast in 1911.[4]

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[2] Public Record Office Northern Ireland (PRONI) HA series.
[3] Report of the Commissioners' inquiry into working of the Penal Servitude Acts, 1878/9, in *Working Papers in European Criminology*, No. 3, 1982, Heatley, P. and Tomlinson, M., 'The Politics of Imprisonment in Ireland: Some Historical Notes'.
[4] See 'Catch-My-Pal, Belfast Demonstration', *Belfast Evening Telegraph*, Saturday, 10 June 1911.

The temperance cause was promoted in a variety of ways: open-air meetings, temperance clubs, cafes and hotels, educational work, political lobbying and campaigning. Tertiary prevention was promoted through the establishment of inebriate homes, the development of rescue work and involvement within the courts.

The temperance perspective influenced how social conditions and social problems were understood, and hence the way the social gospel was espoused. In 1891, the Presbyterian General Assembly could confidently state that 'Everyone can see that intemperance is at the root of most of our poverty, lunacy and crime'.[5]

However, there were forces that were able to present a wider social explanation and arrive at a more complex view of 'cause and effect'. The rescue work and court work of the temperance movement is of particular interest to us, and it might be conceived as a form of specialisation in contrast to the more generally oriented missions. Nevertheless, there is nothing to suggest that the temperance associations and committees were confined to 'temperance cases' within the court setting.

No doubt a more comprehensive grasp of social conditions and problems and hence the complexities of 'cause and effect' would have encouraged co-operation and complementary work. However, any engagement with such problems within a community setting still relied on the efforts of the philanthropic movement. One can envisage the temperance agents and missionaries coming into contact with the 'undeserving' repeat offenders in the course of their work within the community, including their visits to the public houses. Within the court system too, temperance agents could informally connect with people via the administering of the pledge, and this could be combined with the use of recognisances. This was an important option that the police court missionaries were able to offer to magistrates before the passing of the 1907 Probation Act.

From the above range of outreach movements, we select six pioneering initiatives that are critical to the story. Firstly, there were the Prison Gate Missions for men and women (PGMW and PGMM), established in the 1870s. Accommodation workshop places and jobs were the core services offered. Miss McClean and Mr Harrison acted as agents visiting the prisons and attending the police courts. Second were the Belfast Midnight Mission Rescue and Maternity Homes (BMMRMH), whose

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[5] Minutes of the General Assembly of the Presbyterian Church, 1891, p. 157.

main aims seem to have been related to the prostitutes who frequented the public houses of Belfast. This organisation had a presence within the courts, but it is unclear whether it was there before the turn of the twentieth century.

The Methodist Church's BCM, established in 1889, appointed male and female mission staff. The Mission Sisters or deaconesses, with their purple uniforms, became a familiar sight on the streets of the city and in the courts. The 1903[6] Annual Report recounts a scenario involving a phone call from police court requesting that someone go down to the courts to give evidence. A young boy whose parents were drunkards had run away from home and had been charged with vagrancy. The police had asked whether anyone was taking an interest in him, and he mentioned the mission. The story continues: 'The member of staff who knows him best hastens to the court and the magistrate is very glad to receive whatever testimony or advice may be tendered on behalf of the culprit'; the representative of the mission is quoted as saying that 'particular attention will be paid to him'. Eric Gallagher (1989), in his history of the BCM, states: 'By 1908 the deaconesses, officially referred to as the Sisters of the Mission had established a reputation for caring that brought them into the field of probation work. Increasingly the city magistrates were glad to hand over Probation of Offenders Act cases to them.' In 1911 two colleagues at the mission, Miss Elliot and Mr James Dixon, are also reported as acting as Probation Officers.

A parallel Presbyterian movement, the Belfast City Mission, was established a little later but is of equal significance in our story. It reached out to the masses through its social programme dividing Belfast into districts with a male agent or missionary assigned to each.

Another dimension to the Belfast story was added by the spread of the Salvation Army. William Booth, its founder, was an eloquent exponent of social inclusion: 'We who call ourselves by the name of Christ are not worthy to profess to be his disciples until we have set an open door before the least and worst of these who are now apparently imprisoned for life in a horrible dungeon of misery and despair' (Booth, 1890).

The growing Catholic population of Belfast referred to above had developed its own support services. The most comprehensive of these was the St Vincent de Paul Society (SVDP), which became established in Belfast in 1850 via the conference connected to St Mary's Parish, Chapel

[6] Fourteenth Annual Report, BCM, 1903.

Lane. A network of conferences followed in the other parishes developing around the city. These responses were supplemented by the outreach work of religious orders – Sisters of Mercy and Sisters of Charities. We have been unable to find specific evidence of early court work by these Catholic organisations, but Prisons Board Reports of the early twentieth century affirm their role in work with prisoners. Taking account of the contemporary position of their Protestant counterparts and the important role that John P. Farrell played as probation officer and SVDP agent for Catholic Discharged Prisoners in the inter-war period, it seems reasonable to envisage crossover work in courts as well. Unfortunately their records for that period were destroyed during a sectarian attack on their headquarters in 1921.

These organisations were in a position to consolidate their roles when the new legal framework for supervision and supervisor was set in place in the 1907 Act: 'A recognizance ordered to be entered into under this Act shall, if the court so orders, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order'.[7]

Since the Act did not signal fresh government investment in community resources, it was important that the new Probation Officers had access to their own network of support services for the offenders they were dealing with. This statutory/voluntary partnership within one post helps to explain why the title of 'police court missionary' survived for so many years in popular usage.

In the absence of information about probation officers being linked to any non-denominational based organisations we have to presume that the preoccupations, motivations and objectives of the persons involved were in line with those of the churches.

1914–1920

Further legislation in 1914 reinforced the possibilities for alliances between the courts and the voluntary organisations by granting 'recognition' to societies with objectives relating to 'the care and control of persons under the age of twenty-one whilst on probation under the Probation of Offenders Act, 1907'. Courts could appoint a person

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[7] Probation of Offenders Act, 1907, Section 2(1) p. 69.

provided by the recognized society to act as Probation Officer with this age range and could reimburse expenses incurred by such a society. Although the Act also extended the powers of the court to make additional conditions in probation orders generally, the sections covering children and young adults may have reinforced the tendency to associate probation with youth.

The impact of the Criminal Justice Administration Act 1914 is obvious when we look outside Belfast in the period of the First World War. In Londonderry we find that the magistrates have appointed three Probation Officers from key voluntary societies within the area – Sister Mary Joseph from the Sisters of Mercy Convent, Miss Jennie Birch from the Salvation Army and Mr James Wedlock from the NSPCC. Although payment was made per case per quarter, Sister Mary Joseph claimed only expenses incurred. It is ironic to find in the records that in the month before the 1916 Easter Rising an official in Dublin Castle is engaged in correspondence with the Clerk of Petty Sessions in Derry about probation officers not filling in their expense claims properly. These appointments do show the alignment that is made by the officers' attachment to societies and the nature of the cases that they supervised. Sister Mary dedicated herself to probationers from the Catholic community, Miss Birch to the Protestant and Mr Wedlock to young persons of any denomination under the age of 16 years. Overall the number of cases seems to have been 19.

Unfortunately we have been unable to uncover how many petty sessions districts had probation appointments or the number of probation orders made in these years prior to the radical change of governmental structures brought about by the Government of Ireland Act 1920. Based on the evidence existing and on the state of provision in the 1920s, it is reasonable to believe that it was firmly established in the two county boroughs of Belfast and Londonderry, very patchy in County Antrim and non-existent elsewhere. It was a predominantly denominationally based service relying heavily or exclusively on the voluntary societies.

This preponderance of society-based staff produced a narrowness of focus in respect of knowledge and theory about the offending population. The new theories in regard to the mind that were emerging in Europe received less focus than those on the soul.

There was a tension in this, as the Government also wished to see the development of a statutory service that would be under the authority of

the magistrates as well as being accountable to them and the Clerk of Petty Sessions. Many of the voluntary societies considered that the responsibility would be better carried out if assigned to them.

There is reassurance in the presence of Catholic-linked staff in Belfast and Derry that the probation idea, which has more often been associated with post-Reformation and Benthamite thinking (Bentham, 1789), was viewed as compatible with Catholic ideas of fairness and social justice. This augured well for the future in the new devolved administrative region of Northern Ireland, which came about without the consent of the Catholic minority.

Probation in the new Northern Ireland 1921–1939

Responsibility for criminal justice matters including probation services passed from Dublin Castle to the new Northern Ireland Administration in Belfast in 1921. The establishment of the new order was not uncontested. This resulted in Dawson Bates, Minister of Home Affairs, becoming preoccupied by security and consolidation of Unionist hegemony. That dimension was reinforced by the inter-war economic downturn and protracted depression that was to last for 20 years. Moreover the financial settlements between Westminster and Belfast were stringent. The administration was conducted in a part-time and passive manner. Despite this economic backdrop, crime rates remained very stable during this period (Brewer *et al.*, 1997). Before partition Belfast had accounted for two-thirds of the crime in the North, and this urban domination continued. Authority to appoint Probation Officers still lay with local magistrates. What evidence is available to the authors suggests maintenance of transferred levels (1921) of probation service as being their priority.

The Westminster Parliament could have extended the legislative updates in respect of probation to Northern Ireland but allowed the Ministry of Home Affairs sole jurisdiction. In an acknowledgement of progress in Britain in 1928, that local ministry introduced a new set of Probation Rules authorised by the Lords Justices, William Moore and James Andrews. Minimum standards for contact were set down: 'for the first month of probation meet the probationer (unless the court otherwise direct) at least once per week'.

The aftermath was one of decline in the use of the order in respect of young persons. In 1929 Robert Crawford MP sought an explanation

from Dawson Bates, the Minister of Home Affairs: 'I am entirely with the Right Honourable Member in the view that every chance should be given to young persons before they are sent to jail. We have a great many Magistrates who take a contrary view in relation to Probation Officers' (Hansard NI, in Morrison, 1973). To improve matters the Minister stated that he had been able to increase the remuneration of probation officers on two occasions and had also circularised the magistrates pointing out that if they used the Act and appointed probation officers this would assist offenders. He was not however prepared to change the method of appointment. It remained with the magistrates.

The decline in the use of probation continued during the next five years. We have found evidence of the media highlighting the absence of Probation Officers on the retirement of Sister Mary Joseph in Londonderry in 1935. The *Belfast Telegraph* reported the frustration that an RUC Inspector expressed while prosecuting some young boys in court: 'it was a strange thing that they could get Probation Officers in Belfast and get none in Derry'.[8] The Clerk of Petty Sessions pointed out a lack of candidates that could be accounted for by the lack of a salary. (Remuneration was on a cases per quarter basis. Only seven new orders were made outside Belfast in that year.) Later the same year a Mr Leslie Menmuir was appointed probation officer of the Petty Sessions districts of Derry, Dungiven, Donemanagh, Eglinton, Claudy and Limavady. In defence of the appointment of only an officer from the Protestant community it was pointed out that 'apart from Belfast the same probation officer looks after probationers of all denominations in his district or districts'.[9] However, by the following year a second officer, Mr Patrick Nash had been appointed to cover the Roman Catholic community.

Pressure for change had accumulated sufficiently for the Minister to follow the English example and establish a committee to inquire into the welfare and protection of young people and the treatment of young offenders. It became known as the Lynn Committee after its Chairman (Sir Robert Lynn).[10] It was the most significant consideration of the position of probation in this area in the 30 years of its existence. In England and Wales regular reviews had reinforced the concept of

[8] Belfast Telegraph, 22 January 1935.
[9] PRONI HA/9/2/416.
[10] Lynn Committee Report 1938 Cmnd 187.

probation being used at any stage of an offender's career. In Northern Ireland no such regular reviews had taken place. Only 4% of orders in 1935 (11) were made on persons aged 21 years or over.[11] This was at a time when the average daily prison population was 319. The guise of a scrutiny of the treatment of young people again showed the association of probation with a younger age group. However, the probation proponents of the time would have been content with any vehicle that directed its headlights on the neglected roadway. While the committee deliberated the Minister was not prepared to make significant changes, but in recognition of the immediate issues of lack of Probation Officers he was prepared in 1936 to amend the Probation Rules so as to pass the authority for the appointments to his Ministry – but still only on the recommendation of the local magistrates.

It was 1938 before the Lynn Committee published its report. It endorsed the concept and called for a major modernisation of the probation service. There were recommendations that courts be required to consider a probation order for all persons under 21 years and only after preliminary investigation had been carried out. 'N Ireland should be divided into a number of probation areas and the appointment of one or more officers in each area should be compulsory. As far as possible probation areas should be arranged so as to provide for full-time salaried appointments. The probation service should be organized on a wholly public basis and appointments should be strictly non-denominational; but there is ample scope for the co-operation of missionary and other societies in the providing homes and hostels, in supplying voluntary workers and assistance to probationers.'

The report came down decisively on the side of statutory public service Probation Officers rather than staff from voluntary/missionary societies. This was a decade in which a court official could still introduce the Probation Officer as the police court missionary (Chapman, 2009). Three of the five probation officers active at the beginning of 1939 in Belfast originated from Church-based societies: Sarah Elizabeth Curran (Belfast Central Mission), James McAdam (Presbyterian Temperance Society), and John P. Farrell (St Vincent de Paul). These pioneering officers achieved a prominence and status that does not appear to have been sustained.

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[11] PRONI HA series.

Mr Farrell was still employed by SVDP on a half-time basis to carry out its discharged prisoners' aid work. It was not until the following year that he became a full-time Probation Officer in a development in which the Ministry took account of the increase of crime and the consequential almost doubling of caseloads. The other two officers for the Belfast area were Mary Fallon and Jane Bell. (These two female officers were also policewomen; Cameron, 1993.) In addition to the two officers in Derry mentioned above, Robert Hewitt covered Ballymena, Archibald Stronge Portglenone and John Leonard the districts of the Lower Bann Valley.

The echoes of marching storm troopers precluded the Government having to take decisions on the implementation of the Lynn Report. That would have to await the cessation of hostilities. At least there was a blueprint for a new structure and increasing activity on the ground.

Conclusion

Thus the foundations of the Probation Service were laid in Belfast in the second half of the nineteenth century. New social and religious organisations alongside government institutions were established in response to the rapid growth of Belfast and the failure of former structures to cope. While initially this may have manifested in a desire to support the deserving, it soon led to an inclusive agenda that encompassed the offender among the 'undeserving'.

By 1907 probation services were in vogue in the courts. Rather than creating the services the enabling Acts of 1907 and 1914 endorsed the authority of the police court missionaries involved and provided Government funding for the services provided by their societies.

The new Northern Ireland administration from 1921 struggled to widen the reach and scope of the service beyond Belfast and young people. It was not until the Report of the Lynn Committee that the principles, structure and training ideas were laid out to develop probation services as a planned government strategy within the local arena of criminal justice.

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Training and Employment in an Economic Downturn: Lessons from Desistance Studies

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Summary: This paper examines the possibilities for offender training and employment in an economic downturn. It begins with the recognition that labour markets have collapsed and training programme design has been complicated by uncertainty around future opportunity. The examination is based on the findings from desistance studies, which highlight a process contributing to offender reform that has to do with acts of giving. If these insights are incorporated into training programme design and other criminal justice initiatives, then a whole new field of possibility opens up. The paper examines the desistance paths of offenders and in particular the role of employment as part of the desistance process. It concludes with an outline of possible training and employment activities that would utilise desistance study insights.

Keywords: Desistance, economic downturn, employment, reform, generativity, opportunity.

Introduction

Two important facts stand exposed with the downturn, and collapse, of some sectors of the economy: the central role of employment in offender desistance, and the adaptation of training programmes to local labour markets in support of the employment objective. Employment has long been considered a key component of, especially, an adult male offender's desistance path. The economic downturn in the first instance has reduced the opportunities for desisting offenders, while it has also complicated training programme design by offering no obvious existing labour market in which to adapt. They have all contracted.

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The question is 'where to from here?', with 'here' representing a radically contracted labour market and tight and deteriorating budgetary environment. Implicit in the question of 'where', however, is a trajectory, a yet to be defined future point that depends not only on economic factors but also on how we as criminal justice professionals understand the possibilities for future growth. It is the contention of this paper that the study of desistance offers invaluable insights that not only deepen understanding around recidivism and reform, but also illuminate future training and employment opportunities that are consistent with an offender's responsivity and motivation to change. To realise such insights, it is necessary to *unpack* the objects and processes to which the terms 'desistance' and 'employment' refer. For instance, desistance as a process of personal change away from offending behaviour includes both the offender's own understanding and the new life circumstances they may inhabit, of which employment is *normally* a part. How that understanding interacts with their new life circumstances, or even the desire for a change in life circumstances, has been the subject of desistance studies. It is no longer accepted that offenders simply age out of crime; rather, in addition to or as part of the ageing process, institutions such as employment – as well as the offender's self-understanding – play a part. Implicating self-understanding in the process makes desistance a highly individual process. But it is a process with strict socio-cultural underpinnings, by which is meant there is a value, or desire, for socially *accepted* conditions such as being married or being employed. In other words, desistance is towards what is, generally, socio-culturally construed as acceptable.

Employment is part of the *idea* of what is acceptable, and as such it has a value beyond the normal benefits associated with it such as remuneration and daily structure. It also has the potential to express what Maruna (2001) described as a generative impulse, the desire to give something back to the offender's community or the next generation, an act of giving that has been strongly implicated in offender reform. It is argued here that this insight from desistance studies opens up a whole field of activity that heretofore, in this country at least, has not been explored. The generativity impulse suggests that training programme design and work may be adapted to the needs of less well resourced groups in society rather than just local labour markets, which currently are not functioning. To make this argument the desistance paths of offenders must be explored, with reference to differences arising from

gender and age. In addition, desistance must be placed in its proper context as a criminological study, which implies it has its own limits. The structure is as follows: the limits of desistance studies are traced by way of context to the discussion of the narrative, cultural and control basis of desistance; the contribution of employment to desistance is then outlined; and finally the subject of offender training and employment in an economic downturn is discussed.

Disentangling desistance

Desistance studies are one emphasis within a broader strand of research and theory that has been referred to as developmental and life-course criminology (Farrington, 2005).[1] Specifically it is the study of ends, whereby the criminal career, characterised in general terms as having a peak age of onset between 8 and 14, and a peak age of offending between 15 and 19, reaches a peak age of desistance between 20 and 29 (Farrington, 2005). Optimistically, it has been found that the majority of offenders do stop committing crime, and *how* is obviously a major research question, though not without its conceptual difficulties.

For a start there is the problem of definition, in particular if time is factored into the description as a necessary condition. For example, when desistance is considered as an event it presupposes some idea of when it happened, which is logically difficult to establish (Maruna, 2001).[2] Desistance is more accurately understood as a process and not as an event, one in which there is a cessation followed by a refrainment from further offending. This introduces a useful distinction between what Maruna and Farrall (2004; cited in McNeill, 2006, p. 47) have termed 'primary and secondary desistance' to denote the difference between (1) the original act of stopping and (2) the processes that subsequently support desisting behaviour. It is a question of understanding personal change, but given that the primary reference point is crime, such

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[1] Under the criminologist David Farrington's typology, developmental criminology 'focuses on especially the development of offending but also on risk factors', while life-course criminology focuses on the effects of life events and life transitions on offending, as well as risk factors (Farrington, 2005, p. 3). In recognition that these are essentially an interlinked set of issues, the description 'developmental and life-course criminology' is used to capture connections between the onset of offending, its maintenance and the desistance from offending.

[2] For example, to say that desistance occurs after a certain time is arbitrary and probably misleading, for there will always be exceptions. But likewise to link it to the last offence is to place the act of desistance at the point of the crime, which is illogical (Maruna, 2001).

understanding has been criticised for its overly narrow focus on legal transgressions (or their absence) to explain personal development, when a concentration on antisocial behaviour might be more adequate (Gadd and Farrall, 2004). The point is that some important offences are less readily apprehended or less clearly defined, e.g. receiving stolen goods and varying degrees of abuse in domestic relationships respectively, and as such may go unnoticed even though they are, possibly, true reflections of the reforming offender. In addition, desistance studies, as a branch of criminology, are subject to the same biases as their parent. For example, the focus is primarily on the adult male offender and much less so on the female offender (Walklate, 2003), with gender differences receding further with age as it is the gender-neutral category of 'youth' that is often under investigation for young people (Wikström and Butterworth, 2008).

Such concerns, however, should not be seen as a failing of the subject, but rather as the outcome of a critical engagement that has led to the development of a more nuanced understanding of the desistance process. Most offenders do age out of crime, but there is debate as to how. A central stimulus to that debate was Gottfredson and Hirschi's (1990) claim that crime, in being the result of 'low self-control' – considered as a stable trait of the individual – is not conducive to changing social influences such as pro-social others or employment. Rather, the offender was thought simply to age out of crime over the life-course[3] (as cited in Gunnison and Mazerolle, 2007, p. 233). The claim has since been overturned: social influence does matter, but to what extent and in what way? It is not possible to trace the contours of the debate fully, but following Farrall and Calverly (2006), four key pieces of recent work must be mentioned, from which insights can be drawn, namely Maruna (2001), Giordano *et al*. (2002), Laub and Sampson (2003) and Bottoms *et al*. (2004) (as cited in Farrall and Calverley 2006, p 13).

The narrative basis of desistance

As a crude organising point, desistance studies can be separated according to the unit of analysis used to understand desistance, i.e.

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[3] Gottfredson and Hirschi argue that low self-control comes from poor parenting and socialisation practices. The 'criminal propensity' (their criminality) of any one criminal is instilled early in life, but remains relatively stable across the life-course (as cited in Farrall and Calverley, 2006). In other words, although socialisation continues to exert an influence throughout the life-course, it is limited by what was set in the early years and this implies a restricted role for social influence on offender desistance.

individual level processes versus the exteriority of social control acting on the person. Maruna (2001), for instance, starts from the premise that 'to successfully maintain … abstinence from crime, ex-offenders need to *make sense* of their lives' (emphasis in original), which is achieved in the form of a life story or self-narrative (Maruna, 2001, p. 7). In other words, to desist from crime, ex-offenders need to develop a coherent, pro-social identity for themselves. Overall, the objective of Maruna's research was to 'identify the common, psychosocial structure underlying' the narratives encompassing this identity, which he refers to as the 'phenomenology of desistance' (Maruna, 2001, p. 8). His findings were striking: desisters 'displayed an exaggerated sense of control over the future, and an inflated, almost missionary sense of purpose in life', despite their often difficult circumstances (Maruna, 2001, p. 9). They additionally recast their criminal pasts as the necessary prelude to a 'new calling' and distinguished their non-offending selves as the 'real me', i.e. who they were before the onset of the criminal career (Maruna, 2001, p. 9). All of this Maruna describes as the 'Redemption Script': the 're-biographing' of the life-story to justify and support change.

Maruna also identified among desisters a powerful impulse towards generativity, by which he meant the agentic desire to achieve and accomplish something of worth. Specifically it was a desire to contribute something to their communities, especially those at risk of becoming enmeshed in the criminal lifestyle: a phenomenon known as the 'wounded healer' (Maruna, 2001, p. 11).

Of particular importance in the current context is this generativity impulse, which has to do with work and hence will be returned to later. For the moment, two points are worth mentioning in relation to Maruna's research. Firstly, the 'exaggerated sense of control' that desisters feel over the future, which can be reframed as 'optimism' or 'hope', has been found elsewhere to be related to having an identified pathway out of crime and to the number of obstacles the offender faces (Farrall, 2002; Burnett and Maruna, 2004, respectively). Farrall, for instance, categorised probationers in the UK according to their motivation to change, identifying 'confidents, optimists and pessimists'. He found that motivation was directly related to the number and depth of obstacles the offender faced[4] (Farrall, 2002).

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[4] The categories of obstacle to desistance identified in Farrall's research were 'no obstacles expected, friends and family, financial reasons, drugs and alcohol, social problems, personal characteristics, other responses' (Farrall, 2002, p. 74).

On the surface this suggests that Maruna's desisters had similar pathways and manageable obstacles, but this was not the case. Maruna describes, on the contrary, difficult life circumstances that highlight the second point worth mentioning in relation to his work: that the 'Redemption Script' of the 'Real Me' represents, potentially, an under-utilised variable in the reform process, namely the idealised 'self' of the offender. This is evident from Maruna's desisters who overcame the obstacles they faced in part because of a change in perspective or self-understanding. The inference for probation work is that engagement and motivation can be deepened by identifying and working with the non-offending aspects of the offender's 'self' and then addressing the barriers to its realisation.

The cultural basis of desistance

Yet as important as Maruna's contribution is, it has been identified as primarily singular in its approach (Gadd and Farrall 2004), leaving the 'Real Me', as the preserve of the individual, somewhat distant and unelaborated … what is it exactly? Much has been written about the nature of the 'self' and its narrative embodiment by other disciplines,[5] but in terms of desistance, and training and employment, the work of two other recent groups of theorists is particularly important – Giordano *et al.* (2002) and Bottoms *et al.* (2004).

Giordano *et al.* (2002) explored female desistance and proposed a four-part theory of cognitive transformation. They found that, contrary to Sampson and Laub's social control theory, which we will turn to presently, social institutions such as marital attachment and employment were *not* associated with desistance.[6] This will be challenged in the next section, but to elaborate on Giordano's theory: the first part of cognitive transformation is 'openness to change', which is the offender's responsiveness, while the second relates to the offender's 'exposure to a particular hook or set of hooks for change' (Giordano *et*

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[5] This work highlights the cultural, historical and institutional articulation of the 'self' as distinct from a primarily individual focus, which would seem to complement existing desistance studies (for instance Holstein and Gubrium, 2000; Wertsch, 1991).

[6] Sampson and Laub (1993) proposed a theory of informal social control acting through institutions such as marriage, employment and the military, with each providing structural determinants of desistance (as cited in Farrall and Calverley, 2006).

al., p. 1000). This is important because it connects personal change to environmental stimuli, such as being offered a job, and means that offender responsiveness and opportunity are interdependent. It is reminiscent of Farrall's (2002) work on 'motivation and the obstacles to change', reported above, but goes further in the third step by naming the ability to envisage an alternative self as part of the change process. Giordano calls this the 'replacement self', and fundamentally it is culturally derived. The observation comes from noting that the most successful female desisters 'crafted highly traditional replacement selves (e.g. child of God, the good wife, involved mother)' which they associated with their successful exit from criminal activities (Giordano *et al.*, 2002, p. 1053). This raises the question as to why, as the expression of agency, these women become enmeshed in what can be described as repressive life circumstances.[7] One possible answer is that such are the cultural references available to them that there is actually little choice.

