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An Assessment of the Efficacy of Bail Laws in Ireland

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EXECUTIVE SUMMARY

This report considers the law on bail as it currently stands, the efficacy of the existing legal framework and potential reforms to the operation of bail procedure. The suggested reforms contained within this report are intended to improve the effectiveness of the bail regime in order to ensure that, so far as is possible, the “*series of failures*”¹ (in the words of Taoiseach Micheál Martin) and the “*failures in the Courts Service and the criminal justice system that exposed Shane [O’ Farrell] to danger on the fateful day of his tragic death*”² (in the words of Tánaiste Simon Harris) do not occur again.

However, as noted in my terms of reference framed by the Department of Justice this report must have:

“due regard to the presumption of innocence, the prima facie entitlement to bail, and the impossibility of refusing bail to every person accused of offences”

Such fundamental constitutional and practical realities render the consideration of every bail application by a Judge an exercise in risk management. It is axiomatic that, as with any other exercise of this kind, risk can never be eliminated, only managed.

Having completed my analysis of the current operation of the system, I have concluded that there are a variety of improvements that can and should be made in relation to the manner in which the current legal framework is implemented. Issues I

¹ An Taoiseach, Micheál Martin TD, 27 May 2025, available at: [Dáil Éireann Debates](#)

² An Tánaiste, Simon Harris TD, 27 May 2025, available at: [Dáil Éireann Debates](#)

have identified include the following:

- The manner in which information is collected, stored and shared between the Courts Service, An Garda Síochána and other state agencies is deficient, resulting in ineffective oversight of bail compliance;
- An increase in prosecutions coupled with a pre-existing lack of capacity of the Courts has resulted in lengthy delays in the processing of offences, often leading to accused persons being remanded on bail for months or years, thus increasing the likelihood of further offences committed on bail;
- Chronic prison overcrowding is currently resulting in those serving sentences being released from custody early in order to make room for those being remanded in custody having been refused bail;
- Prison overcrowding has also led to a decrease in rehabilitative supports, likely contributing to increased recidivism;
- The manner in which Gardaí seek to revoke bail is often lacking in consistency and left to the discretion of individual members;
- The general processes which apply to applications for the revocation of bail on foot of alleged breaches of bail conditions are inefficient and cumbersome resulting in the such applications being taken infrequently and inconsistently.

Following my analysis of various potential reforms which may address the above deficiencies, I have made the following recommendations:

1. Significant and immediate investment should be made in the information sharing systems for both An Garda Síochána and the Courts Service. The

accurate recording and sharing of information between these bodies should be prioritised.

2. An adult bail supervision scheme should be implemented, incorporating a wrap-around scheme with the necessary supports and services to ensure the proper management of recidivist offenders.
3. Legislation should be introduced providing for house arrest (i) limited to cases where bail would otherwise be refused, (ii) including a proportionality test and (iii) allowing any party to apply for its imposition as a bail condition.
4. Further consideration should be given to the manner in which the system of electronic tagging is intended to operate and whether such a system would survive judicial scrutiny. If such a system is to be implemented the current legislation providing for electronic tagging should be amended to (i) limit its application to cases where bail would otherwise be refused, (ii) include a proportionality test and (iii) allow any party to apply for its imposition as a bail condition.
5. Current bail legislation should be amended to significantly expand the conditions which may be attached to the granting of bail to include positive obligations such as the attendance at counselling, addiction or employment services where same are available. Positive obligations should only be imposed where an evidential basis exists for their imposition and consent of the accused should be sought.
6. An amendment should be made to the District Court Rules to provide that fine-only matters shall proceed in the absence of the accused where:

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- (i) The Court is satisfied that the accused was duly served or made aware of the time and place of the proceedings;
 - (ii) There are no exceptional circumstances which would result in inordinate unfairness to the accused.

An accused person may later make an application to have any determination of the Court set aside on the basis that they were not been served with the proceedings or were not aware of the time and date of the proceedings.

- 7. The responsibility for the prosecution of offences should be removed from the Gardaí and all future Court proceedings should be conducted by legal professionals. I note that a Prosecution Steering Committee led by the Department of the Taoiseach is currently considering this issue.
- 8. Legislation should be introduced allowing the member in charge of a Garda station to grant bail to an accused who has taken a bench warrant where there is no Garda objection to bail.
- 9. Legislation should be introduced allowing the member in charge of a Garda station to attach conditions to a station bail bond.

This legislation should set out the factors which must be considered by the member in charge in deciding whether to grant station bail.