The last part of the four-stage model of cognitive transformation occurs when past behaviours are no longer appealing, but the idea of a culturally derived 'replacement self' warrants further elaboration. It is also reminiscent of Bottoms *et al.* (2004) who, in describing the transition from conformity to criminality and back again, question the cultural basis of that conformity. They compare it to 'the American Dream'[8] transposed to an English setting: that there is a collectively held ideal of having a safe job in a stable company, enough money, luxuries and girlfriend (Bottoms *et al.*, 2004). It is a male dream that Bottoms *et al.* outline, but it seems familiar enough to apply to the Irish setting and further illustrates the point that Maruna's 'real me' has cultural antecedents. Furthermore, it suggests importantly that irrespective of the rehabilitative capacity of employment, it seems safe to describe it as a culturally reinforced 'hook for change', as the reason why offenders may engage more fully with the Probation Service and other agencies of the criminal justice system. But following Giordano

[7] Giordano *et al.* give examples of repressive life circumstances by quoting respondents as follows: 'he don't trust me around men … he don't want me being around men'; 'he don't like me to work at all' (Giordano *et al.* 2002, p. 1053).
[8] The American Dream described by Bottoms *et al.* (2004) is that everyone can succeed with hard work, with success expressed in terms of power, important job and material possessions.

et al. and others, the culturally informed 'replacement self' is gender- and probably age-specific, which means that for each sex, at different ages and for different socio-economic backgrounds the exact form of the 'ideal' may change. However, in a recent study of the problems and needs of newly sentenced prisoners in the UK, whereby young offenders were compared to adults and males to females, it was found that 48% prioritised employment and skills deficits over health and family problems and sought help in these areas (Stewart, 2008), which supports the idea of employment as a societally held cultural value.

Informal social control and desistance

So far each of the desistance theories has emphasised to varying degrees the interaction of the individual with the environment to explain desistance. The last piece to be reported on as per the review by Farrall and Calverley (2006), Laub and Sampson's age-graded theory of informal social control, is different. It takes a more structural approach to offender desistance. The theory was first presented in 1993 and provided the stimulus to the theories already discussed; for example, Giordano *et al.* (2002) suggest that their theory of cognitive transformation is compatible with Sampson and Laub's theory of informal social control. It is placed here, outside the chronological order, because it deals directly with employment as a transition point in the criminal career, thereby providing a logical flow to the next section.

The basic premise of the theory is that 'persistence in crime is explained by a lack of social control, few structured routine activities, and purposeful human agency' (Sampson and Laub, in Farrington, 2005, p. 165). Desistance from crime, on the other hand, is explained by the opposite, a confluence of social controls, structured routine activities, and purposeful human agency. Such social control derives from institutions such as marriage, work and the military because in the short term they provide 'situational inducements' away from crime and in the long term they provide commitments to conformity (in Farrington, 2005, p. 175). It is a matter of structural change leading to attitudinal adjustment, which is to say that marriage and, more importantly in the current context, employment provide a positive set of conditions the

offender pro-socially grows into.[9] The most current treatment of the theory comes from Savolainen (2009), who in order to test the theory applied it to Finland because that country represented a different cultural, historic and economic context to the original application. For each institutional case – marriage and employment – the theory held up, but particularly so for employment, which was associated with a 40% reduction in recidivism (Savolainen, 2009).

The area of employment will be discussed further, but for the moment all the theories can be reflected in the following statement from McNeill (2006, p. 47), offered by way of summary: 'desistance resides somewhere in the interfaces between developing personal maturity, changing social bonds associated with certain life transitions, and the individual subjective narrative constructions which offenders build around these key events and changes'.

The contribution of employment to desistance

Some of the earliest thinking on offender desistance has involved employment. Rowbotham (2009, p. 122), for instance, outlines the role of employment in offender desistance at the London Police Court Mission *circa* 1907: 'Missionaries would seek to ensure that a potential desister could return to, or become a member of, a law-abiding neighbourhood and so wider community, through being employed'. Regular income was linked to self-respect and hence to desistance from drunkenness and crime, and to that end visits or letters to employers were a common feature of the work of the mission. This seems strikingly current, especially given that criminal justice initiatives such as the Linkage Service are involved in those very same tasks.[10] Yet the contribution of employment to desistance has been questioned despite its long standing as a criminal justice intervention. It is difficult to identify an exact answer as to why, but in part it may be explained by the ravages caused by Gottfredson and Hirschi's (1990) since overturned

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[9] It should be noted that this is the opposite to Maruna's emphasis on narrative re-biographing as part of the ongoing maintenance of desistance.

[10] The Linkage Service is a guidance and placement programme funded by the Probation Service since 2000. The primary objective of the Linkage Service is employment for offenders and to that end it organises and facilitates, following guidance with the offender, access to training, education and employment. From 2000 to June 2009 it made 5,846 placements, of which 1,757 were in employment (source: Linkage Service database records).

assertion that age affects crime directly and does not interact with other causal variables such as employment. But it also may have something to do with how work is understood, which is primarily as a static variable, by which is meant that there is something overly general about the statement 'employment promotes desistance'. If changes in the Irish labour market in recent decades are considered, e.g. from agriculture and 'import substitution industrialisation' to multinational corporations, service sector and construction growth in the Celtic Tiger (Boucher and Collins, 2005), then the nature of employment becomes less static, and its role in desistance more open to discussion. Each of these sectors represents vastly different working conditions, skills requirements, values and rewards, and as such, also represents different opportunities for reform that may or may not be appealing to the offender. In addition, how employment is perceived depends on the level of welfare provision in the State: hypothetically, the greater the State guarantee of economic and social resources, i.e. through welfare, the greater the effect on the motivation to work (Savolainen, 2009, p. 301). This is not to say that people will not work, but rather to suggest that it will affect how people perceive work.

The point of all of this is to suggest that the term 'employment' obscures the multiple points of difference that exist between various sectors, jobs and eras, with each offering varying degrees of opportunity and appeal to the offender. In addition, even if it is a single job that is being considered, e.g. mechanic, the perception and value placed on that job are subject to gender and age differences. Employment as a contributing influence to desistance should therefore be seen as a dynamic variable that changes according to the economic sector it is part of and according the perception of the person viewing it.

This implies that employment as a 'hook for change' varies but appears to be greatest for males over 26 years of age and even for marginal employment opportunities at the minimum wage (Uggen, 2000; Uggen and Staff, 2001). It also appears, contrary to Giordano *et al.*'s finding, that it is not associated with desistance for women: that employment *is* important to female offenders, but not in isolation from other factors such as accommodation and family relationships, which take priority and are organised first (Sheehan *et al.*, 2007). It has been found elsewhere that desistance occurs earlier for women then it does for men, in some cases occurring between the ages of 14 and 15, suggesting

processes that are specific to gender[11] and intimating that it is perhaps better to ask how employment contributes to those processes (McIvor *et al.*, 2004). The same can be said of young male offenders, who are at the peak age of offending – how exactly does employment, in all its variety, potentially affect their lives? In fact, in general terms, how can the contribution of employment to desistance be understood?

The general contribution of employment to desistance

The most current thinking is that employment is central to the desistance process in multifarious ways: employment has socio-cultural value; employment structures daily life, thereby reducing the opportunity to offend; employment gives people a sense of identity and a role in society; it engenders commitment and belief in that the job can be seen as beneficial and worthy by the offender; it can help shape people's routines by the scheduling within most jobs; it can increase self-esteem, use the individual's energies, provide financial security, provide daily interaction with non-offenders; and it can facilitate ambition (Farrall, 2002, p. 152). It is worth noting that any one of these could act as a 'hook for change', and broken down as such, they are not necessarily gender- or age-specific. Rather it is a question of linking the 'hook' to the 'real me' of the offender so as to outline steps that include training, education and personal supports that result in the independence of the desisting offender. However, such steps do not take place in isolation from other 'structural' events such as parenthood, and hence desistance can be seen as potentially involving a dual transition. An example of this would be through family formation and employment, whereby parenthood may change the value placed on employment in the pursuit of a more stable lifestyle (Rhodes, 2008).

[11] The lower desistance age indicates a different pathway for women, who not only are thought to mature earlier than males but also explain their offending differently, for example by alluding to the moral dimension of the crime, as in identifying with its wrongness and feeling shame as a result, as compared to males, who offer much more utilitarian explanations such as the damage to future prospects that apprehension implies (McIvor *et al.*, in Maruna and Immarigeon, 2004). There is also parenthood as an organising point for most female offenders because of its prevalence and the role of the mother as the primary caregiver, which may explain the other finding that females take much more active steps to dissociate themselves from anti-social peer groups than young men do ((McIvor *et al.*). This phenomenon has been called 'knifing off', the severing of past relationships and other aspects of the offender's life in pursuit of the desistance objective, and is subject to ongoing debate as to its role and influence in the desistance process (Maruna and Roy, 2007).

This suggests an important interaction between employment, self-identity and social relationships and highlights the type of non-economic function that employment may serve for the offender. Specifically employment can be described in constitutive and performative terms. In that employment forms part of a more pro-social role, it can be considered as providing a constitutive function, which is to say being 'pro-social' and law-abiding is constituted by certain activities of which employment is one. But in that it also encompasses 'recognised behavioural routines, or scripts for their enactment', it serves a performative role whereby a new identity is expressed through the act of being employed (Rhodes, 2008, p. 10).

Work and generativity

Employment may also however play a more direct role in the desistance process, especially if it includes the type of generative activity described by Maruna, i.e. some form of activity based on the impulse to achieve something of worth and contribute to the community. Many jobs fall under this broad description, but for anyone familiar with one-to-one work with offenders this is especially evidenced by the often cited desire to be an addiction counsellor, or some other form of helper. Irrespective of how realistic this is, it indicates a desire for change that may also reveal 'hooks' that keep the person engaged. The phenomenon has been described as the 'wounded healer' and when utilised has been associated with a 'sense of achievement, grounded increments in self-esteem, meaningful purposiveness, and obvious restorative implications' (Toch, 2000). More specifically, the principle has been tested by Uggen and Janikula (1999) in relation to volunteer work and found to be positively associated with pro-social behaviour because it allows for the utilisation of strengths that promote individual dignity (as cited in Burnett and Maruna, 2006). Burnett and Maruna (2006) provide a quote from de Tocqueville (1835) that is worth repeating: 'By dint of working for one's fellow-citizens, the habit and the taste for serving them is at length acquired'. Also noted is the social aspect of helping: in that it is always for someone, it includes a sense of community that has the ability to overcome isolation where it is felt.

Yet none of this is simply to present an argument for volunteerism; rather it is to note an important principle that seems relevant in the economic downturn. Offender reform involves imagining an alternative

reality and in part that vision is informed by the offender's reflection in the eyes of others. To contribute something and accomplish something are important aspects of that reflection and of desistance. But fundamentally in the current context they are not solely dependent on economic factors. Generative forms of working may include traditional forms of employment such as addiction counsellor, care worker (if appropriate to the offender) and project worker, but they may also include the abovementioned voluntary work and new forms of community service, which if taken together offer a continuum of opportunities that all support offender desistance. The question is how do we realise these opportunities in the current climate, or, put differently, how do the insights from desistance studies alter our perception of what is possible in the current climate?

Offender training and employment in an economic downturn

At the height of the Celtic Tiger it was an innovation to adapt training programmes to local labour markets in order to impart skills that gave the offender an advantage in the jobs market. With the collapse of many sectors of the economy, in particular the construction sector, this is no longer possible and the question returns – how do we prepare probationers for employment? On first reflection this may seem premature because of the current shortage of employment opportunities: the question 'prepare them in what?' might be asked. Yet the situation is perhaps not as dire as the current labour market suggests if insights from desistance studies are factored in. For instance, generativity suggests that the acts of helping, or contributing or achieving, can play a fundamental role in the desistance process.

This poses the question … how can we develop opportunities for offenders to engage in these activities, which is to say, how do we adapt training programmes and services to the *needs* of others, by which is meant less well resourced groups in society who currently have unmet needs? This would link what we do (training in necessary skills) to groups in need of support (services that fulfil the generativity impulse). Additionally, depending on the type of service offered, it should reduce the cost to the taxpayer because it is the State that supports less well resourced groups in society. One example of 'necessary skill' comes from the evolving green sector, i.e. energy production, energy reduction and recycling, which is fundamental to Ireland's future. Eventually when the

economy improves, consumers will purchase green services and products provided by the private sector, but there will be some groups that will not be able to afford them, e.g. the elderly and the disadvantaged, and some schools and community groups existing on very tight budgets. Therefore an example of a 'generative' service is one that would reduce the energy costs, or improve the living standard, of some group in need. It is meaningful in a desistance sense because it contributes something to that group, but in a socio-economic sense it imparts skills the new economy will need when it takes off, thereby improving employability.

The important point is that desistance studies highlight that training programmes can be adapted to the needs of the less well off and this has the benefit of both training offenders in future skill needs and applying that skill to less well-off groups that currently survive on State funding. Such an approach has the potential of continuing the general benefits of employment outlined above, as generative programmes could provide both the 'constitutive' and 'performative' functions that employment plays within an offender's desistance efforts, and would also provide greater opportunities to satisfy the generativity impulse. It depends on how we, as criminal justice professionals, organise the delivery of such 'generative' services, and it is here that the real innovation lies. Some form of social enterprise is needed to deliver the service and act as the 'middleman' between the end-user and the training centre that imparts the necessary skills. For the moment, though, it is a useful exercise to ask, in addition to the question 'what skills do we need?' the further question 'who do we provide them for?', for it is in this that opportunities outside normal labour market conditions will be identified.

Conclusion

Desistance studies draw our attention to some important facts about offender reform: that offenders identify alternative versions of their 'selves' – the 'real me' (Maruna) – during the desistance process; that these 'replacement selves' (Giordano *et al.*) are culturally informed and as such follow traditional outlines of what is desirable; and that various institutions, such as employment, offer avenues that both structure and express the alternative selves of desisting offenders (Sampson and Laub). This places employment as potentially, or ultimately, essential to the desistance efforts of reforming offenders and as such employment has been identified as a legitimate and necessary focus of probation work.

The question for this paper was how to realise this legitimate focus in a collapsed labour market.

Ironically, the recession may actually support the desistance efforts of some offenders by adjusting the value they place on employment. For instance, Giordano *et al.*'s culturally informed 'replacement self' may assign greater value to education and training then it did during the Celtic Tiger because of the collectively understood shortage of what they lead to. This means that offender responsivity and engagement, through training and employment, may increase as the supply decreases. So there is perhaps an opportunity to engage criminal justice clients more fully around the desire for a scarce resource. In addition, desistance studies, in outlining the type of subjective and social transformation processes involved in reform, also highlight a central tendency within that process: what has been referred to as the 'generativity impulse'. It suggests that there are areas of activity that can be pursued even amid a collapsed labour market, and this implies that employment initiatives continue to a play a fundamental role in probation work, even in an economic downturn.

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Think First: The Probation Board for Northern Ireland's Implementation Strategy of a New General Offending Behaviour Programme

Janet McClinton*

Summary: This paper outlines the planning, identification and subsequent implementation of Think First, a general offender behaviour programme, into the repertoire of programmes developed by the Probation Board for Northern Ireland in 2009. It considers the implications and challenges in delivering this programme and how it is part of a broader vision within PBNI to deliver accredited, well-designed programmes in preparation for the needs of the new sentencing framework.

Keywords: Offending behaviour programmes, cognitive behavioural therapy, motivational interviewing, effective practice principles.

Introduction

The Probation Board for Northern Ireland (PBNI) Corporate Plan 2008–2011 includes the strategic theme that PBNI will ensure the provision of appropriate offender behaviour programmes and interventions for custody and community sentences. To take the Corporate Plan forward, the annual Business Plan 2007–2008 included a Public Protection Objective 'To develop a general offending programme'. This paper outlines PBNI's response to this objective.

PBNI is planning for the introduction of all the provisions contained in the new Criminal Justice Order Sentencing Framework legislation, and sees itself as having a key place in the assessment and management of risk posed by offenders in the community. Community sentences are not a soft option. They are aimed at reducing reoffending and effecting change in the offenders' behaviour; research indicates that one of the

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most effective ways to bring about change can be through the offender undertaking a structured programme. These programmes, run with a tight management structure, by skilled staff and with a programme manual, have been shown to be effective (Maguire, 1995).

In order to ensure that the most effective programme was identified, a working party was set up and spent some considerable time researching general offending behaviour programmes. This scoping exercise looked at various general offending behaviour programmes in the United Kingdom, including Reasoning and Rehabilitation, One to One and Enhanced Thinking Skills.

Following analysis of national and international research, PBNI decided to implement the Think First programme. This is a Home Office accredited programme delivered in most probation areas in England and Wales. Evaluation studies conducted in 2006/07 showed a very promising improvement in positive changes in behaviour among offenders undertaking the programme (Hollis, 2007).

One of these studies looked at a significant number of offenders who attended General Offending Behaviour Programmes, and the study indicated that the reconviction rate for those who completed programmes fell by 26%. However, in relation to those who started but failed to complete, this number reduced dramatically, indicating the need for appropriate targeting and selection of participants.

To reflect back to the Corporate Plan, it included the need for the development of a Northern Ireland Offender Management Strategy which in a nutshell dealt with the need for a seamless offender management process from court sentence through prison, into the community until the end of the court disposal; this has become known within PBNI as 'End to End offender management'. This allows for an alignment of processes and systems to ensure the risk management of offenders. One of the main attractions of Think First is that it can be run in the prison and in the community: this was seen to be an important part of the decision-making as to its suitability to meet the needs of PBNI.

Theoretical base

Thinking areas targeted by offending behaviour programmes include self-control, cognitive style, interpersonal problem-solving, social perspective-taking, values and critical reasoning.

In deciding on Think First, a major factor was that it was based on effective practice principles, which incorporate the following:

- appropriate selection and allocation
- community-based
- focused on criminogenic needs
- structured approach
- responsivity
- programme integrity
- clear theoretical framework
- cognitive behavioural methods.

It is important to understand the theory of cognitive behavioural therapy (CBT) on which the programme is based. Professor James McGuire was responsible for developing Think First, and it is his view that cognitive behaviourism represents a combination of different psychological approaches, behaviourism and cognition: the former focuses on observable behaviour and the latter focuses on subjectivity. CBT focuses on thoughts, feelings and behaviour and how they interact with each other. Cognitive abilities are viewed as learned rather than inherent, and so the ability to change and develop new learning is possible.

Groupwork facilitation within PBNI is based on the principle of pro-social modelling. An important factor in group facilitation is the belief in the importance and effectiveness of programmes. This enables clearer communication of the programme contents to participants.

A complex dynamic exists between facilitators and group participants, and it is essential that an empathetic relationship be established between the two. The facilitator is a role model who is clear about roles and boundaries; within this the participant feels respected and valued and by copying the facilitator can learn appropriate ways of behaving.

Think First programme overview

The Think First programme is an intensive offence-focused groupwork programme delivered to groups of up to 10 offenders. Its aims are:

- to help group members develop their skills for thinking about problems and for solving them in real-life situations
- to apply these skills to the problem of offence behaviour and help group members reduce the risk of future offending.

The main objective of the programme is to help offenders learn new skills related to social problem-solving that will enable them to manage areas of concern in their lives and to avoid further offending. It tackles the way offenders think and behave and aims to change behaviour by teaching problem-solving skills.

The programme runs for 30–32 two-hour sessions, comprising four pre-group, 22 group and seven post-group sessions with a number of sessions delivered immediately after the groupwork element by the Case Manager. The final sessions can be delivered over some three to four months after completion of the group element, acting as a 'booster' or used as a relapse prevention module.

The pre-group sessions establish a point of contact and set the scene for the remainder of the Probation Order. They begin the working alliance and also check out any obstacles to successful completion. The use of motivational interviewing skills is essential at this early stage.

There are five principles of motivational interviewing: express empathy; avoid argumentation; develop discrepancy; support self-efficacy; and roll with resistance. Motivational interviewing is based on the principles of CBT and is a client-centred approach, which aims to help the participant see the possibilities that can be gained by change.

Core components of the Think First programme include social problem-solving skills, which are the focus of sessions 1–13 (session 14 is a review session). These early sessions start with problem awareness, gathering information, problem definition and assessment, offending behaviour as a problem, through to alternative thinking and decision-making. A number of criminogenic factors are targeted by these skills, i.e.:

- not recognising or avoiding problems
- impulsivity
- lack of empathy
- inability to think of consequences
- rigid thinking.

After session 14 the sessions are all about applying the skills learnt. Skills in self-management and self-control are addressed in sessions 15 and 16; examples of the criminogenic factors targeted include addictive behaviours and impulse control.

Social behaviour and interaction skills are looked at in sessions 17 and 18; examples of the criminogenic factors targeted include communication styles, assertiveness skills and cognition patterns, e.g. stereotyping. Sessions 19–21 focus on perspective-taking, attitudes, negotiation and conflict resolution. Session 22 is a review session.

Pre- and post-groupwork sessions are conducted by the case managers and these include preparation for engaging in the programme and relapse prevention strategies.

Target group

The Think First programme can only be undertaken by way of additional requirement to a Probation Order. A full assessment of the offender's suitability and motivation to comply with the demands of the programme should be conducted at the Pre Sentence Report stage and consent obtained. The following criteria are the basic indicators of suitability for the programme and can be evidenced through the PBNI assessment tool ACE, which is a dynamic offender management assessment tool:

1. 3+ previous convictions
2. aged 18+
3. medium-/high-risk offenders, i.e. 16+ on final ACE score
4. those who have a score of 2 or 3 out of sections 8:3 and 9:4 ACE – Personal Section.

The programme may not be appropriate for certain categories of offenders as outlined below, and additional suitability assessments may be required.

Research shows that for an offender to benefit from the programme it is important that they are motivated to attend and complete. Offenders who start the programme and don't complete are more likely to reoffend than offenders who don't start the programme at all, therefore selection and targeting of appropriate offenders for this programme is key.

Most suitable
- those aged roughly 18–40 years
- medium to medium-high risk of reoffending and high scoring in the 'individual characteristics/ personal skills' section of ACE, i.e. 16+
- repetitive offenders

- burglary, theft, criminal damage, driving-related behaviours
- some offenders convicted of assault
- evidence of difficulty in problem-solving linked to offending behaviour.

Least suitable
- sex offenders, schedule one offenders
- mentally disordered offenders
- those with learning difficulties
- domestic violence, substance misuse
- those at low risk of re-offending.

Treatment management

Treatment management is an essential component of accredited programmes. One of the Treatment Manager's primary responsibilities is providing support and guidance to programme facilitators in achieving best practice for ongoing programme sessions. The Treatment Manager also needs to ensure that programme integrity is maintained throughout all aspects of delivery, to act as a drift check and ensure that there is no reversal of the aims of the programme.

Finally, the Treatment Manager will assist and support facilitators to make decisions, in consultation with the programme manager, with regard to the day-to-day running of the programme, particularly where difficult practice issues arise.

Evaluation

As part of the need to ensure consistency, accredited programmes must evidence that they are being evaluated. In case of Think First this is done by the application of psychometric tests pre- and post-programme, as follows.

- Impulsivity Scale (Eysenck and Eysenck, 1978)
- Locus of Control (Craig *et al.*, 1984)
- Gough Socialisation Scale (Gough, 1960)
- Crime PICS II (Frude *et al.*, 1994)
- PICTS (Psychological Inventory of Criminal Thinking Styles) (Walters, 2001)
- Social Problem-Solving Questionnaire (Clark, 1988)

The psychometric tests can provide information on the impact of programmes in terms of changes in the offender's attitudes and self-reported behaviour both throughout and immediately after attending a programme. The information from pre- and post-testing will also contribute to long-term studies into reconviction and reoffending rates.

Accreditation

To achieve accredited status, programmes go through a rigorous process in terms of how they are designed and developed, and are scrutinised to ensure that they can evidence an impact on offenders. In addition, the programme has to evidence programme integrity, i.e. that it is being delivered to a standard that ensures it targets criminogenic need and leads to a reduction in reoffending.

Implementation plan

Having decided on the appropriate programme it was necessary to establish an implementation plan, and consultation with the National Offender Management Service (NOMS) led us to opt for a widespread implementation across the service and judiciary within a six-month timescale. The strategy had to include senior management agreement and so a presentation was made to and agreed by senior management within PBNI.

The strategy outlined the following.

- It was recommended that Think First should replace two of the current range of programmes: Disqualified Drivers Programme (DDP) and Don't Risk It Programme (DRIP).
- In line with the suggested model of programme delivery that had been agreed with the NI Prison Service, it was recommended that PBNI should deliver the Think First accredited programme according to the relevant level of assessed risk of harm.
- A timeline was drawn up that included training needs for staff across the whole service, and this was seen as a key factor in embedding the programme into staff thinking.
- Awareness training was seen as being required for external agencies including courts, magistrates and judiciary. Consultation with judiciary entailed a briefing note being drawn up to be sent out to

judges/magistrates, followed up by meetings between individual Area Managers and the courts sitting within their area; a meeting was also held with the President of the presiding magistrates and there was ongoing attendance at Judicial Studies Boards.

The strategy also looked at the area of offenders who posed risk of harm. PBNI has a range of programmes for perpetrators of sexual offences and domestic violence, which are delivered by a specialist team in Belfast and from a number of locations in the rural areas. The Cognitive Self Change Programme is delivered from a central point in Belfast using a generic team approach with trained facilitators based in outer offices. Offenders whose offending behaviour is of a sexual and/or domestic violence nature require services that are delivered and managed tightly and that staff be trained and supported to ensure a very high level of performance. The development and implementation of new accredited programmes including the Internet Programme for Sex Offenders and the Integrated Domestic Abuse Programme (IDAP) as well as the Safer Lives Programme (programme for young men who commit sex offences) will increase the need for high-intensity programmes for high-risk offenders to be delivered using a specialist model of delivery and management.

The strategy recommended that programmes for medium/high-risk concern offenders should also be delivered using a specialised team approach similar to that employed at the Intensive Supervision Unit (ISU). The ISU was set up to be staffed by experienced Probation Officers who have received specialist training in working with this targeted group of offenders. A cohort of staff provides group work programmes and case management for offenders who have been deemed at risk of harm. The programmes offered there include the Community Sex Offenders Groupwork programme (CSOGP) and the Men Overcoming Domestic Violence programme (MODV). Therefore, to replicate this necessitated the training of a cohort of staff who could deliver the Think First programme aimed at medium- to high-risk offenders.

Workforce planning

A statistical analysis of PBNI caseload revealed that between 250 and 300 offenders fell into the target group of:

- adult 18+
- male/female
- not a sex offender/domestic violence offender
- medium/high risk, i.e. 16+ in the Assessment Case management and Evaluation (ACE) score
- personal/thinking skill deficits – Section 9:4 (ACE).

It was estimated that PBNI should aim for approximately 200 completions per year on a basis of 10–12 participants per group.

This meant that PBNI needed to commence two groups per month, one Belfast-based and one rural-based. Each group would continue for three months at a rate of two sessions per week. In terms of dosage the ideal was two half-day sessions interspaced by one to two days. However, it was agreed that in the rural areas these sessions could be combined into a one-day format.

It was suggested that the grade of staff used to deliver low- to medium-intensity programmes be employed to deliver the Think First programme, i.e. Probation Service Officer (PSO) grades with sessional back-up to cover other programmes. This grade of staff were recruited to provide direct service delivery to offenders and were expected to carry a mixed workload for example programme delivery, community projects and duties in court or as required. Experience of working in social care, youth and community work with a qualification in one of these was one of the essential criteria.

Staff ratios were outlined to meet the requirements to deliver the Think First Programme: seven PSO staff in the rural areas and 5.5 in the Belfast Area.

It was estimated that approximately 50% of clients were employed, requiring the delivery of evening programmes on a 50% pro-rata basis with day programmes. As a result it was suggested that some staff might need to be employed on a part-time, evening basis.

Training

Training was competence-based, requiring the use of an assessment centre approach. The assessment centre is structured around a competency framework that is the basis of assessing the suitability of a staff member to attend core skills and programme-specific training; the purpose is to ensure staff members' ability to deliver an accredited programme.

The process involved a 10–15 minute presentation and a structured interview lasting approximately 40 minutes. This approach had already been employed successfully for other accredited programmes that PBNI delivers.

Once selected, facilitators were required to attend five days' Groupwork Skills Training and a further five days' programme-specific training. PBNI identified and employed two experienced trainers from the North West Training Consortium in February and March 2008 to train an initial cohort of 16 staff, i.e. Facilitators and Programme/Treatment Managers.

Training for pre-sentence report (PSR) writers and Case Managers as well as Field Managers was highlighted. North West Training Consortium Trainers provided two-day 'Train the Trainer' training for three to four Learning and Development staff and the Programme Managers so that they can provide this training in-house on a cascade basis.

As noted in the overview, evaluation will be a key part of the development of this programme and a database has been set up; within this Northern Ireland has been designated as a separate region by NOMS. The information from the psychometric tests will be fed into the national database, which is set up in such a way that PBNI can use the data collected. It is equally important to gather the views of participants in terms of its responsivity in terms of delivery but also in terms of relevance to their needs. This information is being gathered through verbal feedback, interviews and group discussions. A total of 180 Probation Orders have been made with the additional requirement of Think First across Northern Ireland. Ten programmes have been run to date, with an average of nine people completing each programme. Evaluation feedback will be available within the next six to 12 months and it will be important to use this information to feed into the development of this programme.

Future development

The main aim of Think First and the development of programmes is to ensure effective risk management of offenders, to challenge, change and protect.

The Think First programme was implemented in Northern Ireland in 2008 and is thus relatively new to the PBNI; however, it has been

running in England and Wales since 2004. Like all programmes it is not static, and while research has shown the efficacy of the programme there has been ongoing updating to reflect developing practice. Within PBNI we are watching with interest the development of a new second-generation programme, 'Thinking Skills', which incorporates advances in cognitive behavioural techniques.

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Transfer of Probation Supervision between Member States: An EU Initiative

David O'Donovan⋆

Summary: At the end of last year a new mechanism was initiated within the EU which will come into effect in December 2011 across all Member States. Orders for probation supervision will then be able to be transferred to another Member State for implementation. The principal features of this legal instrument are outlined, with some comments on the wider context and on how probation agencies should approach the issue.

Keywords: Framework Decision, probation supervision, recognition of the judgment, alternative sanctions.

Introduction

A meeting of the Ministers of Justice within the European Union (EU) on 27 November 2008 agreed the text of a new Framework Decision that will authorise, in specific circumstances, supervision in one Member State of an order made in another Member State. As these arrangements, and any underpinning changes in national legislation, have to be implemented within three years, probation agencies should start familiarising themselves with the concepts now and plan ahead. This paper will outline the structure and process contained in the Framework Decision (FD), contrast it with parallel procedures put in place by the Council of Europe, and note some specific implications for probation internationally. An addendum explains what FDs are and how they fit within the EU legal system, and the genealogy of the probation and prisoner FDs.

The legally binding text is contained in 27 Articles, which can best be explained as a sequence of steps. The FD must be capable of being

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grafted on to the different criminal justice systems in all 27 Member States. To simplify the explanation, however, complications that do not apply in Ireland (for example a probation decision by a separate body following on a court finding) will not be referred to. Yet some of the options provided must get a mention as other countries may well apply them, even if it is unlikely that Ireland or the UK will do so.

Principal features of this FD

Objective and scope
Article 1 states clearly that the FD 'aims at facilitating the social rehabilitation of sentenced persons, improving the protection of victims and of the general public, and facilitating the application of suitable probation measures and alternative sanctions, in case of offenders who do not live in the State of conviction'. To achieve these objectives, the FD 'lays down rules according to which a Member State other than the Member State in which the person concerned has been sentenced, recognises judgments or alternative sanctions contained in such a judgment, and takes all other decisions relating to that judgment, unless otherwise provided for in this Framework Decision'.

There are therefore two elements: the recognition of the judgment and the implementation of the supervision ordered. The two go together: if the judgment is recognised then supervision normally commences. Hence the FD has no application to non-custodial decisions not involving supervision, for example binding over, absolute discharge, or suspended sentence without supervision. It applies to sentenced persons, and it is clear this has to be natural persons, so the FD has no relevance to convicted legal persons such as corporations.

Categories of supervision
The FD encompasses four types of judgment giving rise to supervision:

- suspended sentence
- conditional sentence
- alternative sanction
- conditional release.

While there is no definition of supervision as such, 'probation measures' are defined as 'obligations and instructions imposed by a competent authority on a natural person, in accordance with the national law of the issuing State, in connection with a suspended sentence, a conditional

sentence or a conditional release' (Article 2). In the FD, the 'issuing State' is the Member State in which a judgment is delivered, and the 'executing State' is the Member State that recognises the judgment and implements the supervision.

The definitions of suspended sentence and conditional release (from custody) cause no problems. 'Conditional sentence' refers to a deferment of sentence imposition subject to conditions. Disappointingly, the alternative sentence – a non-custodial penalty mandating a period of supervision – is simply defined as a sanction that is not a custodial sentence or a fine, which imposes an obligation or instruction (could be several such).

Article 4 of the FD lists 11 different requirements of probation measures with which we are all too familiar, for example inform a specific authority of any change of residence or working place, report at specific times, carry out community service, co-operate with a probation officer, undergo therapeutic treatment. All Member States are required to implement this list of measures, and may indeed add others.

Initiating the process

For the purposes of the FD, each Member State is required to designate one or more competent authorities to forward or receive judgments, decide on recognition or otherwise and ensure that consequential decisions are taken. Consideration is being given in both Ireland and the UK to establishing a central authority to co-ordinate actions under the FD. The competent authorities in each Member State are notified to the General Secretariat of the Council, which circulates the information to all Member States. The judgment, accompanied by a completed standard certificate, is then forwarded by the authority in the issuing State, i.e. the State transferring the judgment to the corresponding authority in the executing State (the State that receives the judgment and implements supervision). Normally this will be a Member State in which the sentenced person is lawfully and ordinarily residing, i.e. the offender wants to return to that State, or has already done so. However, the sentenced person may request to travel instead to another Member State, and the request can be sent to that State instead, if the competent authority in that State has agreed to receive it. Each State must determine the criteria that will apply to a decision to agree or not, although Recital 14 provides some examples. For further details, see Articles 3, 5 and 6 of the FD.

Grounds for defining recognition and supervision

Article 8 is very clear: the competent authority in the executing State 'shall recognise the judgment', and 'shall without delay take all necessary measures for the supervision of the probation measures or alternative sanctions' unless there are grounds for refusal as set out in Article 11 of the FD.

Some grounds for refusal are fairly obvious, such as that the certificate is not properly completed or signed, or it includes measures other than those in the standard list or what other ones the executing State has agreed to supervise, or the certificate 'manifestly does not correspond to the judgment'. Others are legal grounds, for example the enforcement of the sentence is statute-barred according to the law of the executing State; or the sentenced person, because of his or her age, cannot be held criminally liable for the act in question under the law of the executing State. Others again are practical, such as the inability of the executing State to provide the medical or therapeutic treatment required in the order. Again, if the probation measure or alternative sanction is of less than six months' duration, or the community service would normally be completed within six months, then the executing State can decline.

Under Article 10, the requirement of 'double criminality' must also be satisfied, i.e. that the judgment relates to acts that also constitute an offence under the law of the executing State. There is an agreed list of 32 offences that in this and other FDs are recognised as sufficiently serious in all countries that double criminality need not be proved. However, there may be some dispute in particular cases, so a Member State may declare that it requires double criminality to be established in all cases, and Ireland is likely to so declare. This issue is particularly relevant for probation supervision, which may well be ordered for minor or less heinous instances of a serious offence category.

Where there are difficulties with the certificate, or practical issues arise, the competent authority in the executing State may postpone the decision and request additional information/clarification from the issuing State. Nevertheless, the competent authority in the executing State is required to make its decision as soon as possible and within 60 days of receipt of the judgment and certificate. If it is not possible to comply with this time limit 'in exceptional circumstances the competent authority in the executing State must inform the issuing State of the reasons for the delay and the estimated time needed for the decision' (Article 12).

Adapting the judgment to the law of the executing State

If the nature or duration of the probation measures is 'incompatible' with the law of the executing State, then the competent authority of that State may adapt them to domestic law (for example if the hours of community service exceed the maximum in domestic law). The adapted measure must of course correspond as far as possible to what was imposed in the issuing State, and 'shall not be more severe or longer' than what was imposed (Article 9). The issuing State must be told of the adaptation and, if it is not happy, it may withdraw the certificate 'provided that supervision in the executing State has not begun'.

Follow-through of supervision

Supervision 'shall be governed by the law of the executing State' (Article 13). So the executing State has jurisdiction to take all subsequent decisions (Article 14), including:

• modification of the obligations or instructions
• revocation of suspension of the sentence, or of conditional release
• imposition of a custodial sentence.

However, some States are anxious to retain jurisdiction to deal with breaches or failures to comply. An executing Member State may therefore declare that it will not accept responsibility for revocation or imposition of a custodial sentence, in which case jurisdiction in these situations is transferred back to the competent authority in the issuing State. The sentenced person of course remains in the executing State, and the executing State is then expected to carry out whatever decision is made by the issuing State (Article 16). It seems unlikely that Ireland or the UK will make the declaration, at least not for all cases.

Exchange of information

As well as a general encouragement to competent authorities in the issuing and executing States to consult with one another, there are specific obligations on the executing State to inform the issuing State of decisions on modifications, revocations, etc., and vice versa. The issuing State in particular must inform the executing State of any findings that are likely to result in revocation etc. and indeed of 'any circumstances or findings which could entail such a decision' (Article 16).

End of jurisdiction of the executing State

The competent authority in the executing State may transfer jurisdiction back to the issuing State if the sentenced person absconds (Article 20). (If the sentenced person cannot be found in the territory of the executing State after the judgment is transmitted, then the issuing State is so informed and the executing State has no further obligations.) Where new criminal proceedings are commenced in the issuing State, after supervision has begun in the executing State, then the issuing State may ask for jurisdiction to be returned and the executing State may, or may not, comply with this request.

Coming into force of the FD

Once adopted by the Council, the text of the FD was published in the *Official Journal of the European Union*, and came into force on that day, i.e. 16 December 2008. Member States then had just under three years to take all the necessary measures to implement the FD, including transposing it into national law. So the system envisaged by the FD will not become fully operational until 6 December 2011, assuming all Member States meet the deadline. The text of amendments to national law to implement the FD must be transmitted to Brussels. The Commission (not the Council) has to draw up a report by December 2014 on the extent of implementation. This report will be based on the information received from Member States and may include legislative proposals.

The wider context

This FD aptly illustrates the difference between, on one hand, Council of Europe Conventions that are opened for signature and ratification by States within the Council but may never be implemented if states choose not to, and, on the other, FDs promulgated within the EU that are then obligatory on Member States to implement, albeit within a generous timeframe.

On 30 November 1964, the Council of Europe issued a Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders. Only eight countries subsequently signed and ratified it, a further four signed but did not ratify, and the remainder (including Ireland and the UK) did not even sign it. The text also contained a vague opt-out clause if the requested state deemed that the

sentence in question, including the conditions to be implemented, was incompatible with the principles underpinning its own national law. So the Convention has been ineffective and is widely considered a failure.

In contrast, the FD is mandatory on all 27 EU Member States. Article 23 states clearly that the FD replaces the corresponding provisions of the 1964 Council of Europe Convention in relations between Member States. To avoid history repeating itself, it is therefore crucial that every effort be made to operate the FD effectively, so that it does not become a dead letter too. It may seem complex at first sight, but that is because it had to cover the varying criminal justice systems across all Member States. The principles, however, are clear and the real test is not the mechanisms for recognition but the effort that will be put into successfully completing the order received from the foreign court.

The Council of Europe also instituted a Convention on the Transfer of Offenders serving custodial sentences, and this appears to have been much more successful. Now the EU has also introduced an FD on the execution of judgments in criminal matters, imposing custodial sentences or measures involving deprivation of liberty, 2008/909/JHA. The two FDs are expected to work in parallel, so it is important that probation agencies are seen to be effective on their side of the fence.

Specific implications for probation internationally

We live in an age of frequent and mass travel, where many go to a city abroad for weekends as well as annual holidays, and very many young people travel to other countries for work or education/training. Almost inevitably, there has been an increase across Europe of nationals from one Member State appearing on criminal charges before a court in another Member State. At present, these courts have the option of either imposing custody or letting the offender return home with a stern admonition.

With this FD a third alternative emerges, namely imposing a non-custodial order with conditions, including supervision, to be implemented in the offender's home State. There is a danger that this disposal would be utilised (apart perhaps from community service) when appraisal would suggest that there are no significant underlying criminogenic or social issues to be addressed and that supervision is not really needed for what would be termed a low-risk offender; in other words the offender has been 'up-tariffed'. This would be a pattern to be commented on for the review of the FD due in 2014.

The FD formally extends EU law to cover probation via the transfer of responsibility for supervision, implicitly acknowledging the development of supervision orders in Member States. As noted above, it constitutes a challenge to probation organisations to be familiar with the national legal provisions that will ensue and to operate them as professionally as possible. Hence the importance of risk assessment, of programmes that work in dealing with the criminogenic factors identified, and ensuring that offenders who blithely ignore the requirements are dealt with accordingly.

Of course, the FD does not go as far as some would wish. For example, the only reference to probation reports is at the end of the certificate, which merely requests that a box be ticked if such reports are available. The language in which such reports are written should be indicated, with a footnote that the issuing State is not obliged to provide translation of these reports! What would be needed, however, is home circumstances appraisals, for example the type of accommodation that the offender has in the executing State, his or her employment or training prospects, therapeutic treatment that would be organised to address substance abuse, etc. The court in the issuing State is unlikely to be familiar with the social circumstances and facilities available in the executing State, hence the specific entitlement to modify conditions during the currency of the supervision. Ideally a home circumstances appraisal should be prepared and considered before the decision is taken to recognise the judgment, but the tight time-line (60 days) will militate against that in most cases, particularly if the offender in question has never been dealt with by probation, or has no criminal record, in his or her home country. It may well be, therefore, that a full assessment of social functioning and attitudes to crime should be the first order of business once supervision commences.

The use of the term 'alternative sanctions' in the FD is unfortunate and may rightly be criticised as outdated, especially in light of the Council of Europe Rules on Community Sanctions and Measures. The definition of community sanction used there would indeed cover the other three categories in that they are orders for supervision in the community. It would seem, however, that many European countries traditionally use 'alternative sanctions' and are unwilling to change, despite the linguistic implication that such sanctions, as an alternative to custody, are somehow second best and that custody is the principal and preferable punishment. As noted above, the definition in the FD is of

little value, being simply a negative, so it is up to each national legislature to define its own supervised non-custodial sanctions in its own way.

Electronic monitoring is often used in Europe as an enforcement of bail measure or as an added requirement for early release from custody. Although it is not legislated for in the text of the FD, Recital 11 acknowledges that it could be used in the supervision of probation measures, in accordance with national law and procedures. It is therefore a matter for each Member State to determine its application.

It could be argued that this FD too closely parallels the FD on the execution of custodial sentences. Many provisions (for example grounds for refusing to recognise) are very similar, using sometimes identical phrases. This is understandable in that much of the groundwork discussion on the draft texts was undertaken in the Council's Working Party on Co-operation in Criminal Matters. Many of the members of this working party are lawyers from the Ministries of Justice of the Member States, hence the emphasis on legal rules and procedures. The same working party had earlier completed the ground work on the text of the FD on custodial sentences and hence saw a value in consistency and parallel provisions. Not a few were unfamiliar with contemporary thinking on probation, and considered supervision as basically reporting to the police at regular intervals, with social assistance added. A minority of countries, indeed, do not have a probation service as such. Transferring prisoners in custody essentially means changing from one cell to another, while for probation, transfer to another jurisdiction involves having to deal with issues such as accommodation, employment, family and interpersonal relationships, and appropriate leisure pursuits.

Conclusion

This FD presents both a challenge and an opportunity to probation agencies across Europe. The challenge is to make transnational supervision effective. The opportunity is to make probation a valued option for offenders throughout all Member States. As the name implies, we now have a framework, a basic structure on which each legislature in the EU must build the sinews of how the FD will work in its jurisdiction. It is to be hoped that the professional probation bodies will bring their experience and expertise in the field of supervision to the task of formulating the provisions and protocols necessary for the implementation of the FD, and that they will be invited to do so.

Addendum

1. The Maastricht Treaty, formally entitled the Treaty on European Union (TEU), entered into force on 1 November 1993. The contracting Parties to the Treaty (the Member States) went beyond the existing European Community (EC) to establish a European Union (EU) which was to consist of three pillars:

    (i)   the existing EC, a structure of common developments in social and economic areas, overseen by the European Commission
    (ii) a Common Foreign and Security Policy (CFSP)
    (iii) co-operation in the field of Justice and Home Affairs (JHA).

    The two new pillars would operate alongside, but beyond the ambit of, the European Commission. Intergovernmental structures would be used, with decisions being made by the Council (i.e. all national governments acting collectively), which would keep the Commission informed and elicit the views of the European Parliament.

    So, co-operation in the field of Justice and Home Affairs became one of the three basic areas of competence of what was now no longer the EEC but the EU.

2. The Treaty of Amsterdam, which entered into force on 1 May 1999, expanded the role of the European Commission to include 'Visas, Asylum, Immigration and other policies relating to the Free Movement of Persons' (new Title IIIa, inserted into the Treaty of Rome by Article 2.15 of the Amsterdam Treaty). The key element remaining was Police and Judicial Co-operation in Criminal Matters. (PJCC), so Title VI of Maastricht was replaced by a new Title VI, Articles K.1 to K.14 inclusive (Article 1.11 of the Amsterdam Treaty). Article 12 of the Amsterdam Treaty decreed that the Articles of the TEU were to be renumbered in accordance with the table of equivalences set out in the Annex to the Treaty. Therefore references to any provision of the TEU would from then be to the new number, in the case of PJCC to Articles 29 to 42 inclusive.

3. Art. 29, TEU, now states clearly: 'The Union's objective shall be to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the

Member States in the fields of police and judicial co-operation in criminal matters'. This links with the fourth objective set for itself by the Union, namely 'to maintain and develop the Union as an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime' (Article 2, TEU).

4. Preventing and combating crime by closer co-operation between judicial and other competent authorities of the Member States is to include (Art. 31):

'(a) Facilitating and accelerating co-operation between competent ministries and judicial or equivalent authorities of the Member States in relation to proceedings and the enforcement of decisions.
(b) Facilitating extradition between Member States.
(c) Ensuring compatibility in rules applicable in the Member States, as may be necessary to improve such co-operation.
(d) Preventing conflicts of jurisdiction between Member States.
(e) Progressively adopting measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties in the fields of organised crime, terrorism and illicit drug trafficking.'

As always with EU documents the phrases are carefully constructed. The first emphasis – (a) and (b) – is on the Union simply facilitating the Member States. A wider focus to ensure compatibility and establish minimum rules points to a mediator role, finding ways in which the Member States can co-operate more effectively. It cannot be the imposition of a uniform European criminal code because Article 33 states unambiguously that 'This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security'. This is the core principle of subsidiarity (that decisions should be taken and actions implemented at the lowest effective level). Matters that can be dealt with most effectively at European level, and only those matters, should be decided at European level. Therefore any initiative or instrument resulting must

address the interaction between Member States, creating a framework within which individual Member States can link together their national criminal justice systems for effective joint working.

5. Because this is the third pillar, responsibility rests with the European Council. Art. 34.1 requires Member States to 'inform and consult one another within the Council with a view to co-ordinating their action'. Then Art. 34.2 goes on: 'The Council shall take measures and promote co-operation, using the appropriate form and procedures as set out … To that end, acting unanimously on the initiative of any Member State or of the Commission, the Council may:

    (a) …
    (b) adopt framework decisions for the purpose of approximation of the laws and regulations of the Member States, Framework decisions shall be binding upon the Member States as to the result to be achieved but shall leave to the national authorities the choice of form and methods. They shall not entail direct effect.
    (c) …
    (d) …'

6. FDs are therefore a primary means of establishing structures and legal formulae to enable inter-State collaboration to be effective in a specific criminal law issue. They are introduced on the initiative of one or more Member States. The final agreed text must be accepted by all Member States so that the Council of Ministers of Justice can act unanimously when they sign off on it. FDs must be transposed into national law since each Member State has choices to make in the procedures etc. of how it will be implemented, but within the parameters of achieving the mandated objective. Equally, since they operate through domestic legislation, they do no have direct effect, i.e. they cannot provide a cause of action or be relied on by individuals before domestic courts. Discussions on draft FDs are in working parties established by the Council but the Commission must be kept informed (Art. 36.2, TEU) so is usually represented around the table. The Council is also obliged to consult the European Parliament before adopting any FD (Art. 39.1, TEU). The European Court of Justice has a limited jurisdiction to give preliminary rulings on the validity and interpretation of FDs (Art. 35.1, TEU).

7. Coming from the Justice and Home Affairs area, FDs are referenced by the year and the letters JHA. Since the Amsterdam Treaty came into effect, FDs have been used to introduce new co-operative procedures in a range of areas. Some examples (not a complete list):

    2000/375/JHA – combating child pornography on the Internet; 2001/383/JHA – counterfeiting of the euro; 2001/500/JHA – money laundering; 2001/720/JHA – standing of victims in criminal proceedings; 2002/475/JHA – combating terrorism; 2002/629/JHA – trafficking in human beings; 2003/568/JHA – combating corruption in the private sector; 2004/68/JHA – sexual exploitation of children; 2005/214/JHA – mutual recognition of financial penalties; 2006/783/JHA – mutual recognition of confiscation orders.

8. The subject of this article is Council Framework Decision 2008/947/JHA, 'on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions'. As printed in the *Official Journal of the European Union*, it takes 21 printed pages, comprising:

    *   a Preamble and 24 recitals (3 pages)
    *   the legally binding text, in 27 articles (10 pages)
    *   a standard Certificate (6 pages), and
    *   a standard form for reporting breach of a probation measure (2 pages).

    The Preamble specifies the legal pedigree, i.e. the Council had adopted this Framework Decision having regard to:

    *   Articles 31 and 34 of the Treaty on European Union
    *   the initiative of the Federal Republic of Germany and the French Republic (who jointly put the proposal forward), and
    *   the opinion of the European Parliament (which broadly supported the initiative).

9. Recitals (introductory comments) are important. Although not legally binding, they explain the reasons for and the thinking behind the legal provisions, hence placing the FD within its desired context. The background to this FD is detailed by noting that the Union has

set itself the objective of developing an area of freedom, security and justice. Within this, the specific aim of police and judicial co-operation (PJCC) is to provide a high degree of security for all citizens. A cornerstone of this is applying the principle of mutual recognition of judicial decisions, in other words that court judgments should be respected and enforced throughout the Union. This principle was firmly asserted by the European Council at a special meeting in Tampere, Finland, in October 1999, which focused mainly on JHA issues and which led to a first programme of measures in this area in November 2000. Subsequently the Hague Programme (November 2004) confirmed the aim of advancing the enforcement of criminal sanctions, particularly with a view to facilitating the (re-)integration of offenders into the community.

10. Co-operation in the area of suspended sentences and parole had been put clearly on the agenda in the 2000 programme. Recently the Council adopted Framework Decision 2008/909/JHA (27 November 2008) on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the Union, i.e. enabling the transfer of prisoners serving sentences between Member States. So now, to complement this development, 'further common rules are required, in particular where a non-custodial sentence involving the supervision of probation measures or alternative sanctions has been imposed in respect of a person who does not have his lawful and ordinary residence in the State of conviction' (Recital 3).

11. Other recitals comment on specific Articles of the text and stress that fundamental rights and freedoms within the EU are protected (including data protection – Recital 23). The required references are also included to the principles of subsidiarity (objectives cannot be sufficiently achieved by the Member State on their own) and proportionality (the FD does not go beyond what is necessary to achieve the objectives set) (Recital 24).

12. Finally, the standard Certificate and form for reporting breach, appended to the legal text, must be used where the text specifies and so requires.

Curfew/Electronic Monitoring: The Northern Ireland Experience

Pat Best*

Summary: Curfew/electronic monitoring (EM) was introduced in Northern Ireland on 1 April 2009 as part of the overall new Criminal Justice (Northern Ireland) Order 2008 Sentencing Framework Implementation plan. This article looks at the wider picture of curfew/electronic monitoring across Europe, highlighting some of the experiences of other countries affiliated to the CEP–European Organisation for Probation. It also refers to research into effectiveness as well as some of the implementation issues and processes adopted for Northern Ireland. Curfew/EM is used as an additional requirement to a probation order and as a condition of licence following release from custody.

Keywords: Curfew, electronic monitoring, probation.

History of electronic monitoring

The origins of electronic monitoring (EM) appear to date back to the 1960s, when psychologist Ralph Schwitzgebel developed a programme of research at Harvard University into the use of electronics in managing offending behaviour (Gabel and Gabel, 2005). Schwitzgebel took out a patent for the first 'tag' in 1969, and it was piloted using students at Harvard University as subjects for the first trials. Interestingly, Schwitzgebel conceived of the idea in order to support a rehabilitative approach rather than as a punishment within the field of offender management. However, by the 1990s EM was beginning to be used in a more widespread way to reduce the pressure on prisons and as a means of introducing more control in the management of offenders in the

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community while still allowing offenders to continue to carry out daily routines. The global expansion of EM since the 1990s can be attributed to the need not only to reduce costs of an increasing prison population but also to enhance community supervision with the use of what were perceived as more modern, as well as more reliable, electronic techniques.

Types of electronic monitoring

When one researches the types and usage of EM it becomes apparent that there is a wide range of product, not least because of the involvement of the private sector in the design and development of increasingly sophisticated techniques mirroring the advances in electronics in other sectors such as the communications industry. The most frequently used technology is radio frequency; other approaches include voice verification, GPS satellite tracking and remote alcohol monitoring. However, in Europe most EM is linked to curfew requirements imposed on the offender within the community, although in some jurisdictions, notably Sweden, EM is used to track prisoners' movement within zones within a prison setting. In some cases exclusion zones may be electronically monitored to ensure that offenders do not approach or have contact with, for example, the victim.

Usage of electronic monitoring

Within Europe, England and Wales was the first jurisdiction to introduce EM in 1989 as a pilot project to monitor bail curfew. Sweden and the Netherlands followed in 1994 and 1995, and since then EM has been introduced in several other European countries. A recent CEP survey identified 16 jurisdictions operating EM mostly as additional requirements to community orders or as part of early or post release from custody. A smaller number of jurisdictions (four) use EM in part of pre-trial/bail curfew arrangements. The survey also found variations between jurisdictions in the length of EM arrangements, with Spain operating an average length of one month, rising to 23 months in France. Similarly monitoring periods per day vary according to the type of EM scheme, with the norm for community orders being two to 12 hours per day, rising to 24 hours per day for home detention curfew orders.

The survey also considered the most common offences for which EM was used, with generally more serious offence types being applied to post-custody release than for community orders. In some jurisdictions certain offence types are excluded; for example, sexual and violent offences are excluded in Norway, and in Denmark and Sweden offenders who commit crimes at or from home can be excluded. Most countries reported that the use of EM was linked to a support programme, such as supervision or treatment programmes in, for example, alcohol or drug therapy.

Victim aspects

The notification of victims about EM arrangements varied also, with more than half of the jurisdictions informing victims in some cases and the remainder not informing victims. The usage of EM to protect victims, known as bilateral EM – for example, to monitor restraining orders – has been in existence in Spain since 2005 and is being piloted in a number of other jurisdictions including Portugal, the Netherlands, Norway and Sweden. A study by Inka Wennerberg in Sweden in 2007, which surveyed 42 victims of violent, sexual and robbery offences for their perceptions of EM, produced both negative and positive responses. The negative responses included a view that the sentencing was too soft or lenient, and among the positive responses victims felt that offenders would be more able to keep their job and that the sentence was less harmful for the offender. Concern was also expressed that the offender might be more likely to seek revenge for a sentence that was perceived as more punitive. Most victims wished to be informed of EM arrangements being put in place.

Studies on the use of electronic monitoring

Surprisingly, there are very few published studies on the effectiveness of EM, apart from the recently published research by Marklund and Holmberg (2009) which explores the effects of early release from prison using electronic tagging in Sweden. This study compared 260 participants in an early release from prison programme using EM at home with a control group of the same number and profile who did not participate in the programme. The results showed that during the three-year reconviction study 26% of the EM group were reconvicted

compared to 38% of the control group, and that 14% of the EM group were sentenced to a new prison/probation sanction compared to 26% of the control group. The best results in relation to the level of reoffending between the two groups were recorded among slightly older individuals (aged over 37 years). The researchers argue that this may indicate that there is something about being older that makes people more receptive to the kind of support offered in connection with the EM programmes.

Previous research conducted in the USA by Renzema and Mayo-Wilson (2005) found nothing to suggest that EM had any positive effects on reoffending. However, the Swedish and US studies both conclude that the chances that EM will produce a positive effect increase if it is employed within the framework of a programme that also includes other measures such as an individual treatment plan.

Curfew and electronic monitoring in Northern Ireland

The system of EM for enforcement of curfews was introduced on 1 April 2009 under the Criminal Justice (Northern Ireland) Order 2008. Under the new provisions, electronically monitored curfews can be directed as a condition of bail granted by a court; as a condition of licence; as a condition of a probation order, custody probation order or combination order; as a requirement of a youth conference plan to which a youth conference order relates; or as a requirement of a juvenile justice centre order.

A curfew or EM requirement under the Criminal Justice (Northern Ireland) Order 2008 must last for at least 14 days and can only be enforced for between two and 12 hours in any one day, but EM is a very flexible system. For example, a subject may be monitored on certain days of the week or from different addresses on different days. It is therefore possible to tailor the requirement to individuals rather than adopting a uniform sanction. Furthermore, in the course of community supervision the length of the curfew hours may be increased or decreased as the period progresses.

The EM service provider in Northern Ireland is Group Four Securicor (G4S), which will install the tag and monitoring equipment and provide monitoring reports to the various supervising agencies including the Police Service for Northern Ireland (PSNI), Probation Board for Northern Ireland (PBNI) and Youth Justice Agency. The

response and subsequent enforcement action by the agencies will depend on a range of factors; for example, there is more immediate notification to PBNI for higher risk offenders as well as to the police for those who break bail curfew conditions.

In line with sentencing guidelines issued in England and Wales, the purpose of EM in Northern Ireland is to increase public protection and aid the rehabilitation of the offender. As stated earlier, research suggests that EM is effective when used as part of a work plan for individual offenders and should therefore be used as part of a package of interventions. While EM curfew actively restricts liberty, it also allows offenders to participate in work, training and education and to attend programmes designed to address their offending behaviour. A curfew can help to break patterns of behaviour and offending by restricting movement and the opportunity to offend. A recent Criminal Justice Joint Inspection report expressed disappointment that EM was not consistently integrated into supervision planning.

Some professional considerations

Some of the main concerns about the increasing use of technology to monitor offenders are the fear that EM is the thin end of the wedge, that more and more resources will be diverted into surveillance and that technology will displace rehabilitative approaches rather than augment them. However, it can be argued that technological advances driven by the private sector will not go away, and that electronic devices will improve and become smaller, more usable and more user-friendly as well as more cost-effective. Similarly, prison will remain costly in both human and monetary terms, and public demands for increased protection will not diminish. Professor Mike Nellis, at the CEP EM Conference in May 2009, suggested that 'Techno-corrections of some sort in the twenty-first century are inevitable'.

The challenge for those involved in offender rehabilitation and management is to be open to the use of technology to support and supplement humanistic approaches and to the view that electronic approaches are not incompatible with rehabilitation, preventing reoffending and reducing the human and financial costs of imprisonment.

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Young Persons' Probation in the Republic of Ireland: An Evaluation of Risk Assessment

Paula O'Leary and Carmel Halton*

Summary: The paper refers to a study carried out in the Probation Service in Ireland on Young Persons' Probation (YPP). The YPP introduced the Youth Level of Service/Case Management Inventory (YLS/CMI), a standardized risk assessment tool, into clinical practice. Further to this development an inter-rater reliability study was conducted in 2008, where quantitative data was collected and comparisons made by statistical means. The research consisted of a census of all Probation Officers trained in the use of the YLS/CMI and it found that there was a high degree of consistency in assessments for young people appearing before the courts across Ireland. The study also highlights the need for the YLS/CMI to be applied to individual cases and that it cannot therefore replace clinical training, local knowledge and judgement.

Keywords: Risk, juvenile offenders, probation assessment, risk tools, interrater reliability.

Introduction

In order to contextualise the study of risk assessment in Young Persons' Probation (YPP), it is important to examine the changing construction of youth justice in Ireland and the structures that have been put in place by the Irish Government to support the change. In 2006 the Probation Service established a separate division to work with young people aged between 12 and 18 years who are appearing before the courts on criminal charges: YPP. This was a strategic decision made as a consequence of the changes demanded by the new legislation in the Children Act 2001 (as

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amended). In March 2007 all sections of the Children Act relating to the sentencing options open to the courts were passed into law. According to the then Minister for Justice, Equality and Law Reform, Brian Lenihan TD, in a speech delivered in the Dáil in October 2007:

> The Act is based on the principles of diversion from crime and antisocial behaviour, restorative justice, the expanded use of community based sanctions and measures by the Courts, and the use of detention only as a last resort.

In the case of children, the Probation Service operates within a political and legal structure, driven and shaped by the Children Act. The Act shifts the emphasis to a comprehensive statutory framework for agencies working with children. 'It is mindful of a child-centred approach to service delivery and outcomes, with the best interest of the child being paramount' (p. 6). The Office for The Minister for Children (OMC) was set up to co-ordinate policy-making for children, and the Irish Youth Justice Service (IYJS) was established to provide strategic direction to the development of services and to promote reform. The Probation Service was given operational responsibility for overseeing the implementation of the Act for children found to be in breach of the criminal law.

The intent of the Act is to meet the needs of children in trouble in their localities, while at the same time Government is obliged to respond to the legitimate concerns of those in society seeking protection from crime, and punishment for those committing crime. State agencies operate at the point where the family system, in its role of providing care and control, breaks down. The Act seeks to maximise family support and social networks at times of crisis and to minimise, where possible, State intervention. The Act introduces the principles of minimum intervention and prevention (Blake, 2007) which necessarily implies decisions being made regarding prediction of future risk. These principles now inform the assessment practices of Probation Officers in the YPP.

Under the Act, prior to sentencing a youth to custody, judges are obliged to consider alternative community sanctions. There are now 10 community sanctions that may be made by a court on being satisfied that a child is guilty of an offence. With the array of community sanctions available under the Children Act, particular demands are placed on the professional in terms of determining a recommendation that meets the

seriousness of the offence, the suitability of the offender to the various penalties and the likelihood of the offender reoffending. The Youth Level of Service/Case Management Inventory (YLS/CMI) is used to inform the assessment of a young person's likelihood of reoffending.

The YLS/CMI and risk assessment instruments in general try to achieve a degree of certainty in relation to predicting the likelihood of reoffending, based on evidence from research. These risk factors have typically been identified through longitudinal studies. Farrington and Welsh (2007, p. 103) describe risk-focused prevention very succinctly as:

> Identifying the key risk factors for offending and implementing prevention methods designed to counteract them. (There is often a related attempt to identify key protective factors against offending and to implement prevention methods designed to enhance them.)

Hannah-Moffat and Maurutto (2003) offer three reasons for the use of more formal risk assessment and classification of offenders in general, as follows: it provides a common framework for gathering and analysing information; it allows more effective resource allocation within the system and provides evidence to back up decisions; and it is important in evaluation as dynamic risk factors can be measured and change over time. While these rationales are accepted in this research, the current debates of the risk assessment approach raise issues that are of concern to both policy-makers and practitioners, and these concerns are identified and discussed in the literature review. A starting point for this research was a belief that the tool had value in practice as long as it was not expected to provide all the answers.

The study: Methodology

The research design involved a cross-sectional study of the inter-rater reliability of the YLS/CMI risk assessment tool adopted in Ireland. The study set out to investigate whether individual Probation Officers when presented with similar circumstances in relation to a young person would provide reasonably consistent assessments of their likelihood of reoffending.

At the time of commencement there were 40 Probation Officers in the YPP, 26 of whom were trained in the use of the YLS/CMI. Only practitioners trained in the use of the YLS/CMI by January 2008 were

asked to participate in the study. As one practitioner left the service in February 2008, 25 practitioners were asked to complete the inventories based on second- and third-case scenarios. The entire relevant population (i.e. Probation Officers who had completed YLS/CMI training) rather than a sample of that population were surveyed.

Participants were asked to undertake three assessments based on case study material in three successive months, January, February and March 2008. The three case studies were drawn randomly from the 648 cases open to the YPP in January 2008.

- *Case 1* was a 17-year-old male from Cork City who was convicted of property offences.
- *Case 2* was a 16-year-old male from the north side of Dublin who was convicted of Public Order offences. He was serving a sentence in a detention school at the time of the assessment.
- *Case 3* was a 17-year-old male from the south side of Dublin convicted of Public Order offences.

Each Probation Officer was assigned a number in order for us to track their assessments through the three cases. A numbered envelope was provided with the material that could be sealed and returned with an element of confidentiality. The questionnaire was sent out with the first case study and the YLS/CMI inventory. The questionnaire included questions regarding demographics and attitudes of participants.

The configuration of the YLS/CMI lends itself to service-wide quantitative comparisons, given that it is a numerical scoring system with a professional override facility, essentially comparing numerical totals. The consistency in assessments for each case study was tested in four ways, drawing heavily on the Baker *et al.* (2005) examination of the inter-rater reliability of Asset in the UK.

1. Spread of scores about the mean YLS/CMI score. The degree of agreement would be demonstrated by the extent of clustering around the mean and by a defined bell shape when charted.
2. Percentage of participants scoring within five points of the median YLS/CMI score.
3. Percentage agreement on YLS/CMI total and subscale ratings.
4. Intra-class correlation coefficient (ICC) and alpha coefficient were used to determine if there was a statistically significant level of correlation between scores derived by the participants.

Multiple linear regression analysis was carried out to determine if the participant attitudes and other variables were contributing to variability in YLS/CMI total scores. The independent variables included team location, age, length of service, professional qualification, previous use, discipline and preconceived attitude to the importance of the domains in influencing a young person's likelihood to reoffend, and the importance of the tool itself.

Finally, a risk assessment tool has to operate in an organisational context where performance of any tool could be affected by professional culture and therefore a Probation Officer's opinion of and attitude to the model are very important. Qualitative data was collected by means of open-ended questions in the questionnaire.

Limitations of the research

The key limitation of this research methodology is the non-interactive nature of using written case studies. In recognition of this deficit, an 'assumption box' – a space permitting the assessor to record any inferences they made in interpreting the case studies – was included at the end of each case presented. Another possible limitation is that, as with any snapshot picture, the study is open to the criticism of temporal specificity, i.e. that its context is limited to the period of the study. However, the fact that the study involved almost the whole complement of relevant professional staff in Ireland perhaps goes some way to moderate the specificity.

Summary of results

For Cases 1, 2 and 3 the YLS/CMI scores showed a statistically significant level of agreement among participants in relation to their assessment of likelihood of reoffending in each of the cases. On average there was a high level of agreement between all participants. However, in specific cases assessments can differ for a variety of reasons. Case 2 showed the greatest variability and the lowest level of percentage agreement, which may reflect the complexity of the case study. Case 3 showed the highest level of consistency in scoring across the participants, possibly reflecting the straightforward nature of the case.

Figure 1 illustrates the high degree of clustering in the scores by assessors across the three case studies. The defined bell curve shows that there was strong agreement.

Figure 1. Aggregation of override scores for Cases 1, 2 and 3
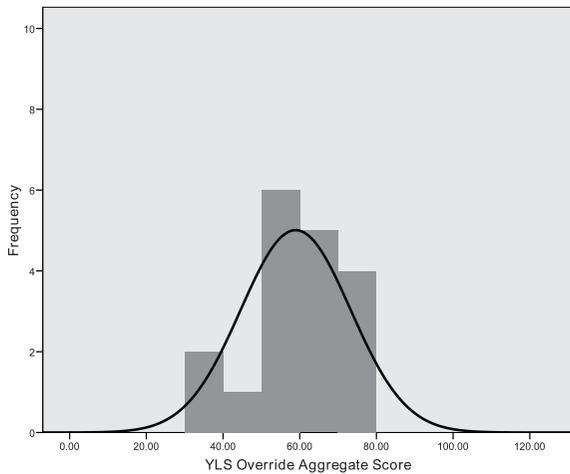
Applications

Clinical assessment includes consideration of the seriousness of the offence, the suitability of the offender to the various disposals open to the courts, and their likelihood to reoffend. The YLS/CMI is designed to inform judgements regarding the likelihood of reoffending.

Literature review

The risk factor paradigm is grounded in evidence-based practice and is only one perspective that informs social work practice. The criticisms have suggested that risk is also a cultural phenomenon, and that while risk tools can inform decision-making in assessment, they need to be employed by appropriately trained and experienced staff. Criticisms included were: technicality vs. professionalism, the scope of risk assessment instruments, the relationship between risk assessment tools and practice, connecting with human resources and organisational issues, and ethical considerations in the application of the risk concept.

Technicality vs. professionalism
There is some concern in the literature that the increase in the structure and standardisation of probation practice moves the focus of intervention to offender management and away from the Probation Officer as a

change agent. Writing about recent developments in the British Probation Service, Robinson and Raynor (2006) raise concerns about how the service has moved increasingly towards the management of offenders, who are viewed as objects of assessment, intervention, control and enforcement. Robinson and Raynor highlight the more traditional elements of probation associated with negotiated agreements, respect for persons, relationship and re-integrative aspects of rehabilitation:

> the way forward lies in an increased emphasis on renewing its engagement with communities and localities; from greater use of restorative approaches; and from a clearer focus on the relational and re-integrative components of rehabilitation. (p. 342)

This appears to endorse the stance that it is important that the YLS/CMI be used by appropriately trained practitioners. Information about assessor training was collated in the survey to examine their training and experience. It is the contention of this study that they are well positioned to utilise the tool effectively.

Other writers critical of structured tools of assessment see them as part of an agenda to impose a uniform and unthinking approach to practice that attaches more importance to management targets and statistics than to the needs of offenders (Smith, 2003; Bhui, 2001). Buckley (1996) warns of the dangers of an over-regulated system that can lose the individual discretion and therapeutic skill of professionals in favour of administrative management and regulation. Ericson and Haggerty (1997, p. 102) believe that standardised assessment has led to a situation in which 'professionals are increasingly absent, their place taken by forms, computers, and step-by-step procedures that commodify expertise and reduce it to check-boxes, key strokes and self-help guides'. Hayles (2006) warns that assessment tools could begin to determine rather than guide practice, and calls for a transition from risk management to the construction of safety. Research is ongoing into protective as well as risk factors.

Farrall (2002) in his research around desistance found offender motivation and changes in social circumstances to be key components in the reduction of an individual's propensity to reoffend. He concluded that Probation Service practice ought to be doing more to foster offenders' social capital: the productive interpersonal and social relationships that facilitate social integration. The position of this research is that

the messages in the desistance literature, and relationship skills, are essential features in the work of the Probation Officer, and the completion of the YLS/CMI does not encompass these aspects of practice.

Hudson (2003) describes the YLS/CMI as an actuarial/clinical hybrid where clinical judgement is used in conjunction with the actuarial aspects that place an individual at risk of reoffending. Hannah-Moffat and Maurutto (2003) point out that professional judgment is a key component of risk. User manuals for both the YLS/CMI and the Level of Service Inventory – Revised (LSI-R) encourage the exercise of professional discretion and acknowledge that the completion of these assessment forms requires 'subjective judgments on the part of the professionals who complete them'. Maurutto and Hannah-Moffat (2007, p. 18) give an example of the semantics in the YLS/CMI and they point out that it includes vague criteria such as 'could make better use of time', 'non-rewarding parental relations', 'inconsistent parenting', 'peer interactions', 'supportive of crime', 'poor social skills', 'under-achievement', 'inadequate supervision', 'problems with teachers', 'no personal interests', 'inadequate guilty feeling'. The question of objectivity is also raised by Case (2007). He says the completion of the risk assessment could be influenced by offenders' perception of the youth justice system, the practitioner–young person dynamic, interviewer effects, time constraints on practitioners, local policy priorities and the national political climate.

Probation Officers as professionals can use the tool to inform assessments without becoming technicians. The importance of professionals using the tool and interpreting the scores in their assessments is illustrated by Little (2002), who points out that risk factors interact in a non-linear way so that the same risk factors may produce different results in different children. He asserts that clinical judgement and experience must be exercised when one is examining the interaction between the risk and protective factors in each case. Practitioners have to take account of all aspects of an individual's circumstances. The tool provides a common framework but the professional undertakes the assessment in each individual case.

The scope of risk prediction instruments
Risk prediction instruments purport to be able to predict reoffending: they are not definite. The research estimates that risk assessment tools for juveniles are at best somewhere between 56% and 85% accurate,

resulting in a large margin of error (Onifade *et al.*, 2008). The scope is also questioned by the wider context into which risk tools have been introduced. The literature indicates that risk tools are not objective or apolitical. The reality is that classification and treatment studies, from which the YLS/CMI is derived, represent only the proportion of people who are detected and enter the criminal justice system (O'Mahoney, 2008). Webster *et al.* (2006) criticise its scope on the basis that it is reflective of cultural norms, thereby disproportionately weighing risk to certain groups, e.g. poor people (Case, 2006).

Jordan (2003) is concerned that the principles of evidence-led practice are in danger of overlooking deeper, long-term questions about the place of criminal justice in social relations, and of probation in public policy. While risk assessment tools have provided a structured approach to risk assessment of young people who offend, the wider social, cultural and political context also needs to be considered. Gray (2005) maintains that the broader structural barriers and inadequate resources are sidelined because of the focus on disproportionately holding young people accountable.

There is criticism in the literature that the focus on universal relationships through longitudinal studies could result in professionals missing out on historical, social and local knowledge in informing assessments. Undoubtedly, the tool has an intrinsic focus on the individual as the unit of analysis. Thornberry *et al.* (2003) say that this focus hampers the examination of situational dynamics and group processes that are vital to the understanding of youth crime. Webster *et al.* (2006) identify different categories of risk, biography, neighbourhood and history, and argue for a shift of focus to contingent risk factors that accrue in late teenage years and young adulthood. The developmental and experimental nature of adolescence and the importance of differentiating between adults and children are also referred to by Welsh *et al.* (2008), who advise that youth crime is more complex than adult crime because of adolescent development. Therefore, they recommend continued research at every stage of youth risk assessment. The present research proposes that it is the professional who brings this knowledge to the assessment process.

The YLS/CMI does not differentiate between types of recidivism; that is, it cannot be used to differentiate between potential for serious or violent as opposed to non-violent behaviour. In the legal arena, those classified as high-risk are at times associated with increased

dangerousness or violent recidivism. Maurutto and Hannah-Moffat (2007) suggest that this is a potentially serious problem at the sentencing phase when the YLS/CMI is used to inform the pre-sanction report. It is essential, therefore, that realistic information be disseminated to practitioners and courts alike. O'Mahoney (2008) believes that the cracks in the risk paradigm are so great that it does more harm than good. However, this research aligns itself with Case (2006), Robinson and Raynor (2006) and Andrews and Dowden (2007), who advocate building on the positive aspects of the tool and looking at the realities of how it can best be applied in practice.

The relationship between risk assessment tools and practice
We have learned valuable lessons from research, for example that not all intervention is good: sometimes it can be counterproductive, as in the case when young offenders were brought together in groups without regard to whether they were low-risk and they became more criminalised. Farrington and Welsh (2007) note that while risk-focused prevention makes clear that effective prevention methods should be used to target scientifically identified risk factors, what is most important is that the accumulated scientific research evidence on effectiveness from systematic reviews be utilised. Mulvey and LaRosa (1986) conclude that fixed therapeutic programmes for all individuals and all ages appear not to be the answer and that they should be informed by protective as well as risk factors. Strengths are identified in the YLS/CMI and this is important in terms of planning future intervention. This study examined whether the 'strengths' boxes were being used by the practitioners in question.

It is accepted from the outset that there is a value in accumulating knowledge from practice and practitioners to inform the general assessment practice within the YPP. However, it is also accepted that research and general tools derived from research can never take the place of practitioners. Little (2002, p. 12) points out that:

> Researchers will usually confine themselves to a single defined variable … practitioners; on the other hand, will frequently need to concern themselves with several potential outcomes and how they might intertwine … Research can inform practice decisions – and the process of making them – but it must never dictate how a practitioner should proceed.

The research points to the position taken in this study that the YLS/CMI can provide a general approximation of a young person's likelihood of reoffending but requires a professional to interpret that information and utilise it to best effect.

Organisational and human resources issues
Shook *et al.* (2007) indicate a positive relationship between perceptions of value and the frequency of use of standardised risk assessment instruments. They highlight the need for attention not only to the development of appropriate instruments to aid in decision-making but also to the implementation of these instruments in case processing.

A common criticism in the research of risk/need assessment instruments in general is that they are not consistently applied by practitioners within and between teams. Schwalbe (2004) speculates that the reason for this is the atheoretical nature of the instrument. Another potential reason is that there can be resistance to policy that appears to be externally imposed. Baker (2005, p. 115) says that the role of local managers and supervisors can be pivotal to promoting a common practice culture successfully, as they

> seek to balance the operational and administrative objectives of the organization with the desire to develop high quality practice amongst their staff. Discussion during team meetings or as part of staff supervision and appraisal can help to promote a common practice culture.

The importance of quality control measures is referred to in the literature.

Ethical considerations
A number of issues emerge from the literature review in relation to how we interact with clients as a result of using risk assessment tools. Gorman *et al.* (2006) discuss work with young offenders from a social constructivist perspective. They define risk control as a strategy to exert control on the risk in order to prevent the occurrence of a new crime. These methods are defined by the relationship between the external agent and the target of control. Gorman *et al.*'s contention is that the primary intent is containment, not change. It is the same point referred to in relation to the technical vs. professional debate, but it also poses an

ethical question of how we as professionals interact with the young people referred to the Probation Service.

The fact that proportionality of sentencing may be affected depending on the level of risk also poses ethical questions to professionals regarding the intrusiveness of their interventions. Proportionality means that the sentence reflects the seriousness of the crime. However, some courts will order a more intrusive supervision regime for the same crime on the basis of the young person's risk level. It poses an ethical question if, for example, a young person commits the same offence but receives a more severe sentence or supervision regime.

Ethical questions of conducting research with young people have also been raised in the literature. The identities of the young people in the case studies used in this research were hidden. Farrington and Welsh (2007) point out that it is impossible to establish which factors are causes and which are merely markers or correlated with causes. Ideally intervention experiments need to be designed to test causal hypotheses as well as a particular intervention technology. However, there is a clear tension between, on one hand, maximising the effectiveness of an intervention and assessing the effectiveness of each element and, on the other, drawing conclusions about causes, particularly when multimodal interventions have been found to be most effective.

Finally, ethical issues are raised in the literature about stereotyping concerns when using the YLS/CMI in assessment. O'Mahoney (2008) and Maurutto and Hannah-Moffat (2007) both expand on the problems in this area. Schwalbe (2008) conducted a meta-analysis of juvenile risk assessment instruments that found that there was no real difference in predictive strength based on gender. However, he found that the reasons for offending could be different; that there could be an effect of gender on the way girls are treated in the system and that the routes towards desistance might be different. The contention of this research is that YPP personnel are trained in these matters and therefore are well positioned to use their clinical judgement in these matters to inform their assessments.

Conclusion

Within this framework, there are several reasons to be optimistic about the introduction of the YLS/CMI on the basis of the findings of this research. The finding that there is very good inter-rater reliability, using

the average ICC measure and the alpha correlation coefficient, means that the YLS/CMI is a useful addition to clinical practice by providing a consistent and approximate measure of likelihood of reoffending. The finding is also reassuring in terms of the wider decisions regarding resource allocation.

The finding that there are no significant disparities owing to assessors' profiles, regional location or attitudes indicates that the tool is being applied in an objective manner. Probation Officer opinion and attitude to the model is important, and the majority of participants believed there were benefits to their probation practice and to professional practice in the service in general as a result of the introduction of the YLS/CMI. Probation Officers identified benefits including: its transparency; its evidence base; its assistance in report writing and case management; and its ease of use for allocation of resources, for research and for training new officers.

The finding of the ICC single measures and the variance in agreement across the three case studies suggests that as cases become more complicated, variance increases. This illustrates one reason why both the actuarial and the clinical aspects of the YLS/CMI are important and questions how far criminal justice practice can be 'commodified' in real-life complex situations. On the basis of this finding the practitioner still needs to investigate the immediate situational influences on offending.

A central concern during any assessment is whether an offender is motivated to change or not, and how intentions to change may translate into changes in behaviour. It follows that practitioners must use their clinical experience and judgement, as well as considering the likelihood of reoffending, to inform the assessment as to the suitability of the person concerned for any disposal to recommend to the court.

Professional discretion remains the main feature of assessment. In the assumption box for Case 1, one of the Probation Officers referred to their 'gut', which told them that the young person was in the high-risk level. 'Gut' in this context refers to using experience or practice wisdom to inform assessment. The fact that there is a clinical override means that professional discretion takes precedence over the actuarial data and it provides a safeguard when the aggregation of numbers just does not make sense. It also allows for the consideration of individual and local issues.

However, similarly to other actuarial models, risk tools cannot be used as a sole means to predict risk confidently on an individual basis. This

function is a core role of the Probation Officer as 'officer to the court'. Not all young men from disadvantaged communities, from chaotic single-parent families and who left school early are predetermined to offend. Investigating the nuances of individual cases, and the dynamics that apply therein, will continue to demand high levels of clinical skill. Relationship and structuring skills remain essential features in assessment, as do local knowledge and awareness of the wider social issues and of the developmental nature of adolescents.

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Strengthening Families Programme: An Inter-agency Approach to Working with Families

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Summary: This article describes the authors' experience of a Strengthening Families skills programme delivered in the Ballymun area of Dublin from March to June 2008. This was an inter-agency initiative that brought together partners from the community, voluntary and statutory sectors. The Ballymun Network for Assisting Children and Young People (the Network) – a forum for statutory, voluntary and community agencies – had already identified the difficulties experienced by many young people and their families in the area. The Network, already working from an inter-agency, interdisciplinary ethos, was attracted to the Strengthening Families Programme as it is evidence-based and operated on a systemic model functioning on an inter-agency basis. The goal for the network in piloting the Strengthening Families Programme was to improve the wellbeing of young people and their families.
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Keywords: Strengthening families, inter-agency, probation, teens and families.

Introduction

The Strengthening Families Programme (SFP) was originally developed in the USA in the early 1980s as a 14-session skills training programme for families with children at risk because of substance-abusing parents. Research evaluations since 1983 indicate positive outcomes for improvement in parenting skills, children's social competencies, reduction in alcohol and drug use, and delinquency (Kumpfer *et al.*, 2002).

The Ballymun area has a history of high population density in a small urban area of Dublin city, with unemployment and many social problems identified therein. In recent years, through the regeneration programme,

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many agencies – statutory and community – have been striving to improve the environment, physically and socially, for the people living there.

The Ballymun Network for Assisting Children and Young People (the Network) is a forum for statutory, voluntary and community agencies working in Ballymun to share information and work together to improve service delivery. The Network began as an initiative of the Ballymun Local Drugs Task Force (BLDTF) in 2005. It comprises 17 agencies and its aim is to promote the welfare and protection of children and young people at risk in the 10–18 age group through better inter-agency co-operation. In November 2007, the Network invited the different agencies to come together to consider the value of running an SFP in the area. This meeting was after many agencies had been on a two-day facilitation training course together for the SFP in October 2007.

The network had already identified the needs in the community and the value of a systemic approach in assisting families. The Local Drug Task Force sought funding for the programme at the request of the Network. The Network is an independent forum in Ballymun, not under the authority of the Drug Task Force. The SFP is of interest to agencies because it is for the whole family, it offers skills to families rather than treating them for their problems, and it functions on an inter-agency basis.

The Strengthening Families Programme

The programme involves the whole family in three sessions run on the same night once a week. The parents or guardians of high-risk youth attend the SFP Parent training session in the first hour. At the same time the adolescents attend the SFP Teen Skills training session. In the second hour, the families participate in an SFP Family Skills training session. An important aspect of the programme is the meal that families and facilitators share at the beginning of the evening. The programme content includes positive communication, problem-solving, relation-ships, setting limits, alcohol, drugs and anger management.

The beginning of SFP in Ballymun

The authors, part of Young Persons' Probation (YPP) in Dublin, attended multi-agency training on the SPP in October 2007 having

signed up to the initiative and attended an interagency meeting in November 2007, involving professionals from the Health Service Executive (HSE), The Drugs Task Force, De Paul Trust and Ballymun Jobs Club; to discuss implementing an SFP programme in Ballymun as soon as possible.

First and foremost families had to be recruited before any programme could take place. Due to time constraints the recruitment of the first cohort of families came from families known to the participating agencies. Careful consideration had to be given to the dynamics of all families that were referred. The ages of the teens in the family were important and also information around possible conflict that may be going on between families in the community. The health and safety of all participants and professionals involved in the programme had to be taken into account when planning for the programme. This involved obtaining information on each family from referrers and practicalities of the premises and the delivery of the programme.

The roles of each member of the staff group involving facilitators, support staff and the co-ordinator had to be allocated. From our experience of working with young people it was agreed that YPP would facilitate the teen sessions along with a member from the HSE. The family sessions were facilitated by teen and parent facilitators.

The planning for the programme involved four four-hour sessions. This time was spent to recruit, plan and prepare. Part of the planning involved troubleshooting possible issues that might arise, including use of mobile phones, behaviour issues and alcohol/drug misuse. Part of the programme involved incentives for the teens and families, therefore the facilitators needed to decide on an incentive that was going to encourage participation. The incentives decided on included mobile phone credit and shopping vouchers. This appeared to work well on this occasion. Because the programme was written in America, a process of adapting it to local culture and language took place while maintaining programme integrity. Some of the language, for instance, had to be adapted to suit young people and adults participating in the programme. It was felt that the fewer barriers the facilitators had to cross, the more effective the programme would be.

Policies around drugs and alcohol and health and safety issues had to be discussed and agreed. This involved a plan to be put in place if a young person or adult arrived for the programme under the influence. The support staff and co-ordinator played an important role in this

instance. Other important practical issues included sourcing a chef and deciding a menu. The kitchen space had to be organised and extra tables and chairs sought. People were provided with transport, which involved sourcing a reliable taxi company to provide transport each week for those that needed it. Finally, materials needed for each session had to be bought and stored in a safe place.

How the SFP ran

Ten families were recruited for the programme. These families were referred from the HSE, a local secondary school, the Probation Service, the Jobs Club and the De Paul Trust. Nine of the families started and eight families completed the 14-week programme. The make-up of the teen group included six girls and three boys ranging from 13 to 15 years old. The parents group was made up of one man and eight women. One couple attended the programme.

Each week the facilitators, the co-ordinator and the support staff met for three hours prior to the programme start time. During this time feedback was given on the previous week's session and anything that might have come up during the week for any of the families involved. The co-ordinator would deliver any significant information that needed to be shared before the programme began. The facilitators of each group would meet up and prepare their session for the evening. This involved gathering the relevant materials and practising the session for the particular week. Any adjustments that needed to be made to the programme would be carried out during this time.

At 6 p.m. all the families would arrive by taxi, by bus, by car or on foot. The families would sit together and eat a two-course meal together. Facilitators would sit with the families during meal times and try to make this time as comfortable as possible. After the meal, at 6.45 p.m., the parents and teens separated into their groups. The teens went to one room and parents to another along with their facilitators.

At the start of each session a review of the week before took place involving the young people's participation, recalling what was covered the previous week. Each week a new topic was covered and discussed. Varied methods of programme delivery were used to deliver the programme material and to make it as interesting and interactive as possible. Role plays, flip charts, handouts, games and group discussion were all used as methods of delivery. Every week the group would be given a small piece of homework to do based on what was covered that evening.

While the teen group was going on, the parents group was running simultaneously covering similar material to the teens. This all came together in the family sessions. After a short break the teens and parents came together for the family session. This session involved a facilitator from the parents' session and one from the teen session.

The sessions began each week with a review of the family practice that was given the previous week. The material for that week was covered using some of the methods mentioned above, using a lot of role-play and open discussion. These sessions gave the families an opportunity to practise some of the skills they had learned in previous sessions. These exercises provided a safe place for the teens and parents to communicate with each other. All open discussions were facilitated by the facilitators and we were there to act as mediators as deemed appropriate. Each session would end by asking the families to practise or carry out a task during the week. Family time was something that was introduced to the families in the family sessions, and they were asked to spend family time as a task each week. This involved making time to meet together and carrying out an activity or just spending time with each other. It was encouraged that the activity was suggested by the teen.

In week 14 all eight families attended one final session before graduating from the programme. The graduation ceremony is a special occasion where extended family members are invited to join in the celebration. Professionals from referral agencies and from the local community are also invited to this special evening. Each participant received a certificate, and some people spoke on behalf of the teens and the parents.

Challenges/Limitations

Some of the main challenges with the SFP concern the attendance and participation of families. Of the nine families that began the SFP, only one family failed to return on week 2. All the other eight families successfully completed all 14 weeks. Both parents and teens are required to attend each session as family practice is imperative for the success of the programme. On occasion, though, parents did arrive without their teens and vice versa for a variety of reasons; they were permitted to attend, but this caused some difficulties in the family sessions. Substance abuse within families, both parents and teens, was prevalent and inhibited full participation.

As previously mentioned, participation was incentivised with teens receiving €5 phone credit for weekly attendance and adequate participation. Parents received Tesco shopping vouchers on weeks 7 and 14. Given the quiet, shy personalities of some teens and the dominant, outgoing ones of others, it was often difficult to discriminate between lack of participation and shyness, and so phone credit was awarded each week regardless of behaviour. The dominant behaviour of some group members proved to be both a help and a hindrance. When their interest and willingness to participate was high, they motivated and led the group to work together. These proved to be our most rewarding sessions, with full co-operation and enjoyment.

However, when the so-called leaders of the group were troublesome, their negative behaviours and attitudes permeated throughout the group. A mix of gender between teens provided challenges with hormones raging. There was regular flirting and taunting among the teens, which at times was difficult to manage. Work was undertaken in promoting respectful relationships. Most of the teens knew each other from either the local area or school. These relationships were not always positive, with outside issues often being discussed during the sessions. Given the problem of feuds and rival gangs in the Ballymun area, attention was paid to the compatibility of certain families participating in the programme. One female teen was not from the primary catchment area and did not attend the local school. Despite continuous encouragement to participate actively in the group, she declined. This rendered her quite ostracised.

As with all group work, ground rules needed to be imposed. The balance between adhering to these agreed rules and allowing the team the freedom to express themselves and have fun often proved difficult to achieve, with teens complaining that the group often felt like school. There was a heavy reliance on ice-breakers to counteract this. As discussed above, SFP is modular and workbooks are used by facilitators. To maintain fidelity, workbooks must be adhered to. Running with the momentum of the group and following the material of the workshop was not always possible. Occasionally, a particular subject matter would catch the attention of the group and spark very relevant debates. The decision was made among the facilitators to run with this momentum and cover the necessary material from the manual at a later stage.

The running of the SFP requires co-facilitation in all sessions, teen, parent and family. Where possible we aimed to have mixed gender between facilitators. As SFP was an inter-agency collaboration,

facilitators presented with a wide variety of skills, experiences and aptitudes. Coming from different agencies, facilitators also had different outlooks and goals.

While debriefing at the end of each night is built into the programme, facilitators and other staff were often tired and anxious to get home, and so a thorough debrief did not always happen. The fact that the SFP was made up of staff from many different agencies meant that people did not know each other very well and often appeared reluctant to speak openly and freely about matters that might need changing or improving. Follow-on supervision was to be provided by the facilitator's own line manager. However, this was not always appropriate as managers were not always familiar with the SFP and issues that might arise.

The other obvious challenge associated with SFP is time. Weekly attendance at group work from 3 to 9 p.m. infringes not only on one's work life but also on home life.

Strengths

The abovementioned SFP was the inaugural roll-out of the programme in the Dublin area. As this was an inter-agency collaboration it provided an excellent opportunity to liaise and network with other agencies and learn from their experience and knowledge base. Such inter-agency working created new professional relationships and enhanced existing ones. As Probation Officers, we traditionally work on an individual basis and so SFP allowed for the development of group work facilitation skills. More specifically, our co-facilitation skills were refined and our understanding of group work theory and dynamics was strengthened. To date, most of our professional experience has been in working with young offenders. YPP facilitated the teen session in SFP as this would be our area of expertise. However, the area in which the greatest amount was learned was our experience of working with the parents and non-offending teens. Some families would have had no previous involvement with the Probation Service and would have had a negative perception and attitude towards it. Our participation in the SFP helped to raise our positive profile within the community and demystify the nature of our work.

We also enhanced our knowledge of problems and issues within families that contribute to offending behaviour. Of equal importance was the learning with regard to the strengths of families and the value and benefits of empowering families.

Funding

In regard to this SFP the core budget was provided by the BLDTF. This budget covered costs of transportation, food, graduation celebrations and incentives. The physical site was given at no cost by a partner agency, the HSE. The site was a Family Centre that had the appropriate space and provided a welcoming environment. The chef worked in a local project and was paid for his services. Facilitators were released from the Network agencies as the agencies' contribution to the programme.

Evaluation

An evaluation report for the SFP in Ballymun was provided by Dr Karol Kumpfer of Lutra Group, Salt Lake City (Kumpfer, 2008). This report was based on data gathered by the facilitators from the families using standardized evaluation instruments. These instruments are designed to assess child and parent mental health, substance abuse risk and resiliencies, family management and cohesiveness, parent and child social skills and attitudes. Data was collected from the child, parent and group facilitators to improve triangulation so as to measure real changes.

Immediately before at an orientation session and after completion of SFP at graduation, participating families completed a number of outcome instruments selected to measure the hypothesised change variables or outcomes for the family changes, child changes and parent changes.

Summary of findings

The evaluation reports that overall the family changes were most impressive for this first SFP (12–17 years) with adolescents in Ballymun. The retention of the families was impressive at 89% (eight out of nine families), which is much higher than generally expected in a first pilot group. The pre- to post-test changes were considerably greater than normally expected by the four months post-test. One possible reason for these larger than expected improvements in the family interactions and family systems dynamics was that Ballymun families that participated presented with higher levels of problems or crises than those recorded on the SFP database because of having teens who were already having behavioural problems. The Ballymun families had lower pre-test scores

for all positive family variables and had higher scores at baseline for the negative variables such as family conflict. Hence these families had more motivation and room to change and improve.

The evaluation reports that the largest changes were in the area of family dynamics. Eighty per cent or four of five family measures (all except Family Conflict reductions) were found to be statistically significant. The measures included Family Organisation, Family Cohesion, Family Communication, Family Conflict and Family Resilience. Additionally four of five family outcomes for these SFP groups were larger in effect size or amount of change than the SFP National Irish Norms. This suggests that the implementation was better than average and was a good fit for the families recruited.

Parental supervision did not improve very much, which is not typical for SFP outcomes as can be seen by the comparison norms (Kumpfer, 2008). It is a critical factor for children's later drug and alcohol use, so improvements in this area should be worked on in the future. YPP identifies lack of parental supervision as a risk factor in young people becoming involved in anti-social behaviour and alcohol/drug misuse. We endeavour to work with families and other agencies to address this risk. The other positive parenting skill outcomes, however, bode well for the long-term effectiveness of this programme in preventing later behavioural problems and substance use in the children.

Management committee

The SFP does not stipulate that there has to be a management committee. However, to maintain the inter-agency perspective and ownership of the process – in essence to maintain community ownership of the programme – the BLDTF recommended the establishment of the committee.

This committee is made up of representatives from the stakeholder agencies in the Ballymun area. It is responsible for overseeing the implementation and future development of the programme, to provide support, advice and direction where appropriate to the site co-ordinators, ensure that the fidelity of the programme is maintained and develop appropriate policies and procedures. The committee meets at least three times over the course of the programme to review progress.

Learning

The pilot programme provided tremendous learning that has influenced how the subsequent programmes developed. The management committee has become more focused and clearer about its role; guidelines and a memorandum of understanding have been drawn up for referral agencies. Work on promoting the programme with agencies, parents and particularly engaging the teens is ongoing, and a subgroup of the management committee has formed to focus on advertising the programme in the community. Many agencies released staff to be trained in the SFP in October 2007.

However, facilitators were available from only a small number of agencies for commencement of the programme. This is an area that the management committee saw as needing to be addressed. Refresher training and a campaign to re-engage agencies in the process might be considered. The experience of running of the pilot programme highlighted the importance of supervision and support being available to the facilitators from their employers.

Ongoing support for the participating families was also recognised as important. Many of the families chose to continue meeting for support, and were facilitated to do this by the local secondary school and a member of staff from there.

Conclusion

Since this first SFP programme in Ballymun as described here, two programmes were run simultaneously in the autumn of 2008 (Tuesday and Thursday nights) and two programmes were run in spring 2009 (also Tuesday and Thursday nights).

For YPP, involvement in this very successful inter-agency skills programme has been very positive. Relationships with other agencies have been reinforced. Our profile in the community has been raised and enhanced. We have derived much learning from the experience, developing our skills in working with young people and parents, we have increased our knowledge of the importance of not seeing the young person in isolation but capitalising on the strengths and supports within the family and the community for the welfare of the young person.

Involvement in the first SFP in Ballymun has been stimulating, hard work and very worthwhile. Hearing the parents and young people

describing on graduation night how the programme had helped them as a family communicate better and have closer relationships would suggest that the SFP is a good investment.

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The Ballymun Network for Assisting Children and Young People: A Local Model for Inter-agency Working

Catherine McGowan*

Summary: The Ballymun Network for Assisting Children and Young People ('the Network') began as an initiative of the Ballymun Local Drugs Task Force (BLDTF) in 2005 and was formally handed over to *youngballymun* in September 2008. It comprises 17 agencies including Young Persons' Probation and its aim is to promote the welfare and protection of children and young people at risk in the 10–18 age range through better inter-agency cooperation. Its ethos is to place paramount importance on the best interests of the child and young person, and membership of the Network is open to any organisation in Ballymun that shares this aim and ethos, and is committed to implementing the articles of its protocol. This paper gives an overview of the policy framework in which the Network was developed, the case for inter-agency work with those at risk of youth offending, and an overview of the model – the practical development, implementation and factors that have supported it.

Keywords: Interagency, partnership, co-operation, joint working, risk factors, case management, prevention.

Policy framework

At a policy level the need for inter-agency work is well supported in documents such as the Children First Guidelines (1999), the National Children's Strategy (2000) and the Agenda for Children's Services, which states:

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there needs to be joint working through the identification of lead responsibility towards specified outcomes. This is necessary from senior levels in the Departments of the State through to the interagency planning, service-level agreements and integrated service delivery to individual children and their families. (Office of the Minister for Children, 2007, p. 13)

Those involved in children's and young people's services are increasingly recognising that no one service can effectively meet the complexity of needs in society (Hallett and Birchall, 1995; Baginsky, 2000; Davis and Race, 2006; Morrison, 1996; Barter, 2001). The Children First guidelines state that 'All agencies and disciplines concerned with the protection and welfare of children must work cooperatively in the best interests of children and their families' (Department of Health and Children, 1999, p. 23). Sadly, almost all public child abuse inquiries in both the UK and Ireland have highlighted the failures of services to work co-operatively and the failures of individuals to liaise and communicate with professionals both within and external to their organisations (Corby, 1995; Reder *et al.*, 1993; Campbell, 1997; Duncan and Reder, 2003; Richardson and Asthana, 2006; Easen *et al.*, 2000; Barter, 2001; Buckley, 1996).

While policy clearly outlines the need for more integrated work and the establishment of the Office of the Minister for Children is a significant advancement, there is a shortage of resources or supports to practically implement interagency work, which, as documented in the literature, is complex. Issues including lack of respect and mistrust; role identifications; status and power; competition for resources; professional and organisational priorities; stereotypes; value systems; and disrespect for the other experts have all been cited as challenges to achieving interagency work (Duncan and Reder, 2003; Richardson and Asthana, 2006; Hallett and Birchall, 1995; Easen *et al.*, 2000; Corby, 1995; Reder *et al.*, 1993; Stevenson, 1989).

Inter-agency work and young offenders

Many studies on youth centre on one specific behavioral domain, for example drug and alcohol abuse, promiscuous sexual behaviour, and

other forms of antisocial behaviour (Dryfoos, 1993; Irwin, 1993; Wyn and White, 1998; Mayock, 2002; Burt *et al.*, 1998). Burt *et al.* (1998, p. 28) write that 'all adolescents have a certain mix of vulnerabilities and protective factors that ultimately determine the likelihood that they will experience problems'. It is also noted that certain risk behaviours appear to be associated with each other, such as substance use and sexual activity (Irwin, 1993; Green *et al.*, 2000). A narrow focus tends not to be successful, as high-risk youth face a number of adversities and, as noted by Jack (2000), it is the accumulation of these adversities rather than one isolated incident that puts young people at risk (Wyn and White, 1998; Muncie, 2004; MacDonald and Marsh, 2002). The Ballymun Local Drug Task Force recognised this when addressing the issue of young people's drug use, forcing it to rethink the approach and begin to look at inter-agency working.

The work of Hawkins and Catalano (1989, p. 2) focuses on the 'risk factors' rather than the 'risk behaviour', calling for 'Interventions that target those children that seem to be most problem-prone, and address multiple risk factors across multiple domains – cultural, environmental, community, family and individual'; this is the approach taken by the Network, working across the ecology of a young person's life. Dryfoos (1993) identifies the following common characteristics in youth at risk: low school achievement and basic skills, lack of parental support, low resistance to peer influences, early acting-out and residence in disadvantaged areas (Kagan, 1991; Ungar, 2004; Li *et al.*, 2002; MacDonald and Marsh, 2002; McCrystal et al., 2007). The value of the Network as a preventive tool is recognised: 'what the Network has done in terms of risk is that it has lowered the threshold … you can refer them in and hopefully avoid them getting referred on to the social work cases or the probation cases' (McGowan, 2008, p. 21).

Dryfoos (1993) identified some of the common characteristics of successful prevention programmes targeting risk youth. These include intensive individual attention, early intervention, focus on schools, services provided in schools by outside organisations, comprehensive multi-agency and community-wide programmes, parents having a defined role, peers having a defined role, social skills training, and arrangements for training. The Network aims to address a number of these specifically and to support member agencies whose core work includes these types of intervention.

Ballymun: The need for inter-agency work

Ballymun is a disadvantaged area in Dublin of approximately 1.5 square miles, which in 1997 began a regeneration programme (Headstrong, 2007). Ballymun suffered hugely during the heroin epidemic of the 1980s and is a designated Local Drugs Task Force area.

In early 2004 the Ballymun Local Drugs Task Force (BLDTF) brought together 30 individuals from a broad range of organisations and groups who work face to face with young people in a consultation on the nature of youth at 'high risk' in Ballymun. Young people at 'high risk' were identified primarily as being teenagers but some reports were made about children as young as eight years of age. A variety of negative behaviours involving girls and boys were named. The following were included: drug dealing/running; muggings; intimidation; exposure to inappropriate behaviour; teenage drinking in the parks and blocks; ecstasy, cannabis and cocaine use; young boys involved in prostitution; and the stealing/driving of cars/motorcycles (McKeown, 2006):

> The range and prevalence of the risky behaviours was worrying as was the fact that these young people were 'falling through the cracks' despite the large number of agencies and support services in Ballymun. It became clear that a new and more coordinated approach to inter-agency working was required to address the challenging needs of these vulnerable young people. (McKeown, 2006, p. 5)

A recommendation was made to commission research, to develop a practicable model for information sharing and service coordination for Ballymun, and that the end result would be a real commitment from all relevant agencies and a model for co-ordination and joined-up working between statutory, voluntary and community agencies for the good of identified young people at high risk. Dr Kieran McKeown (2006) was commissioned to do this research and to facilitate the three steps that followed: consultation, development and implementation. The consultation phase showed there was substantial co-operation and networking but little co-ordination in service delivery. It identified fears and preconceptions that impeded participant agencies' attitudes to inter-agency co-ordination. These were summarised as organisations forgetting that each agency wants the best for their clients; agencies may fear that their self-interest, or remit, is threatened by closer collaboration; there

may be different perceptions of organisational efficiency and professional practices; some agencies may be seen as less caring than others; agreements made through the inter-agency project may not be delivered by front-line staff; agency representatives may not find the time to attend every meeting and follow up on commitments; and misconceptions about their lack of power to share information due to data protection and confidentiality rules.

Following the consultation phase, seven facilitated meetings were held (April–November 2005) lasting half a day and attended by managers. Membership of the Network includes a mix of community, voluntary and statutory bodies (see the appendix). Each agency (through its senior local manager) committed to: attend every meeting and follow up on actions; involve front-line staff; focus on the needs of clients rather than on services; be open and honest about the problems of inter-agency working; respect difference; and find solutions.

The end result of this process was the production of a protocol for inter-agency working, which is now being implemented. The purpose of this protocol is to promote best practice in services for children and young people, and the Network's understanding of best practice is informed by the National Guidelines for the Protection and Welfare of Children and the National Children's Strategy. The protocol was signed off at an open day attended by all the members of the Network and their front-line staff in April 2006. The first referral was made in June 2006 and this case management approach has been in operation since. The key tool employed, the network case meeting (NCM), is not unlike the Health Service Executive's (HSE) case conferences.

Services in Ballymun are mindful of the statutory responsibility of the HSE Social Work department to deal with those cases that present with child protection concerns. The cases referred to the Network concern young people who are at high risk but do not have identified child protection concerns. The Network provides a unique structure to address these young people's issues, which are wide ranging in nature and description and beyond the scope of the intervention of one service.

The model in operation

Any member of the Network may call a meeting with other members of the Network to discuss concerns about a child or young person. This meeting is an NCM and its purpose is to share information about the

child or young person, to see if further information is required, to decide on the appropriate service response, and to agree on the role of different agencies in making that response. Staff often make referrals when their agency has exhausted its own resources: 'when it comes to a case when we can't actually solve some of the issues ourselves or we feel it needs more of a wider inter-agency involvement, that's when we refer it' (McGowan, 2008, p. 21). If a member of the Network has a concern about a young person who they feel needs an inter-agency response, they can refer this young person by filling out a referral form.

It is incumbent on all members of the Network to ensure that information about children and young people is kept safe and secure. Staff in all agencies will be aware that information about children and young people is shared on a 'need to know' basis, and only where it is in the best interests of the child or young person.

The agency that organises the NCM is called the lead agency. The HSE Social Work Department is informed of NCMs only where it has already been established that the child or young person is known to it, the case is open, and there is an allocated social worker. The Network Coordinator contacts the Social Work Department when a referral to the Network is made to ascertain this information. Following the NCM, the lead agency prepares minutes of the meeting detailing who and what agencies attended, what decisions were made, who will carry them out, and whether and when a further NCM is planned.

Agencies that attend the NCM may be working with the young person or a member of their family currently, have worked with them in the past or have a service that could meet the needs identified in the referral form. At the NCM the agencies work together to develop an integrated service plan for the young person and in many cases their siblings. At the meeting agencies discuss their current involvement, share information and identify issues – education, behavioural, social, etc. The young person's needs are not addressed in isolation. For example, an issue around school non-attendance may also involve a need for intervention around a negative peer group, drug use and possibly some family support.

The individual practitioners from the member agencies often have to work with a narrow focus (Dryfoos, 1993; Irwin, 1993; Wyn and White, 1998; Mayock, 2002; Burt *et al.*, 1998) and cite the Network as being a framework for addressing the multiple domains in a young person's life in partnership with other agencies (Jack, 2000; Wyn and White, 1998;

Muncie, 2004; MacDonald and Marsh, 2002): 'it would have been those who are at risk of eviction … you would need the other agencies' support because our remit is very narrow' (McGowan, 2008, p. 21). A referral to the Network is seen to provide a rounded response to multifaceted needs: 'I would love to do all those things but I would get a slap on the wrist if I played social worker or the teacher … we all come in with our agenda and hopefully the idea is that all the needs get met' (McGowan, 2008, p. 21).

Where appropriate the young person and their family should always be informed that an NCM is being held and invited to attend. When a child or young person is in detention, the lead agency remains engaged with the young person and asks to be kept informed by the detention centre about case conferences and other meetings as well as details of release. On release, the lead agency calls an NCM to facilitate the reintegration of the young person. When a person reaches the age of 19, an exit meeting is called for the purpose of linking the young person to other services, if required; wherever possible, these other services are invited to the exit meeting. The overriding aim is to achieve progression for the young person.

What the Network means to practitioners in Ballymun

Factors that have supported the Network's effectiveness include a formalised structure; good communication; clear understanding of roles and responsibilities; and understanding and respecting different professional and organisational priorities (Corby, 1995; Hallett and Birchall, 1995; Davis and Race, 2006; Richardson and Asthana, 2006; Department of Health and Children, 1999).

'On a very basic level it is the work we have always done but on a much more formalised way' (all quotes in this paragraph are from McGowan, 2008, p. 22). The formalised structure of the Network is also seen as providing validity to concerns: 'referrals to the Network are taken seriously'. The structure increases accountability and ensures monitoring of cases: 'The coordination and the accountability of the services at the table'. It has been highlighted as an alternative to traditional referral to another service or agency, where the referring agency can lose contact with a client as they pass to another service – 'I think the beauty of the Network is that the buck isn't passed because you are still sitting around the table discussing the case' – and provides alternative referral pathways:

'before you would recognise all these cases but where would you go? I didn't know what to do, didn't know how to refer them.' While the success of the Network is often seen as the case management system, the Network has facilitated much more. The relationships between agencies have been significantly strengthened and there is increased professional peer support: 'The Network is a support to you as a practitioner … at least you are not the only one feeling like you can't do anything'.

Other notable achievements include being chosen as finalists in the Children's Acts Advisory Board's Awards for Services to Children and Young People in the 'Effective Practice in Inter-agency Working' category in 2007; the Strengthening Families Programme that began in March 2008 and is on its fourth cycle; training in and the production of a tool kit for practitioners in the 'Essential Elements of Communication: Marte Meo' in October 2008; being chosen as a case study by the Children's Acts Advisory Board as a model of inter-agency work in 2009; and finally, the Network secured funding for, and is currently going through the process of, external evaluation.

Conclusion

It is recognised consistently that in order to secure better outcomes for young people, agencies have to work collaboratively (Hallett and Birchall, 1995; Baginsky, 2000; Davis and Race, 2006; Morrison, 1996; Barter, 2001; Department of Health and Children, 1999). 'For me the Network is a net, drawn by the different agencies to stop that young person falling through' (McGowan, 2008, p. 22). The benefits to working in an integrated way through the Network include the pooling of resources and skills, the potential for early identification and prevention, avoiding gaps in service response, and mutual support for professionals in complex cases.

Appendix: Membership of the Ballymun Network for Assisting Children and Young People

- Aisling Project
- Ballymun Job Centre (BJC)
- Ballymun Local Drugs Task Force (BLDTF)
- Ballymun Principals Network (Primary Schools – September 20008)
- Ballymun Regional Youth Resource (BRYR)

- Ballymun Youthreach
- Ballymun Youth Action Project (YAP)
- Ballymun Education Support Team (BEST) School Completion Project
- Dublin City Council (DCC)
- Geraldstown House (HSE)
- Mater Child and Adolescent Mental Health Service (CAMHS)
- National Education Welfare Board (NEWB)
- Young Persons' Probation
- Social Work (HSE)
- Trinity Comprehensive School
- An Garda Síochána
- youngballymun (September 2008)

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A Baseline Analysis of Garda Youth Diversion Projects: Considering Complexities in Understanding Youth Crime in Local Communities in Ireland

Sean Redmond*

Summary: The National Youth Justice Strategy was launched in 2008. Its first strategy covers the period 2008–2010 and has five high-level goals. One of these goals – *to work to reduce offending by diverting young people from offending behaviour* – has been the focus of a baseline analysis of practice undertaken by the Irish Youth Justice Service during 2008/2009. The baseline analysis that focused on Garda Youth Diversion Projects (GYDPs) is the first step in an improvement programme for this critical intervention designed to positively impact young people at the onset of offending behaviour. The baseline analysis and the issues it raises are the focus of this paper. The intended changes advanced in the analysis will aim to ensure that each local GYDP aligns its efforts to take account of data regarding youth crime patterns within its locality and develops a clear evidence-based rationale to articulate how its activities will contribute to reducing crime. The Irish Youth Justice Service intends to support improvement in effectiveness by investing in targeted training of core staff, developing a learning community to exploit the knowledge across the network of GYDPs, making better strategic use of local information and leading five trial sites to put these ideas into practice.

Keywords: Youth crime, change strategy, evidence-based, crime reduction.

National Youth Justice Strategy (2008–2010)

The National Youth Justice Strategy was launched in March 2008 by the then Minister for Children and Youth Affairs, Brendan Smith, TD. The first strategy, covering the period up to 2010, provided the framework for

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co-ordinated implementation of the Children Act, 2001 (as amended). In addition the strategy has a clear vision for improving performance in terms of reducing youth offending while ensuring that young people's rights and needs are safeguarded.

The strategy focuses on five high-level goals:

- to provide leadership and build public confidence in the youth justice system
- to work to reduce offending by diverting young people from offending behaviour
- to promote the greater use of community sanctions and initiatives to deal with young people who offend
- to provide a safe and secure environment for detained children that will assist their early reintegration into the community
- to strengthen and develop information and data sources in the youth justice system to support more effective policies and services.

The second of these high-level goals, the area under discussion for this paper, places a key focus on the Garda Youth Diversion Project (GYDP). The GYDP is by no means the only intervention that intends to positively impact troubled or troublesome behaviour among young people. Other specific interventions such as the Garda Juvenile Diversion Programme and a number of services falling within the strategic remit of the Office of the Minister for Children and Youth Affairs all have a key part to play in reducing youth crime.

However, the GYDP represents a significant €13 million investment by Government with an accompanying expectation that the investment will make a meaningful contribution to reducing youth crime in the many localities where the GYDP is based.

Garda Youth Diversion Projects

GYDPs are funded by the Irish Youth Justice Service (IYJS) and administered by the Garda Office for Children and Youth Affairs (formerly Garda Community Relations). The first two GYDPs were established in 1991. In 2008, after a period of incremental growth, 100 projects were operating in local communities across Ireland, providing services to some 3,600 young people (see Figure 1). Staff in the GYDP are managed and supervised by 38 youth organisations or community-

Figure 1. Location of Garda Youth Diversion projects (2009)
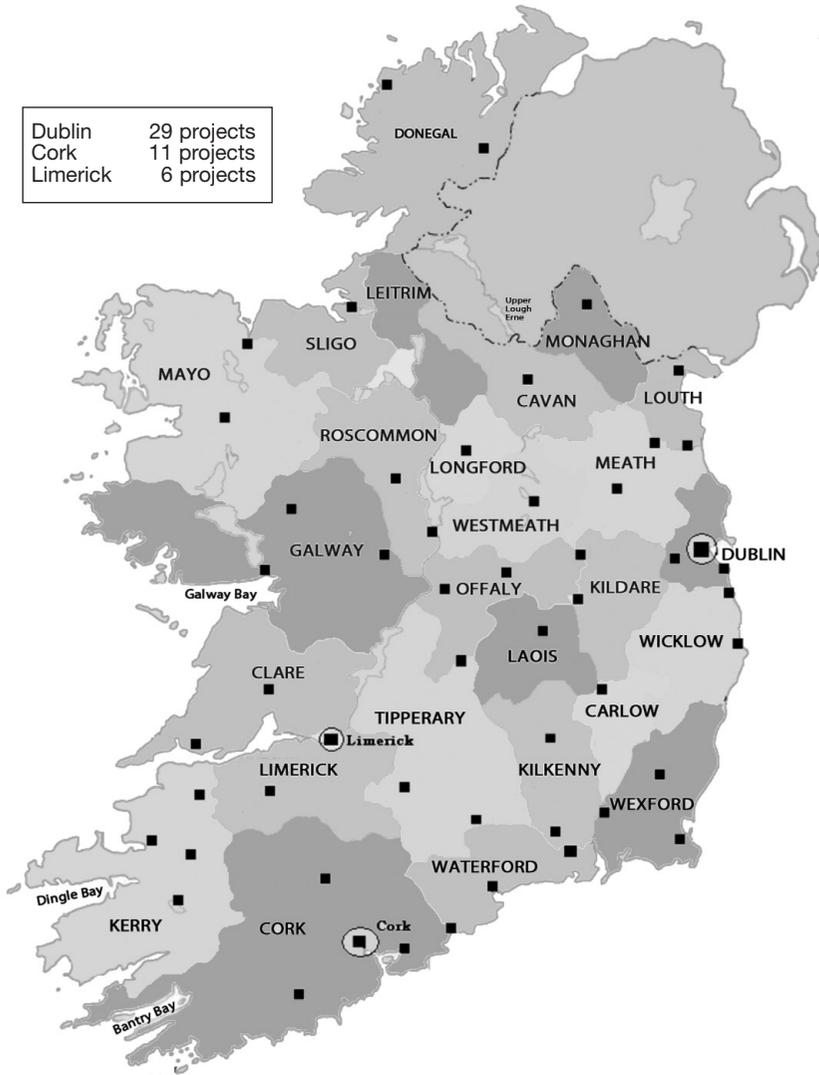
based management companies and supported in their operations by a comprehensive set of central guidelines. The staff complement in most projects is two, meaning that almost 200 staff, mainly but not exclusively trained in youth work, form the human resource base for GYDP interventions on a national basis.

The total population served by an individual GYDP ranges from (less than) 2,000 to over 60,000 across the 100 projects, although a significant cluster of projects provides services to young people within total populations of 4,000–16,000. Using Census information and Garda statistical data it is possible to estimate that most GYDPs operate within a catchment area where approximately 25–100 young people per year present with additional needs and risks associated with repeat offending following caution by a Juvenile Liaison Officer of An Garda Síochána.[1] From a strategic perspective, the wide distribution of GYDPs across the country servicing relatively small target groups is a considerable strength, particularly when matched with the comprehensive administrative oversight provided by a single national Garda force, allowing reasonable activity and demand levels to be estimated.

The baseline analysis

The baseline analysis was undertaken between March and July 2008, when 96 of 100 projects across the country received a site visit. Each site visit interviewed staff directly involved in developing interventions in the project along with, in the large majority of visits, local members of An Garda Síochána and various members of management from youth organisations.

The visit included a semi-structured interview (see below) in addition to engaging local projects in discussions about what needed to change to improve effectiveness and the barriers to implementing necessary change. The exercise was intended to engage practitioners as consultants and experts rather than solely research respondents; staff were encouraged to reflect and account for their own informed opinions about improving practice when presented with facts about local youth crime patterns.

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[1] In 2006, 395,000 young people aged 12–17 years were living in Ireland. Approximately 20,000 (or 5%) of these young people were cautioned for offences by An Garda Síochána. The estimates in the main text apply these figures proportionally to populations of 6,000 and 16,000. Additionally the estimates allow for a possibility that the localities in which projects are based may experience an increased level of youth crime (at 15%, i.e. three times the average cautioning rate) and that half of these young people present with additional risks such that further intervention is necessary.

Format of the analysis

The interview was structured as follows.

Size of population

What is the estimated total population being served by the GYDP? This figure helps to determine the likely number of young people within the catchment area aged 12–18 years and to estimate the number of young people cautioned[2] by An Garda Síochána.

Basic list of offences

What offences are committed by young people within the locality served by the GYDP? Projects were encouraged to be exhaustive. This information helps for comparison purposes but critically provides a key conduit for the remaining discussion and ensures focus for the interview.

Patterns of youth crime in the area served by the GYDP

How do these offences (i.e. those on the basic list) occur in reality? Given the relatively small youth population served by each GYDP and the level of participation by local members of An Garda Síochána, the insights provided in this response were of particular benefit. For instance: when and where do these offences occur, by whom and in what clusters? At a GYDP level this information is useful in gauging the nature and size of the local youth crime challenge. However, these single granularity accounts provided a critically valuable narrative alongside official statistical data on youth crime when aggregated at a national level.

Profiles of young people committing offences

How do the young people who commit these offences present to project staff and local members of An Garda Síochána? What are the personal, family and social features of the young people engaged by the GYDP? Responses included information about young people themselves but also their parents/carers, school performance and the effects of friendship groups and neighbours.

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[2] It is accepted that focusing on young people dealt with formally by An Garda Síochána does not provide a full picture, for example in terms of crime that is not reported or detected and crime perpetrated by children under the age of 12 years. However, it is suggested that it provides a reasonably consistent indicator given that all young people whose cases are processed for criminal matters are dealt with by one national juvenile office.

The analysis thus far was designed to produce information to help gauge the total challenge faced by staff. More specifically: how many young people are involved in committing crime in the project catchment area? What are the offences that these young people are committing? What is the narrative or pattern associated with these offences? What are the key personal and social circumstances of the young people involved in these offences, and how do they present?

The interview continued as follows.

What improvement(s) to the current situation is intended by the project?
What positive impact does the project believe it can (or does) make to the issues raised above? This question yielded more information about individual project capacity than a multitude of questions about project activity, which tend to be descriptive and non-discriminating. Aggregated at a national level, this type of information can help to identify where project impact could be maximised and also what features of local youth crime cannot be impacted, requiring support from others.

What is the project's 'logic' for seeking these improvements?
Why does the project believe that if it is successful in achieving these improvements it will make a contribution to youth crime reduction? This question discloses the degree of awareness of each project in relation to how youth crime occurs within its locality, the available research on what types of intervention could be most effective, and how it intends to use its finite resources to make a difference.

The responses to these questions provided valuable insight into the complexities associated with youth offending in local project areas and highlighted strengths and weaknesses in current approaches.

Youth crime in local GYDP areas

The discussions in relation to youth crime yielded significant results that are dealt with more fully in the baseline report.

Alcohol-related offences are the single largest category of offences committed by young people in Ireland. Official An Garda Síochána statistics indicate that this type of offending accounts for a fifth of all juvenile offending. However, taking account of other offences that according to project narratives are clustered in the same offending episodes – where alcohol is a critical factor and part of the offending

sequence – this figure could rise to almost half of all youth offending. According to project accounts, the cluster of offences includes public order-related matters, criminal damage and common assault, although projects pointed out that alcohol-related crime was in many cases a proxy for drug-related crime. The obvious inference is that if projects intend to make an impact on youth crime, alcohol-related youth crime is a good place to start. The full report[3] outlines project-level discussions for a range of offences. However, given that alcohol-related crime represents such a high proportion of all youth crime, it is given prominence in this paper.

With specific reference to alcohol-related crime, the baseline analysis yielded other useful information that is relevant in terms of planning interventions. Firstly, *temporal* factors: in many cases alcohol-related crime has a clear temporal dimension. Most of this offending behaviour peaks significantly during a reasonably small number of hours at weekends, clusters around certain calendar events and presents a steady increase towards the summer (when arguably under-age drinking behaviour is more overt). There were departures from these temporal patterns, notably where young people were involved with friendship groups involved in repeat drinking episodes and where certain degrees of alcohol, drugs and alcohol-type activity appear to be tolerated within families or neighbourhoods.

Secondly, *situational* factors, or the relative ease by which young people could access and consume alcohol, also provided a key context to understanding this type of offending. The overwhelming picture is one of easy access to alcohol. However, it is instructive that in at least two project areas, where the geographical layout was such that there were few alcohol outlets within easy reach, alcohol consumption appeared to occur less frequently than expected and was secured mainly by stealing or taking from home.

The following list does not claim to be exhaustive, but across the 96 projects it appeared that a number of recurrent tactics were employed to secure alcohol.

- Taken from home, with or without the consent of parents
- Adult members of drinking groups purchasing alcohol on behalf of under-age members of the group

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[3] *Designing Effective Local Responses to Youth Crime*, available at www.iyjs.ie

- Targeting licensees who are perceived to be lax in terms of their vigilance in serving under-age customers
- The use of home delivery services and taxis
- Approaching adults within the neighbourhood who are known to be prepared to purchase alcohol for young people
- Making purchases across the border, where it was suspected that certain licensees were less vigilant
- Theft of alcohol from outlets
- False identification

In addition, in most project locations, a finite number of (mainly outdoor) drinking locations were used repeatedly by young people.

Thirdly, there were descriptions of the *personal and social circumstances* of the young people who had committed the offences. These are dealt with in detail in the full report. Not surprisingly a number of these characteristics mirror the types of risks that appear, from longitudinal research undertaken primarily in the UK and the USA, to be associated with youthful offending. However the narrative accounts provided an extra dimension to the orthodox lists of risk factors by giving meaning to the linkages between certain factors and greater levels of precision. For instance, nuance within the generic risk factor of *ineffective parenting* (covering at one end of a continuum a parent who is trying their best in straitened circumstances to supervise the young person adequately, and at the other end a parent who may be actively complicit in the offending behaviour) is significant in planning an intervention, the degree of effort involved in executing the intervention and the likely outcome.

Profiling alcohol and public order-related crime

The personal and social circumstances of the young people involved in this offending behaviour, in addition to temporal and situational factors, made it possible to group the offence narratives into three macro-profiles that loosely hypothesise how these offence clusters occur in reality within project catchment areas. In a series of subsequent feedback exercises to all projects in December 2008, the profiles were presented as reference points. The profiles struck a resonance particularly in towns and cities outside of Dublin. The respective profiles are not location-specific; indeed, these patterns of behaviour and their offending context coexist within individual project locations. Each of the profiles was accompanied

by a sketch outlining the perceived linkages between factors and an approximate sequence of events. The sketch outlining Profile 2 is included as an example for the purposes of this paper (Figure 2).

Profile 1: Ad hoc membership/ad hoc activity

Most projects reported that alcohol consumption among young people across their catchment area was widespread, affecting a large percentage of all young people. Many young people consuming alcohol meet in groups on *ad hoc* occasions (for instance, certain calendar events); the group will have organised how to secure alcohol and will consume the alcohol in one of a reasonably small number of locations. Some of the group will become drunk and gravitate towards the town centre, particularly fast food outlets, committing public order nuisance-type offences and possibly criminal damage offences, and possibly minor assaults on the way. These young people in the main will have satisfactory school attendance, though performance may be impaired. Parents tend to present as concerned about the behaviour and the consequences of involvement with An Garda Síochána.

Profile 2: Regular membership/regular activity

Fifty-two of the 96 projects reported that there was a clear cohort of young people involved in alcohol-related public order offending on a repeat basis. For projects that were able to estimate, the size of these groups varied from fewer than 10 young people to over 40, though these

Figure 2. Profile 2: Alcohol and public order crime
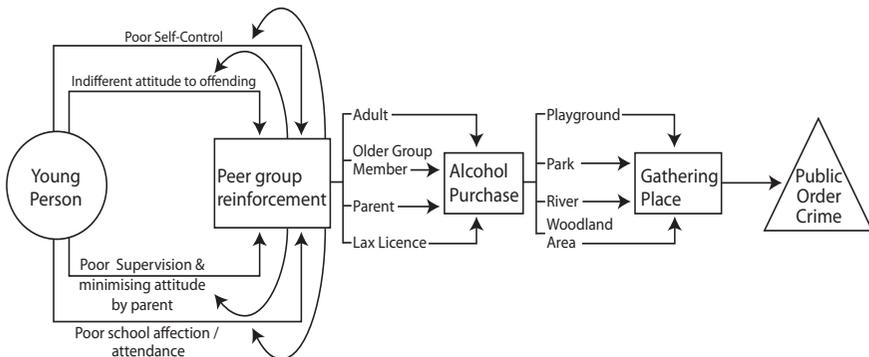
total numbers break down into a number of smaller neighbourhood and friendship groups. The young person in this group typically presented with poor self-control and an indifferent attitude to their offending behaviour, possibly considering the pattern of alcohol and public order offending as normal. Their attitudes more generally are facilitated by a minimising attitude to the offending behaviour by parents and underpinned by loyalty to a friendship group involved in the same or similar behaviour. The situational factors present as similar to profile 1 but the behaviour occurs more frequently, bucking the weekend and seasonal trends. Certain friendship groups or subgroups within friendship groups can be involved together in other group offending episodes, for instance theft.

Profile 3: Regular membership, widespread activity, and external influence
A third of projects identified features within their catchment area where a considerable number of social and environmental factors served either not to discourage or to actively encourage offending behaviour. For most of these projects the features related to a relatively small geographical part of the catchment area and a relatively small number of young people.

However, in these circumstances the young person experiences a powerful combination of processes and influences, some of which he has control over (individual factors such as self-control and consideration of others), some of which he has limited control over (for example, the negative influence of some friendship groups) and some of which he has little or no control over (for instance, the relative saturation of adult and organised crime in the neighbourhood or in the extended family network). According to a number of projects there appears, at least at a superficial level, to be a greater tolerance for alcohol and drugs misuse in the neighbourhoods where these young people live and less of a propensity to make official complaints to An Garda Síochána. The specific reasons for the consequent enclave situation are difficult to specify and may involve equal measures of adult participation in anti-social activity and fear on the part of other neighbours of making complaints.

Young people in these situations have a closer proximity to offending outside of solely alcohol- and public order-related offending, and present as being at more risk of progressing from such 'pleasure-seeking' offending behaviour to offences geared more to 'financial gain'.

Though these illustrations have been constructed using data from 96 individual projects – virtually a census of provision – the resultant macro-profiles have a limited relevance. In the same way that not all young male drivers present a heightened risk, despite overwhelming actuarial evidence, these profiles cannot be applied without examining in detail the local context. Nevertheless, such exercises can generate discussion and debate about where to intervene and how in order to achieve maximum effect.

Messages from research?

GYDPs operate in a theoretical environment where there is much discussion and debate about how to contextualise and analyse youth crime, with the corollary that there is equally divergent academic opinion about how best to reduce it. The risk and protection paradigm, perhaps the dominant framework for practice in recent years, certainly in western jurisdictions, advances public health-type metaphors for understanding and responding to youth crime. The data from a number of longitudinal studies have provided raw material for the construction of a range of actuarial and clinical risk assessment tools designed primarily to indicate the probability of further offending and what steps might need to be taken to reduce this likelihood.

In short, this approach asserts that there are means to identify factors operating within various systems in a child or young person's life which are associated with heightened risk of youthful offending; for instance, impulsiveness, lack of empathy, non-effective parenting, poor school affection and performance, and living in a fractured community. Counterbalancing this are potential protective factors that the logic determines should be enhanced as well as attempting to manage potential risks.

The features identified in the work of Farrington and Welsh (2007) and Hawkins *et al*. (2008) certainly find a resonance in the discussions held locally with GYDPs. It is clear that interventions designed to encourage young people to reflect and develop a greater consideration for others in addition to improving parenting and school outcomes have a part to play in any response to alcohol- and public order-related crime.

However, what is also clear is that risk factors do not totally account for the complexity of narrative involved in the lives of young people or, as outlined in this paper, even for time and place.

The risk and protection paradigm according to a number of observers has several weaknesses. Critics point to the pseudo-science of the risk paradigm, arguing that supposed clinical terms such as ineffective parenting are largely subjective, that macro profiles or aggregated data cannot be used to determine individual circumstances, that unlike medical science the relationship between risk and outcome is based on association rather than cause, that most data available (e.g. reconviction data) tends to over-represent people from poor communities, and that the obsession with rolling out evidenced and tested programmes has led to the stifling of innovation and reflection among practitioners.

Even where the risk paradigm is well established in terms of mainstream practice, there is often a lack of synchronisation between the assessment of risk and a measured and proportionate response, and criticism that questionable effort is loaded to form-filling at the expense of building critical relationships with young people. Additionally, some commentators advocating the importance of self-efficacy and drawing on theories of resilience argue that too much time is spent avoiding bad things happening and not enough time is spent enhancing the young person's opportunity for civic engagement, for example acts of altruism.

The often conflicting academic discourse suggests that GYDP should be informed by the available research from longitudinal studies, but should also be sufficiently reflective to innovate where there is a clear rationale for a course of action.

Using the baseline analysis to improve effectiveness

The baseline exercise has been an important knowledge-gathering exercise for the Irish Youth Justice Service. With little discussion about project activity, the analysis has attempted to synthesise 96 individual accounts of local youth crime patterns, local practice wisdom and the available research evidence to determine how well aligned the local GYDP is in meeting its challenge to reduce local youth crime. The efficient execution of project intent and the quality of intervention will need to be the subjects of a follow-up study.

It is clear from these discussions that the GYDPs, though similarly configured in terms of staffing, operate in diverse environments such that the degrees of challenge facing projects differ in complexity from project to project and locality to locality. Specific tactics may need to be bespoke to individual localities but, perhaps ironically, the agreement of an

individual project to subject itself to a rigorous logical process in intervention design may bring about a higher degree of accountability and transparency than a national programme roll-out.

Referring back to Profile 2, exercises such as this, particularly when undertaken in consultation with local Garda management and other partners, will assist in terms of hypothesising the risks, processes and relationships associated with youth crime within a given locality. The hypothesis may be imprecise or incorrect as many are, but if it is informed by sound local information and developed by skilled professionals with capacity to reflect, it offers a reference point and an opportunity to be more focused and effective in determining where to intervene. For its part the GYDP cannot respond to all challenges and will have to make judicious choices about the best use of limited resources. However, it affords the opportunity to engage in purposeful discussions with partners about how to reduce risk/promote self-efficacy or to break a particular sequence of events.

None of the projects had undertaken this particular exercise before and, understandably, in many projects interventions and activities had been designed without reference to meaningful data about the local youth crime narrative. Notwithstanding this, peppered across the GYDP network are examples of interventions that display a clear association between the nature of the challenges being encountered and the desired outcomes informed by clear evidence-based logic. Interventions seeking to improve young people's reflective ability, develop empathy, improve the young person's motivation to change, challenge parental attitudes and improve parenting effectiveness, improve school outcomes, etc., were all in evidence. This capacity will be further exploited as the improvement programme advocated by the baseline analysis takes hold later in 2009 and into 2010.

Next steps

As a consequence of the baseline analysis An Garda Síochána and the IYJS have committed to an ambitious improvement programme. It is fair to say, given the response to feedback to all GYDPs in a series of six seminars in December 2008, that the youth organisations and local management companies responsible for the delivery of these services have an appetite to be active partners. The programme has three interdependent parts.

1. *Alignment* – From 2010 all GYDP business plans will need to present a local narrative of youth crime and to have demonstrated that this narrative is corroborated by local Garda management. In addition the business plan will present clear evidence-based logic demonstrating how the resources of the GYDP will improve matters and what elements of the narrative cannot be successfully engaged. Subsequent funding support from IYJS will be contingent on these elements being successfully completed.

2. *Capacity-building* **–** Core training will be arranged for all projects in consultation with practitioners. Initially the training will focus on competence development in pro-social modelling and helping project staff deal with ambivalence, key issues surfacing in the baseline analysis. Additionally IYJS and An Garda Síochána will be considering creative means to exploit the knowledge and talent within the GYDP network to develop a learning community.

3. *Trial sites* – An Garda Síochána and IYJS will provide direct advice and support to five trial sites (2009/2010) within the existing complement of GYDPs to help determine whether the approach advanced in the baseline report adds to project effectiveness.

Discussion

The baseline analysis was not a research study. It was an attempt, using a rigorous process, to yield valuable management information to assist IYJS in identifying a start point to give effect to a key part of its strategy.

It was clear from the start that discussions regarding effectiveness related to far more than programme selection, implementation fidelity and measurement. The outcome of the exercise is as much about providing vision that can be clearly articulated from strategic statements of intent to individual transactions between professionals, young people and their families.

The complexities that local GYDP staff deal with are myriad and multidimensional. However, this experience has shown that by engaging practitioners as experts and consultants in a dynamic discussion about how they survey their environment and choose tactics to engage challenges, it is possible to achieve the nuance necessary to understand the local complexity and to draw out the strategic themes necessary for national focus.

The local youth crime picture will change from time to time and perhaps shift radically in its nature, bearing in mind global and local economic difficulties. However, the improving practitioner capacity to further develop the competence for reflection and informed intervention will assist in ensuring that projects are as effective as they can be in tackling crime. While this may seem at odds with the prevailing orthodox risk paradigm, it rather suggests that what we know to be associated with youth crime needs to be considered alongside a very local narrative. It also suggests that what we mostly achieve is, to varying degrees, an approximate understanding and that we need to keep our collective eyes, ears and minds open for signs of change and match precision with momentum. This framework should actually enable practitioners to be more accountable to local context. The size of the jurisdiction, the wide distribution and common mission of GYDPs across the country are key strengths in developing this sense and response dialogue.

In terms of the intended improvement programme, equal value is placed on formal management mechanisms and initiatives to stimulate creativity and capacity. The rationale underlying this approach is that while formal mechanisms akin to quality assurance deliver minimum or satisfactory standards, higher performance will derive from a productive exchange with practitioners within a clear logic-led framework. Such an exchange will also allow talent and leadership to surface and be recognised. The capacity-building measures intend to capture this potential. The trial sites intend to provide colleagues with legitimate comparators, operating within the same resource structure and offering new insights and learning opportunities.

Conclusion

The baseline analysis is the first step in realising the ambitions of the National Youth Justice Strategy to secure better outcomes for young people and communities suffering the effects of youth crime. It has adopted a particular strategy in terms of engaging practitioners at local GYDP level in discussions about local crime and crime patterns and exploring the rationale underpinning current responses in each project location. The baseline analysis has advanced formal and cultural changes to current approaches adopted by GYDP in addition to outlining the capacity-building measures necessary to enhance practice and improve effectiveness.

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The Role of Theory in Promoting Social Work Values and its Potential Effect on Outcomes in Work with Domestically Violent Men

Maurice Mahon, John Devaney and Anne Lazenbatt⋆

Summary: This paper is concerned with the ethical conflicts that arise for social work professionals working with men who use violence to control women and children with whom they have or have had intimate relationships. It suggests that professionals who are knowledgeable about theoretical frameworks concerning men's 'readiness to change' including 'resistance' and 'motivation' will be more effective at managing ethical dilemmas and practising social work in accordance with evidence-based practice. The paper examines how an adherence to only one theoretical understanding of domestic violence produces poor outcomes in the treatment of domestically violent men and can inadvertently increase the risk of further violence for the victims of domestic violence.

Keywords: Domestic violence, Duluth, ethics, conflict, theory, values, readiness to change, outcomes.

Introduction

In Northern Ireland, social workers come into contact with perpetrators of domestic violence within a number of settings and for a number of reasons. They engage with perpetrators both pre- and post-sentence and the management of a probation order is initiated if a perpetrator has been found guilty of an offence and court sentenced to a term of community

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supervision or imprisonment. In order to achieve this, social workers and Probation Officers must work with the perpetrator to address harmful and/or violent behaviours. The professional relationship developed between the social worker and the perpetrator is therefore of great importance. According to the code of ethics of the British Association of Social Workers (2002, p. 1):

> Social workers attempt to relieve and prevent hardship and suffering. They have a responsibility to help individuals, families, groups and communities through the provision and operation of appropriate services … They work with, and on behalf of, or in the interests of people to enable them to deal with personal and social difficulties.

Dealing with male perpetrators of domestic violence gives rise to seemingly intractable ethical dilemmas, and the vicarious trauma resulting from the work can make it very difficult for the social worker to practise from a sound social work values base (Morran, 2008). It is understandably difficult to respect someone who appears not to care or lies incessantly about hurting vulnerable people, especially those he would profess to love. According to Scourfield (2002, p. 10), the difficulty stems from conflicting theoretical perspectives that seek to explain the client's behaviour:

> The tensions between the individual and the social experienced by social workers in trying to explain their clients' circumstances mirror my own struggle to conceptualise the social workers' constructions of gender.

The challenge posed to social workers who deal with domestically violent males is how to bridge the seemingly irreconcilable gap between knowledge of structural gender inequalities of power and control and the individual rights of the male perpetrator (Jordan, 1991). How this tension is reconciled influences the social worker's decision-making regarding the type of intervention made available to the perpetrator, and might well prove to be counterproductive not only for the perpetrator but also for his victims:

> professional values in social work are more than merely the philosophical base of practice … professional values permeate decision-making. (Vigilante, 1974, p. 40)

Social work professionals need to consider all emerging theories about domestic violence, and the processes of how perpetrators change behaviours, to ensure the adoption of a wider range of intervention modalities with which to intervene in the treatment of males who domestically abuse women. To improve treatment outcomes interventions need to be designed to address individual needs to increase the readiness of men to change their unacceptable behaviours. This does not mean that professional social workers should fail to consider the structural gender inequalities that contribute to the societal acceptance and toleration of domestic violence. It does mean that there is a need to recognise that men who are domestically violent do not form a homogeneous group (Rees and Rivett, 2005). It is imperative, therefore, to recognise that the prescription of a treatment designed for a homogeneous group but delivered to a heterogeneous group may not be sound evidence or accord with current best practice guidelines (McCollum and Stith, 2008), and might produce poor outcomes and ongoing misery for the many victims of domestic violence.

The scope of the problem of domestic violence

Domestic violence is a significant social problem and public health issue affecting women, children and men globally (Rothman *et al.*, 2003), nationally and locally (EVAW, 2007). However, women and children are the main victims of domestic violence and men the main perpetrators (Mullender, 2004). A review based on 50 surveys from around the world found that at least one out of every three women had been beaten, forced into sex, or otherwise abused during their lifetime (Amnesty International, 2008).

Domestic violence has been defined within Northern Ireland as:

Threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on one person by another where they are or have been intimate partners or family members, irrespective of gender or sexual orientation. (Department of Health, Social Services and Public Safety, 2005, p. 10)

It is a disturbing phenomenon that results in approximately two deaths per week in the United Kingdom and countless physical injuries to many more women and children (Mirlrees-Black *et al.*, 1998). Domestic

violence accounts for 25% of all violent crime in the UK, yet it has been estimated that in Northern Ireland only 29% of domestic violence is reported (Northern Ireland Office, 2008b). In Northern Ireland the police respond to a domestic abuse incident every 23 minutes of every day, and 44% of all murders (11 in total) in the year 2007/2008 had some form of domestic motivation (Northern Ireland Policing Board, 2009). It is estimated that three in ten women and two in ten men have experienced domestic violence since 16 years of age (Povey *et al.*, 2009). The annual financial cost of domestic violence in England and Wales in 2004 has been estimated at £23 billion plus an additional £17 billion to deal with the associated human and emotional suffering (Walby, 2004). These figures were extrapolated on a pro-rata basis for Northern Ireland to produce an annual estimated figure of £180 million for the direct costs of services (DHSSPS, 2005).

While the most prevalent forms of domestic violence are psychological and emotional abuse (Povey *et al.*, 2009), these are often impossible to measure and prove. The controlling tactics can be so contrived that the victims come to believe the perpetrator's behaviour is the result of the victim's failings (Women's Aid, 2009). Worryingly, the vast majority of perpetrators of domestic violence are not arrested, not convicted and not sentenced or mandated to attend a domestic violence treatment programme (DHSSPS, 2005). While men can be arrested and convicted of physical or sexual assaults on a partner, or the breach of a non-molestation order, there is as yet no legal offence of 'domestic abuse' that covers the wider array of issues as defined above. As such there can be a tendency within the criminal justice system to focus on the act rather than the underlying psychological factors. For example, in a recent Northern Ireland Office report, it was noted that there was a divergence of views among sentencers as to whether a therapeutic intervention or a custodial sentence was the most appropriate disposal for male perpetrators of domestic violence (Northern Ireland Office, 2008a).

It is very important to choose the most appropriate disposal to deal with perpetrators of domestic violence given the impact of such violence. Victims of domestic violence are three times more likely to have a diagnosis of depression or psychosis, five times more likely to attempt suicide, nine times more likely to misuse drugs, and 15 times more likely to misuse alcohol (Stark and Flitcraft, 1996). Children suffer directly and indirectly from the impact of domestic violence (Cleaver *et al.* 2007), from violence during pregnancy (Humphreys and Stanley, 2006),

through parental substance misuse (Abel, 1997; Klee *et al.*, 2002), and through physical assault. Witnessing domestic violence can negatively affect the attachment process, leaving children feeling insecure, anxious and hyper-vigilant (Kroll and Taylor, 2003; Barnard, 2007). Associated difficulties for children may include developmental and learning problems and behavioural difficulties (Mullender, 2004).

Social work values and ethical dilemmas

Professionally qualified social workers in Northern Ireland are obliged to adhere to codes of conduct (NISCC, 2002) but professionals are, first and foremost, human beings affected and influenced by the suffering of others and the injustice witnessed. The impact of vicarious trauma on social workers and Probation Officers who facilitate programmes with domestically violent men has been found to be significant (Morran, 2008). In particular, female facilitators working with domestically violent controlling men reported feelings of 'Anger, rage and even loathing for the men they worked with' (Morran, 2008, p. 146).

There is no suggestion here that the female facilitators are wrong to feel as they do, but it is important to question whether it is possible to practise in accordance with social work values while simultaneously holding such feelings about clients. The other, more important, question is how these feelings influence the personal attitudes of social workers and decisions about treatment modalities provided by facilitators. These feelings can impact on the client–worker relationship and affect motivation and personal change (Burnett and McNeill, 2005). For this reason, regular debriefing opportunities for social workers engaged in work with perpetrators of domestic violence are essential. Social workers should be supported and encouraged to find and express negative feelings about clients whose behaviour is difficult to countenance. Giving purposeful expression to negative feelings can change the social worker's feelings so they do not lead to a negative attitudinal position (Petrillo, 2007).

In spite of the difficult feelings experienced by social workers, as professionals they are tasked to juggle conflicting thoughts and feelings sufficiently to engage with all clients. The bedrock of professional social work practice is, or should be, permeated with sound social work values and all practice carried out with adherence to codes of ethics. It is incumbent on every professional social worker to recognise the

uniqueness of every client with whom they work and to believe in the possibility that the client can change his behaviour. These sentiments were proposed by Biestek (1961), who described the helping relationship as the soul of social casework. Indeed, social workers do not have the luxury of treating clients with disdain because of the client's past or present abusive behaviour: 'Our ethics must be the ruling guidelines of our behaviour in every instance where we act in our professional capacity' (Hancock, 1997, p. 5).

It is therefore the responsibility of the social worker to regard the unacceptable behaviour as the result of factors known and unknown that in some way impeded the growth of the client (Erikson, 1959) and that continue to ensnare the client and prevent his progress towards self-actualisation (Maslow, 1943). It is also the social worker's responsibility to update his/her knowledge base and keep abreast of theoretical developments and evidence-based practice, as failure to do so might deny clients access to proven best practice.

Even so, research has established (Morran, 2008) that professionals often struggle with the task of holding a compassionate and affirming attitude when confronted by clients who intentionally hurt women and children and who resist all offers of help. In an increasingly chaotic world, social workers struggle to cope with the bureaucracy and form-filling that go hand in hand with direct client contact (Broadhurst *et al.*, 2009). With the greater demands on time and energy, social workers find it difficult to reflect on personal feelings and attitudes. There can be a tendency to become automatons striving to help others solve problems, firmly believing in the value of what is being done but suffering from a growing malaise as demands become ever greater and resources dwindle (Parton and O'Byrne, 2000). Within this stifling environment it is difficult for social workers to look beyond the manifestation of wilful violence and search for the perpetrator's positive qualities.

Faced with the growing burden of client need and the constant or dwindling level of resources to meet the need, it is easier for social workers to begin the conscious or often subconscious process of sifting clients (Pithouse, 2008). From the theoretical perspective of the Duluth model of intervention (Babcock and Taillade, 2000), male perpetrators of domestic violence act wilfully to control women and children. Blacklock (2001) indicates that when social workers who are only trained in the Duluth model of intervention are confronted with men intent on harming vulnerable people, the social workers are likely to find it difficult

to feel compassion for the perpetrator. Social workers rationalise their ethical dilemmas by accepting the most convenient theory, in this case Duluth, and simplify complexity by believing that male perpetrators should be punished because they know it is wrong and unacceptable for men to frighten, assault, or seek to abuse and control women. Challenged by the intransigence shown by perpetrators of domestic violence, one can easily conclude that men who perpetrate domestic violence are not deserving of compassion or understanding: that 'they are all the same'. This leads to the view that there is no requirement to provide tailored therapeutic interventions to these men and to do so would be a form of collusion that will do more damage by reinforcing the men's perspective that they are the victims, not the perpetrators.

This dilemma is to a certain extent mediated by the fact that the choice of programmes and interventions adopted with all offenders is generally beyond the remit of one person. Programmes are adopted and implemented at a corporate and strategic level and the services offered to an offender are monitored through line management and strategic oversight. In addition Programmes that are accredited or approved are not only subject to the rigours of continual theoretical review but also state best practice guidance for the line management, supervision and oversight of those working on programmes and with such offenders.

With this in mind, many programmes that have adopted the principles outlined in the Duluth theory now also incorporate ideologies from other disciplines such as learning theory and theories of socialisation. Examples of such programmes are Men Overcoming Domestic Violence (MODV), developed and currently being run by the Probation Board for Northern Ireland, and the Integrated Domestic Abuse Programme (IDAP) currently being offered through the Home Office. These programmes represent a shift in both the understanding and the treatment of those who commit acts of domestic violence, and lend further support to the research proposed in this article for the further development of interventions.

Addressing domestic violence

At present the most prominent model of intervention used with perpetrators of domestic violence is the Duluth model (Domestic Abuse Intervention Project, 2008). This model is a psycho-educational, cognitive-based intervention that is designed to dissuade men from using

domestic violence as a control strategy. The model teaches anger de-escalation techniques and emphasises the need for men to respect women as equals by highlighting the power and control function of domestic violence (Pence and Paymar, 1993; Gondolf, 2007). In general, research suggests that the majority of men mandated to attend these groups either fail to attend or do not complete the programme (Gondolf, 2002; Barnish, 2004). There is also research suggesting that men who do not complete the programme pose a greater risk to the women in their lives.

It can be concluded therefore that those who lose out when men fail to engage or fail to complete a domestic violence programme are the women and children subjected to domestic violence in the first place and those men who perpetrate violence but are not yet ready for change. The research findings suggest that while the Duluth model of intervention is effective for certain groups of men, there is a need to devise alternative interventions for other groups of men who are not yet ready, or able, to change their behaviour (Eckhardt et al., 2008).

This last statement may provoke bewilderment given the view that male perpetrators are considered to know exactly what they are doing in hurting and controlling women. The argument, though, is based on the current research evidence that group treatment modalities have unproven outcomes for the majority of men who engage in domestic violence (Bowen and Gilchrist, 2004). It would be better for victims if all or most male perpetrators completed treatment programmes and emerged changed and committed to treating all women as equals and eschewing forms of violence and manipulative controlling behaviour. This may never be the case if the choice of intervention is based on the belief that all male perpetrators of domestic violence are the same, as posited through the Duluth model.

However, it is not possible to understand the factors influencing a man's decision to behave violently by using information about the reported impact of his behaviour on his victims. This tells us what the victims feel and think but it does not explain the underlying reasons for the behaviour of the male perpetrator. Therefore, designing an intervention for perpetrators based on the impact experiences of victims, such as the Duluth model, might well address the general factors such as gender inequalities but is likely not to address more specific factors that influence the individual's decision to abuse and control women and children. It is essential for professionals involved in working with

domestically violent men to allow emerging research to influence their choice of intervention.

Research findings about the origins of domestic violence (Murphy *et al.*, 1993; McCloskey *et al.*, 2003; Rivett, 2006) can provide an alternative schema for social workers to guide their work with domestically violent men. Having access to a wider knowledge base can enhance the social worker's ability to practise with adherence to a social work value base, thus encouraging and motivating the professional to treat the client with genuine respect. Social work theory enables the professional to conceive of the client and his behaviour as being connected but different:

> when practitioners decide what they are actually going to do to engage and motivate clients, help them access resources and convey a sense of hope in the possibility of constructive change, they will find themselves using ideas and skills that have emerged from social work theory and research. (Smith, 2005, p. 634)

Social work theory teaches that clients are much more than their presenting problematic behaviour. The uniqueness of the social work profession, evidenced time and again, is the willingness of social workers to take stock of the problematic behaviour but also to consider the problematic behaviour within the historical and present contexts where it had been influenced and maintained.

From the pro-feminist Duluth model perspective, though, paying attention to the psychopathology of the male perpetrator to explain the occurrence of domestic violence is a distraction from the real issue, which is about structural gender inequalities (Adams *et al.*, 1988). For this reason, as mentioned above, the Duluth programme is the predominant model of intervention used with men who perpetrate domestic violence. The rationale for the group-based programme is the belief that all male perpetrators are the same and so the psycho-educational programme is deemed to be appropriate. Unfortunately for the victims of domestic violence, it is deemed to be appropriate even though research would suggest that most men fail to engage or fail to complete the programme (Babcock *et al.*, 2004). The Duluth-type programmes are effective for only a minority of domestically violent men.

This paper, therefore, supports developments made in programmes for those who are perpetrators of domestic violence that incorporate alternative and complementary strategies, and would argue that this work

needs to be continued if the problem of domestic violence is to be tackled effectively and efficiently.

The relevance of research

When social workers conceive of all perpetrators of domestic violence as 'being the same' they lose sight of the need to consider how incidents and events in the client's earlier life might be associated with current violent behaviour. There is a large literature that explores the development of individuals throughout the lifecourse and the factors that contribute to successful maturation (Crawford and Walker, 2007). More recently there has been a growing interest in the factors in childhood that influence later adult outcomes (Ereaut and Whiting, 2008).

One of the largest studies of its kind on the impact of adverse childhood experiences on the mental health of the children and in later life as adults is currently being carried out in the USA. The ACE study (Anda *et al.*, 2006) has firmly established an association between the numbers and types of adverse experiences in childhood, including witnessing domestic violence, and the likelihood of the child developing mental health problems in adult life. In particular the study has established that male children who witness violence against their mothers are more likely to perpetrate domestic violence in intimate relationships. Debbonaire (2004), however, voices scepticism about such findings from the psychological literature and suggests that while correlations between childhood experiences and adult perpetration of domestic violence have been found, a causal link has not been established.

Nevertheless, a series of research studies over the past decade has begun to suggest that not all perpetrators have the same motivations, personality structures or degrees of abusive behaviour (Dutton, 1995; Saunders, 1996; Wallace and Nosko, 2003). In considering individual characteristics, Craig (2003) found that certain types of personality disorder were more common in the MCM1 profile codes of male spouse abusers. Hamberger and Hastings (1986, 1988) found that 88% of their sample of perpetrators had personality disorders, many of which were associated with depression, anger and emotionally labile affective states. The personality disorders were also associated with feeling helpless to change, avoidance of problems and holding irrational beliefs (Lohr *et al.*, 1988). Dutton's (2007) review of efforts to subtype domestically violent men also found a higher incidence of personality disorders among the

group. Murphy *et al*. (1993), examining associations between family of origin violence and spousal assault, found that assaultive men were more likely to report traumatic childhood experiences of being physically abused and having witnessed their mothers being physically abused:

> The results support prior descriptions of a batterer subgroup with significant trauma histories, more psychological difficulties, and higher abuse levels than other batterers, suggesting continuities in social and emotional development from childhood maltreatment to adult relationship violence. (Murphy *et al*., 1993, p. 165)

Bowen and Gilchrist (2004) have argued that findings from research could lead to improvements in pre-treatment screening and the development of alternative treatment modalities for perpetrators based on offender types. They suggest that offenders who do not engage with existing modalities of treatment might be more inclined to engage with interventions tailored to their needs. However, according to Babcock and Taillade (2000), most theoretical positions on the causes of domestic violence have not been incorporated into treatment programmes.

Readiness to change

With regard to emerging theory, there has been a growing interest in the literature about the associations between poor outcomes in terms of men not engaging or dropping out of domestic violence programmes and men's 'readiness to change' (Alexander and Morris, 2008). Hollin *et al*. (2008, p. 281) have stated:

> Increased understanding of readiness to change and the characteristics of dropouts through conducting in-depth qualitative research will inform both program selection and the preparation of offenders to take part in offending behavior programs.

The theories about 'readiness to change' offer social workers an alternative schema through which, possibly, they can maintain adherence to the belief that the power and control factors are of ultimate significance, while conceptualising the intransigence of domestically violent men from a different perspective. As mentioned above, research has highlighted differences between males who are domestically violent and this suggests that men who perpetrate domestic violence are a

heterogeneous group who do not present with uniform patterns of behaviour (Rees and Rivett, 2005). Therefore the types of intervention required to address the abusive behaviours need to be varied and tailored to the individual particularities if resources are to be used as efficiently as possible (Tolman and Bennett, 1990):

> Such practice would be in keeping with research literature that supports multivariate rather than singlefactor models of domestic violence. (Maiuro and Eberle, 2008, p. 148)

The subject of men's readiness to countenance change has been postulated to help explain the poor take-up and significant dropout figures for men mandated to attend domestic violence education programmes (Day *et al.*, 2009). Hollin *et al.* (2008, p. 280) state that various explanations including:

> selection, motivation, program effects, and differences between completers and non-completers – can be brought together through the notion of 'readiness for change'.

Day and colleagues (2009) also caution that the construct of 'readiness' includes the environment in which the treatment is provided, and methods of treatment delivery have been found to have an association with attrition rates (Rees and Rivett, 2005). On an individual level 'readiness to change' does not correspond exactly to 'willingness to change'. Expressing an unwillingness to engage in a programme is not evidence that the person does not care or that he is content to carry on as before. It is more usually that the person does not recognise there is a problem with his behaviour because he is in denial. The term 'denial' is currently used to describe the defence mechanism whereby an individual, faced with a truth too difficult or uncomfortable to accept, refuses to believe this truth even in the face of overwhelming evidence (Wikipedia, 2009; Fonagy and Target, 2003).

Denial is a multifaceted mechanism demonstrated by domestically violent men who (a) deny the violence completely, (b) admit the violence but deny or minimise the seriousness, or (c) admit both the violence and seriousness but deny responsibility by transferring the blame onto the victim (Cadsky *et al.*, 1996). Men in the denial phase usually have not yet considered the need for change. Denial is not so much an attitudinal stance as a form of resistance associated with the stage of change at

which the man is currently positioned. Dealing successfully with resistance to change is a crucial component of the structured change process (Wanigaratne *et al.*, 1990).

The most well known model that seeks to explain how people resist and eventually change their behaviour is the Transtheoretical Model of Change (TTM) developed by Prochaska and DiClemente (1984). The appeal of the model is that it makes sense, helps people make sense of their own difficult behaviours and, with regard to the polemic about the underlying reasons about domestic violence:

> It is in fact one of those few topics … that can be taught and discussed without fear of antagonising ideological sensitivities. (Saunders and Allsop, 1991)

The main construct of the TTM is the Stages of Change (SoC). The SoC construct is based on the premise that people move forwards and backwards through a number of stages of change as they consider and embark on a behaviour change. The SoC and its relevance to work with perpetrators of domestic violence has been demonstrated (Begun *et al.*, 2002). The SoC stages are Precontemplation; Contemplation; Preparation; Action; and Maintenance. The possibility of relapse from a later to an earlier stage of change is always a possibility. Therefore, a central component of the model is relapse prevention, a term most associated with addiction.

Readiness to change can be measured by use of the URICA questionnaire (McConnaughy *et al.*, 1983) and a participant's position on the SoC determined. Alexander and Morris (2008) identified two clusters of domestically violent men associated with the men's position on the SoC. In addition the research highlighted an association between a male perpetrator's position on the SoC and completion of the domestic violence programme. The research found that perpetrators positioned at an earlier SoC were less likely to complete while those at a later SoC were more likely to complete. Those perpetrators found to be in the later SoC expressed more distress and guilt about their behaviour, and this awareness and responsibility-taking attitude was most likely a motivating factor in their desire to complete the programme. Those men in the earlier SoC expressed less distress and less guilt about the consequences of the behaviour, and therefore one could assume that they did not own responsibility for their actions and therefore lacked the rational logic required to influence their decision to change the behaviour. The results

suggest that the men at the earlier SoC were much more in denial than the men in the later SoC.

The TTM also contains the Processes of Change (PoC) construct, which attempts to explain how people move from stage to stage. In specific terms, the PoC construct suggests that men positioned at the precontemplation and contemplation stages require a different type of intervention to men at the preparation, action and maintenance stages. With reference to domestically violent men, Levenesque *et al.* (2000) propose the use of specific compliance measures with men not yet at the preparation SoC. The rationale is based on the theory of motivational interviewing (Miller, 2002) and the practice of working effectively with resistance.

> Motivational interviewing techniques are designed specifically to … increase commitment to change, to effectively address resistance to change, and to increase confidence that change can occur, thus providing an excellent strategy for increasing compliance and motivation. (McCloskey *et al.*, 2003, pp. 89–90)

In light of theory concerning men's readiness to change, denial, resistance and the importance of motivation, the main limitation of the Duluth-type intervention is that it presupposes that all male perpetrators of domestic violence are the same, therefore a 'one treatment fits all' solution is implemented. Research has consistently recorded high attrition rates for domestically violent men attending Duluth-type interventions (Brodeur *et al.*, 2008). In addition, other research has highlighted that the design and delivery of the programme material was a variable associated with poor outcomes (Bowen and Gilchrist, 2004; Hollin *et al.*, 2008). There is, perhaps, no one treatment model that can promote change in resistant clients apart from a model such as the SoC that is specifically designed to promote change. It seems clear that Duluth-type interventions do not equate with the needs of domestically violent men, particularly those men who have not reached the preparation stage and are positioned at either the precontemplation or contemplation stage. Attempting to deliver a standardised common programme to men at varying stages of change can actually produce greater resistance in some men and a consolidation of the kind of negative perceptions that the group programme set out to alter.

Conclusion

Careful individualised assessment to determine whether domestically violent men are ready to change is of vital importance to ensure that appropriate forms of interventions are employed and outcomes for completion of domestic violence programmes improved. An individualised approach to domestically violent men is also important, as adherence to a social work values base demands that professionals respect clients as individuals. This will only be seen as crucial when male perpetrators of domestic violence are regarded as a heterogeneous and not a homogeneous group. Stating that perpetrators of domestic violence are not a homogeneous group and therefore require individualised interventions is not to deny the existence of structural discrimination and subordination of women, by the male population in general, that has been and remains a very significant element in all kinds of domestic violence and abuse. Therefore, the acceptance of the need for a range of modalities of treatment/education for domestically violent men does not require social workers to ignore or minimise the structural gender inequalities explanations of domestic violence. Likewise, when social workers conceive of the violence and controlling behaviours of male perpetrators as somehow linked with the manifestation of inner conflict associated, most likely, with childhood or later trauma, that conception does not nullify the reality that domestic violence against women is encouraged and condoned in the patriarchal society. It simply means that there are other theoretical perspectives, suggesting a number of types of intervention available to social workers with which to tackle the scourge of domestic violence.

Social workers have always been good at considering the wider picture, looking at behaviour to find meaning from a systemic perspective. In practising this way with substance-misusing adults, for example, social workers do not condone the destructive behaviour and do not ignore the very real risks posed by violent behaviours. Neither do social workers have to condone the inexcusable violent and controlling behaviour of domestically violent men. What social workers can do is to search for the antecedents of the behaviour and help the client resolve underlying conflict while being ever mindful of the structural oppression of women in the patriarchal society and how the oppression feeds domestic violence. Social workers are obliged to treat domestically violent men in the same way they treat all other clients, with a strict adherence to the social work value base.

By failing to practise in accordance with social work values, which also include continuous professional development and the acquisition of additional knowledge and skills, social work with its commitment to the empowerment of *all* victims would lose the very core of what makes it unique. With this in mind, social workers, regardless of where they work, are now also bound by the NISCC codes of practice. Social work is a regulated profession and it is therefore compulsory for practitioners to be actively engaged in evidence-based and reflective practice and ongoing post-registration training and learning.

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Ethics and Criminological Research: Charting a Way Forward

Deirdre Healy*

Summary: When researching sensitive topics such as crime, researchers encounter a number of ethical and legal obstacles. Little guidance is available about how to address these issues. The ethical codes produced by criminological societies often provide only limited advice, and the generic guidelines espoused by institutional ethics committees are not always appropriate for research on specialised topics. This paper discusses key ethical issues in criminology, including the difficulties associated with maintaining confidentiality, protecting privacy, obtaining informed consent, managing participant distress and ensuring voluntary participation. Drawing on existing literature and the author's own experience, it discusses strategies that have been used to promote ethical criminological research.

Keywords: Research ethics, criminology, governance.

Introduction

This paper describes the main ethical issues that may arise during criminological research and suggests strategies that might be used to address them. These issues occur to some degree in all types of research but are particularly pronounced in criminological research, which frequently deals with sensitive issues and vulnerable populations. At present, little specific guidance is available to researchers about how to deal with these issues.

Many Irish academic institutions now require researchers to take part in a formal ethical review process when conducting research involving human participants. However, the general guidelines produced by

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institutional ethical committees are not always appropriate for research on specialised topics, such as crime. Similarly, the ethical codes produced by criminological societies often provide only limited advice to researchers. The Australian and New Zealand Society of Criminology Code (2000), for example, contains only general guidelines about responsibilities towards research participants. The American Society of Criminology (ASC) and the European Society of Criminology (ESC) have no formal codes of ethics. The ASC relies, among others, on the codes produced by the American Sociological Association (ASA) and the Academy of Criminal Justice Sciences (ACJS). In the end, four codes proved particularly helpful. These were produced by:

- British Society of Criminology (2006)
- Academy of Criminal Justice Sciences (2000)
- American Sociological Association (1999)
- National Health and Medical Research Council (2007).

Three criminologists have conducted pioneering work in the field of research ethics. Professor Mark Israel of Flinders University, Australia, has published widely on ethical issues. Professors Ted Palys and John Lowman of Simon Fraser University, Canada, have also written extensively and thoughtfully on the subject. The following discussion is informed by their writings and the author's own experience in conducting research with victims and offenders in both Ireland and the UK. The paper also considers the ethical code produced by University College Dublin (UCD), which is a good example of an institutional ethical framework.

Confidentiality

When conducting research it is important to ensure that the information provided by participants remains confidential. In criminological research, the law may conflict with this responsibility. There is currently no legal obligation on Irish researchers to report offences that come to their attention during the course of a research investigation. The offence of misprision of felony, which made failure to report certain serious offences a crime, was abolished by section 8 of the Criminal Law Act 1997. Nevertheless, many professions endorse a duty to disclose information about certain crimes. If they are also members of

professional societies, criminological researchers may be subject to ethical codes that are more stringent in this regard.

Furthermore, criminologists in some jurisdictions have received requests from legal authorities to disclose confidential information and several have faced legal action as a result of their refusal. In Northern Ireland, Suzanne Breen, northern editor of the *Sunday Tribune*, was taken to court over her refusal to disclose to the police information she acquired through interviews with members of the Real IRA. The judge ruled in her favour, arguing that journalistic confidentiality was protected by law and that breaching it would endanger her life (see Breen, 2009). As far as I am aware, Irish researchers have not yet encountered legal demands for disclosure but the experience of other countries suggests it could become an issue in the future, particularly if Ireland's research capacity continues to grow.

The guidance to researchers on how to resolve these issues diverges in terms of whether it prioritises the legal or ethical obligations. A common solution, advocated by the UCD Ethical Guidelines, is to offer limited confidentiality. The guidelines state that:

> It is the duty of the researcher to protect the level of confidentiality agreed in the informed consent process, as far as is legally possible. Research participants must be informed of the extent to which confidentiality can be maintained and the measures taken to ensure this level of confidentiality.

Limited confidentiality generally means that confidentiality is honoured except in situations where actual or intended harm to self or others is disclosed. 'Harm' can be defined as a threat that is clear (i.e. directed at a specified individual), serious (i.e. would result in serious bodily harm) and imminent (this definition is derived from a Supreme Court decision in Canada, cited in Palys and Lowman, 2001). In the UK, the Multi-Agency Public Protection Arrangements Guidance (s5.3) defines serious harm as 'an event, which is life-threatening and/or traumatic, from which recovery, whether physical or psychological, can be expected to be difficult or impossible.'

The British Society of Criminology Code of Ethics (s4.iv) and the ASA Code (s11.02.a) also make it clear that offers of confidentiality can be overridden by legal obligations. Both codes recommend that

researchers educate themselves about the legal circumstances under which disclosure to legal or other authorities is required. They stress that participants should be fully and clearly informed about the limitations that apply to confidentiality before they take part in the research.

The Irish Prison Service Research Ethics Committee permits researchers to breach confidentiality if the welfare of the participant or another person is at risk, if the disclosure will prevent a serious crime or if the researcher is legally obliged to disclose the information, for example because of a court order. They advise that, where possible, this information should be shared with the agreement of the participant. The Protection for Persons Reporting Child Abuse Act 1998 (s3) protects people who disclose child abuse from civil liability.

In contrast, the ACJS states that research participants are entitled to their 'right' of personal confidentiality. Section 19 of the code (see also s11.01b of the ASA Code) explicitly prioritises ethical above legal obligations:

> Confidential information provided by research participants should be treated as such by members of the Academy, even when this information enjoys no legal protection or privilege and legal force is applied. The obligation to respect confidentiality also applies to members of research organizations (interviewers, coders, clerical staff, etc.) who have access to the information.

Palys and Lowman (2001) object to the use of limited confidentiality on a number of grounds. They observe that if information about an individual's criminal activity is disclosed to legal authorities, it can be used against them. Limited confidentiality therefore violates the ethical principle of non-maleficence; that is, the obligation to do no harm. Furthermore, people may not answer honestly if they believe their responses could be disclosed to a third party, particularly when the information is sensitive or the disclosure could have adverse consequences. This creates serious methodological issues if the data that are subject to limited confidentiality are central to the research. Finally, there may be safety concerns since researchers might be blamed by participants if the latter are subsequently arrested. Palys and Lowman conclude that researchers should be prepared to guarantee full confidentiality to their participants; otherwise they should not conduct the research.

There are a number of other possible solutions to this dilemma. One approach is to collect the information anonymously so that it cannot be linked to a particular individual. Alternatively, participants' names and identifying information can be deleted from their records as soon as possible. This is not always feasible in ethnographic research or in studies where separate files need to be linked. A third solution is to limit the nature of the information requested from participants. For example, questions that elicit specific information about criminal activity which has not come to the attention of the police, or about any crimes participants intend to commit, can be avoided. Very serious offences, such as murder and rape, are also generally omitted from self-report questionnaires.

Some countries, notably the USA and Canada, have developed legislative solutions to the problem. The US National Institute of Justice offers certificates of confidentiality to researchers studying sensitive topics. The certificate provides statutory protection from legal requirements to disclose information. Researchers at Canada's national statistics agency, Statistics Canada, can also guarantee confidentiality to research participants under the Statistics Act, 1985 (s17), but this protection does not extend to other Canadian researchers.

Canadian researchers have also relied successfully on common law to assert privilege. Under the Wigmore test, confidential information can be protected if four criteria are satisfied: (a) the information was disclosed in confidence; (b) confidentiality is essential to the professional relationship; (c) the research is in the public interest; and (d) the injury that would result from disclosure exceeds the benefit. Palys and Lowman (2001) point out that limited confidentiality violates the first principle and means that researchers would have to disclose the information if requested. This creates additional risk for participants.

Privacy

Data protection laws have been implemented in many countries to protect personal information and have made it increasingly difficult for researchers to gain access to data sources (see Israel, 2004). In Ireland, access to personal information is governed by the Data Protection Acts 1988 and 2003. In 2007, the Data Protection Commissioner published guidelines on the implications of this legislation for researchers. They explain that written consent is not required in the following three

circumstances. First, anonymised datasets are not subject to the data protection provisions as they do not contain personal information. Second, the Commissioner recognises that it is sometimes necessary to link different datasets for research purposes. In such cases, it is acceptable to use pseudonymised information, that is, identifiable information is removed and codes or reference numbers are used to link the data. Finally, the legislation allows a data controller to conduct research on protected data as long as the information is not released to a third party.

In all other cases, the researcher must obtain 'unambiguous' written consent from individuals to access their information. Consent forms must clearly specify the purposes for which the data will be used and consent must be voluntary and informed. If the data are to be used for a purpose other than that specified on the form, the Data Protection Commissioner states that consent may have to be renegotiated.

Other countries have implemented more flexible data protection legislation to accommodate legitimate research. In Australia, access to personal records may be granted under the Privacy Act 1988 (s95) if the research is in the public interest. This provision applies to medical and health research only. The National Health and Medical Research Council guidelines (s3.2.4) also permit the release of personal information for the purposes of linking datasets as long as this information is deleted afterwards.

Alternatively, researchers can ask agencies to prepare an anonymised or pseudonymised dataset. This is not always feasible as the process of anonymising data is time-consuming and resource-intensive and may be prohibitive for smaller agencies. In such cases, this may mean that the research cannot be undertaken or is subject to lengthy delays.

Finally, it is important to emphasise that ethical codes generally exempt public records, such as court transcripts, from data protection as long as researchers afford due respect and courtesy to the individuals to whom the files pertain. For example, section 15 of the ACJS Code states that information obtained from public records is not protected by guarantees of confidentiality or privacy.

Informed consent

Informed consent is one of the fundamental ethical principles governing research involving human participants. It means that participants must

be provided with information about the purpose of the research, research procedures, their rights, potential risks and benefits, levels of confidentiality, possible uses of the research and researcher contact information. Its purpose is to ensure that participants are fully aware of the implications of participation. Under the UCD guidelines, informed consent must be obtained, in writing, from all research participants. A copy of the consent form, along with an information sheet, must be presented to the participant. The UCD Human Research Ethics Committee (HREC) will not accept applications that are not accompanied by these documents.

Roberts and Indermaur (2003) reviewed the problems associated with obtaining written consent in criminological research. Literacy or comprehension difficulties are often present in offender populations and this may impede the process of obtaining informed consent. Since standard university consent forms require high levels of literacy and education, participants with comprehension or literacy difficulties often do not understand what they are signing and believe they have waived their legal rights as a result. The UCD guidelines recommend that, to overcome this issue, documents should be written in clear and simple language and their contents should be discussed with participants.

While this ensures that participants understand the information provided, it does not resolve additional difficulties. Roberts and Indermaur found that people who are involved in crime are less willing to participate in criminological research when they are required to provide identifying information. They are also more likely to conceal sensitive information. This affects the quality and therefore the value of the research. Furthermore, signed consent forms actually increase the risks associated with participation because they create a link between the participant and their data, which could be an issue if there is a legal request for disclosure. Other methods of obtaining informed consent need to be considered. Roberts and Indermaur developed a procedure for obtaining verbal informed consent. First, a script outlining the requisite information was read to participants. The researchers then discussed it with them to ensure they understood. No identifying information was exchanged between the researcher and the participant.

This is in line with the guidance provided by the majority of codes, which accept that verbal consent is sufficient in some circumstances. According to the American Anthropological Association (s4): 'It is the quality of the consent, not the format, that is relevant'. The ACJS

guidelines (s17) state that 'special actions' may be required for certain populations and that, in some circumstances, 'culturally appropriate' methods must be used. Similarly, the NHMRC guidelines (s3.1.16) recommend that procedures for obtaining consent should be influenced by the cultural context, the sensitivity of the information required, the potential risks involved and the vulnerability of the participants. The ASA (s12.02) permits informed consent to be obtained in writing or orally, as long as the researcher keeps a record.

In addition, many guidelines recognise that it is not always necessary or appropriate to obtain informed consent. Under the ASA guidelines (s12.01c), informed consent does not apply to publicly available information such as public records or archives and is not required for research conducted in public places. Obtaining consent in naturalistic observation may change the participants' behaviour and thereby invalidate the research findings. According to the NHRMC guidelines (s2.3), researchers may request a waiver of the requirement for informed consent for research that represents minimal risk to participants, is beneficial and does not breach participants' rights to anonymity and confidentiality. The ASA guidelines (s12.01b) also allow for waivers if there is minimal risk to participants or if the research could not be done with informed consent. These waivers have to be approved by the institutional ethics committee.

Participant distress

Researchers have a responsibility to ensure that the psychological, social and physical wellbeing of participants is not adversely affected by participation. The British Society of Criminology guidelines (s4i) recommend providing participants who become distressed with a list of relevant support services (see also the ASA guidelines, s11.02.b). Elaborating, the BSC suggests that the decision to disclose potential self-harm to third parties should be determined by the individual circumstances of the case.

When conducting research on sensitive issues, it is common practice to follow the interview with a short debriefing session. This provides an opportunity for participants to 'wind down' after the interview and to ask questions about the research. In addition, a participant distress protocol can be designed to deal with any distress that might arise. In their national survey of sexual violence in Ireland, McGee *et al.*

(2002) developed a sophisticated protocol. Their procedure in such situations was to listen, stabilise the person and locate a source of assistance, if necessary. It is helpful to ascertain first whether there is someone in the participant's life with whom they would be willing to discuss the problem (e.g. family member, doctor) before offering information about support services. People are often more willing to speak to someone they know and trust than to contact a professional source of assistance.

McGee *et al*. (2005) subsequently re-interviewed a subsample of the original SAVI participants with a view to examining the effects of participation on wellbeing. While a minority said that they experienced some short-term distress after participation, the vast majority reported only positive or neutral outcomes. Almost all (94%) said that they would still have participated if they had known in advance what was involved.

Voluntary participation

When conducting research, it is important to ensure that participants' consent is freely given. In practice, this means that the researcher must inform them that they are free to withdraw from the study at any stage and that there will be no penalty if they choose not to participate.

It is more difficult to ensure that participation is voluntary when dealing with prisoners and probationers. These populations are considered potentially vulnerable because of their unequal relationship with criminal justice authorities. There is a valid concern that they may feel under pressure to take part in research. Moser *et al*. (2004) studied susceptibility to coercion among prisoners who were under psychiatric care, potentially a very vulnerable population. Their findings suggest that, if procedures for ensuring voluntary participation are followed, these populations do not feel coerced. Almost half of the prisoners approached for the study declined to participate, suggesting that coercion was not an issue. Among those who chose to participate, their reasons were relatively benign. The most common were to: avoid boredom, meet someone new, appear cooperative and help society. Moser *et al*. (2004, pp. 1–2) conclude: 'while it is critically important to recognise prisoners as a vulnerable population and to protect them from potential abuses, it is also of concern that they are systematically excluded from many human subjects studies'.

Conclusion

The voices of people who perpetrate crime are rarely heard in criminal justice debates. Similarly, victims of crime often remain silent about their experiences. Research provides these populations with an opportunity to share their knowledge and enables wider society to benefit from their wisdom. When conducting research with potentially vulnerable populations, it is important to take appropriate measures to protect participants during the research experience. This paper has suggested that it is possible to conduct criminological research that protects the rights and welfare of participants. Irish criminology is an expanding field and it is important to initiate a dialogue about the ethics of criminological research. It is hoped that this paper will provide a starting point for this endeavour.

Acknowledgements

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Book Reviews

Understanding Criminal Careers⋆
Keith Soothill, Claire Fitzpatrick and Brian Francis
Cullompton: Willan Publishing, 2009
ISBN: 978-1-84392-502-6, 204 pages, paperback, £19.50

The focus of this book is on criminal careers – which, for the authors, are 'fundamental to criminological study' (p. xiii). It deals with important issues that are central – or suggested as needing to be more central – to the understanding of criminal behaviour. At the same time as taking a broad view of criminal careers the authors skilfully present relevant and interesting specific research material and references in sufficient depth to illustrate their points.

The concept of a criminal career is explained and defined in the opening chapter with reference to longitudinal research, including work from David Farrington and others familiar to those who work directly with offenders. The authors identify the focus of criminal careers research at an individual level as a limitation, a theme they return to throughout the book.

In Chapter 2 the authors set out their position of dealing simultaneously with theoretical and methodological issues. This position is explained in straightforward language which suggests that one's view of the world (theory) influences the approach one takes (method) to explore issues. This gives the book its practical structure in referring to both policy implications and influences on work with offenders resulting directly from research findings. Two competing theoretical viewpoints are presented, with associated research studies and findings, and the authors support the relevance of longitudinal studies in this area of research.

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Key longitudinal studies and findings are outlined in Chapter 3. The authors refer to three key studies in detail but also include a helpful list of the top 10 longitudinal studies worldwide. Returning to the importance of theory, the challenge is presented for theories to have supporting evidence and for data to be presented along with explanations. Many of the researchers mentioned in this chapter will be familiar to those from a criminal justice background, but the presentation of the research is fresh and current, and issues raised are relevant to policy and practice decisions as to how society deals with offenders and crime.

The next two chapters explore the concepts of onset, persistence and desistance, the 'foundation stones' of criminal careers research. The authors pinpoint the need for clear definitions of the terms used, and deal with some of the complexities involved in interpreting and comparing findings from different studies. The work of Maruna and others in terms of viewing desistance as a process is presented in a clear and interesting way. The chapter also refers to interventions that were ineffective and to the possibility that interventions may have different outcomes at different points of a criminal career. Again the authors seek to push the boundaries of research by referring to the need to explore desistance at different parallel levels – individual, situational and community – and to ensure that offenders see that stopping offending is an option.

Chapter 6 examines the concept of specialisation, and whether it is possible to demonstrate its existence in the research findings. The sometimes competing theoretical approaches are discussed with reference to important research. This is a complex topic and the authors do well to extract relevant material for discussion. Two areas – sex offending and violent offences – are given specific attention. The importance of the debate and discussion is highlighted in terms of policy and practice implications in that if specialisation exists, then knowledge of previous offending can be helpful to predict future similar offending.

Chapter 7 covers the extremely relevant and important topics of dangerousness, prediction and risk and the relevance of criminal careers research in terms of helping to assess risk and dangerousness. This raises a range of issues, some of which are complex. The authors consider research to shed light on assessing risk of general offending and of serious and dangerous offending and reoffending. In the world of risk assessment the consequences when something goes wrong can be very serious. The

use of actuarial measurements to assess risk as compared to, and combined with, clinical judgement is a central issue for those who make assessments and decisions in relation to serious and dangerous offenders. The chapter is very detailed and some of the research findings and discussion are more relevant to those with a research interest. However, it is important to have knowledge about research underpinning the assessment of risk, prediction and dangerousness.

The penultimate chapter turns attention to the need for a wider focus of criminal careers research to include those in the population that have not been convicted of any crime. The authors refer to the idea that every one of us, whether we offend or not, have a chance of committing an offence. Questions such as when does an offender becomes a 'non-offender' are addressed, which in turn have important policy implications in relation to the relevance of a previous offending record to obtaining employment.

Throughout the previous chapters limitations have been identified and the authors have already mentioned a move to more complex models and research designs in certain areas of study. In the last chapter of the book they suggest further 'bold' ways in which criminal careers research can be progressed and widened, including possible genetic aspects to certain offending as well as age, period and cohort effects that could be factored into future research modelling. Returning again to the idea that much of the work in criminal careers research is focused at the individual level, the authors argue for a larger sociological involvement in research tackling societal and cultural dimensions of crime.

In summary, the book is very well written and extremely informative. It raises many important questions that are relevant not only to researchers but to a wider range of professionals operating within the criminal justice system and beyond. While some of the findings are presented in detail, and are perhaps more relevant to researchers, the book makes a valuable contribution to understanding criminal careers. If one's world-view influences one's decision-making, then this book does help to inform that world-view in terms of offending behaviour from onset to desistance.

Dictionary of Forensic Psychology*
Graham J. Towl, David P. Farrington, David A. Creighton and Gareth Hughes
Cullompton: Willan Publishing, 2008
ISBN: 978-1-84392-295-7, 256 pages, paperback, £22.99

Over the past decade forensic psychology has grown rapidly as a subject, with an increasing number of forensic psychologists under training and working in demanding roles in prisons, secure training facilities, probation services and other parts of the criminal justice system.

Forensic psychology is the application of psychology in the criminal justice system. Forensic psychologists work mainly to develop intervention techniques and treatment programmes for offenders. They develop one-to-one or group treatment programmes to specifically address offending behaviour and psychological need. Forensic psychologists play a significant role in the assessment of offenders and in the provision of support and training for other staff working with this client group.

This *Dictionary of Forensic Psychology* covers key aspects of criminal justice and the criminal justice system and is designed to meet the needs of both students and practitioners. Its entries reflect a wide range of perspectives that will be useful and informative not only to trainee and qualified forensic psychologists but to all practitioners working with offenders.

There are over 100 entries in this dictionary, each between 500 and 1,500 words. Alphabetically arranged entries on key terms and concepts are contributed by both academics and practising forensic psychologists.

Each topic provides sufficient information on the subject. Entries commence with a summary definition, followed by the main text and, where appropriate, a reference section of key texts and sources of information.

There is a significant focus on practice in terms of the subjects chosen for this dictionary, such as addictive behaviours and assessment of offenders, which include intellectual and personality assessments. There are substantial entries on risk assessment and violence risk assessment, and practice interventions in areas such as sex offending, substance abuse, mental disorder and offending behaviours are covered. Many of

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the entries give details of relevant research and findings. The book also addresses general information relating to key aspects of the Criminal Justice system such as courts, sentencing, Prosecution Services and jury decision-making.

Overall, I found this dictionary to be an excellent reference book. It is well written and easily read, and I believe it will be of interest not only to forensic psychologists but also to probation staff, and anyone with an interest in this field.

General Information & Guidelines for Contributors

IPJ, a joint initiative of the PS and the PBNI, aims to:

- Provide a forum for sharing good theory and practice, increasing co-operation and learning between the two jurisdictions and developing debate about work with offenders.
- Reflect the views of all those interested in criminal justice in an effort to protect the public and to manage offenders in a humane and constructive manner.
- Publish high-quality material that is accessible to a wide readership.

IPJ is committed to encouraging a diversity of perspectives and welcomes submissions which genuinely attempt to enhance the reader's appreciation of difference and to promote anti-discriminatory values and practice.

Preliminary Consultation: If you have a draft submission or are considering basing an article on an existing report or dissertation, one of the co-editors or a member of the Editorial Committee will be pleased to read the text and give an opinion prior to the full assessment process.

Submissions: Contributions are invited from practitioners, academics, policymakers and representatives of the voluntary and community sectors.

IPJ is not limited to probation issues and welcomes submissions from the wider justice arena, e.g. prisons, police, victim support, juvenile justice, community projects and voluntary organisations.

Articles which inform the realities of practice, evaluate effectiveness and enhance understanding of difference and anti-oppressive values are particularly welcome.

Submissions (in MS Word attachment) should be sent to either of the co-editors.

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dpodonovan@probation.ie

Originality: Submissions will be considered on the understanding that they are original papers that have not been published or accepted for publication elsewhere. This does not exclude submissions that have had limited or private circulation, e.g. in the writer's local area, or as a conference paper or presentation.

Type and Length:

Article: Preferably between 3,000 and 5,000 words including references, contributions up to a maximum of 7,000 words will be considered.

Comment: More informal opinion piece on any appropriate topic: 1,000–1,500 words including references, 2,500 words maximum.

Practice Note: Brief description of a recent piece of practice or practice-related issue or development: 1,000–1,500 words including references, 2,500 words maximum.

Research/Report: Account of recent empirical research, analysis, conference paper or working party report drawing attention, if possible, to the availability and price of the full report or document, sight of which would be appreciated: 400–500 words, 1,000 words maximum.

Resource: Short account of a handbook, video, groupwork exercise, advice and information guide etc.: 50–100 words. Please send a sample copy of the item, if available, as it may be possible to review it more fully.

Review: Review of a recent relevant publication: 400–1,000 words. Please contact one of the co-editors first in case a review has already been commissioned.

Letter: Letters in response to an article, to extend debate or as a convenient way of raising a new issue are extremely welcome: up to 500 words.

Peer Review: The Editorial Committee, comprising PS and PBNI probation practitioners with varying areas of special interest and experience, assesses each submission. Articles may also be referred to members of the Advisory Panel for consideration.

More detailed guidelines for contributors are available from the Editorial Committee on request and should be followed when making submissions.