- 10. The Bail Act 1997 should be amended to provide that a member of An Garda Síochána who reasonably suspects that a person has breached a condition of their bail bond may arrest them without warrant, in order to bring them before the Court forthwith for the purposes of an application for the revocation of bail

or the amendment of bail conditions.

11. The following offence should be amended to increase the maximum penalty on conviction to 5 years imprisonment if tried on indictment and should thereafter be added as a scheduled offence to the Bail Act 1997:

- Section 33 of the Domestic Violence Act 2018 - breach of a domestic violence court order.

12. The following offences should be added as scheduled offences to the Bail Act 1997:

- Section 38 of the Domestic Violence Act 2018 - forced marriage.
- Section 39 of the Domestic Violence Act 2018 - coercive control.
- Section 41 of the Criminal Justice Act 1999 - intimidation of witnesses and jurors.
- Section 12(1) of the Sex Offenders Act 2001 – Breach of notification requirements by a sex offender.

13. A legislative provision should be introduced to allow the prosecution to appeal against the granting of bail in the Circuit Court.

14. Guidelines should be developed with the judiciary in relation to the processing of bail applications, particularly where they relate to the execution of bench warrants and the fixing of recognisance.

15. Further discussion and analysis should take place between the judiciary, the Courts Service, the Irish Prison Service and the Department of Justice in relation to the manner in which cash bail is utilised as a condition of bail and whether

it should be abolished.

Conclusion

- (a) The Irish bail laws already go as far as is constitutionally permissible;
- (b) Any fundamental change to the law as it stands would require a constitutional amendment;
- (c) None of the major organisations within the system - An Garda Síochána, the ODPP, the Courts Service, the Bar Council or the Law Society are advocating for a fundamental change in the law as it stands;
- (d) Any fundamental change in the law as it stands resulting in the refusal of bail to many more accused would be unworkable without an enormous increase in the number of prison places currently available;
- (e) While very significant efforts are being made to improve the efficacy of the bail system as it stands, at present the system operates in a cumbersome, inefficient, inconsistent and haphazard manner;
- (f) The pace of reform continues to be too slow;
- (g) The risk of an accused on bail committing a very serious offence up to including the causing of the death of another citizen can never be eliminated. However, this risk can be significantly reduced by improving the manner in which the current system operates;
- (h) Should all (or even some) of the reforms set out in this report be implemented, the risk of a future tragedy involving some or all of the *“series of failures”* surrounding the death of Shane O’ Farrell will be significantly reduced.

CHAPTER ONE: BACKGROUND AND METHODOLOGY

THE DEATH OF SHANE O'FARRELL

On the 2 August 2011, Shane O'Farrell was struck by a car while cycling and tragically lost his life. It transpired that the driver of the car that struck him, Zigimantas Gridziuska, was on bail at the time of the incident and further investigations revealed a pattern of offending by him whilst on bail which did not lead to his bail being revoked.

On the 27 May 2025, the Dáil discussed the background circumstances to the case and a full apology was delivered to the O' Farrell family for Shane O' Farrell's death.³ Both the Taoiseach and Tánaiste made reference to failures on the part of the State as a contributing factor in the death of Shane O' Farrell. Tánaiste, Simon Harris, stated: *"Today, we acknowledge failures in the Courts Service and the criminal justice system that exposed Shane to danger on the fateful day of his tragic death."*⁴

Of these failures, Taoiseach, Micheál Martin stated: *"That series of failures allowed the driver of the car who knocked down Shane O'Farrell to be at liberty when, in all reasonable circumstances, he should have been in custody"* before going on to commit to *"try to ensure we learn from what occurred and seek to prevent what happened from happening again."*⁵

In a lengthy statement, Minister for Justice, Jim O'Callaghan, set out the full findings of the investigation into Shane's death in the following terms:

"The primary responsibility for Shane's death rests with Zigimantas Gridziuska, the

³ [Dáil Éireann debates](#), 27 May 2025.

⁴ Statement of An Tánaiste, Simon Harris TD, [Dáil Éireann](#), 27 May 2025.

⁵ Statement of An Taoiseach, Micheál Martin TD, [Dáil Éireann](#), 27 May 2025.

Lithuanian man who, having been stopped by the Garda drugs squad an hour before Shane was killed, drove the car that struck Shane from behind. He failed to stop and remain at the scene. Subsequently that night, he hid his vehicle away from his home. When he returned to his home that night, he told his wife that he had knocked someone down, yet they both then went to bed. Neither of them called emergency services. The driver was prosecuted in February 2013 for dangerous driving causing Shane's death. He was acquitted of that charge by direction of the trial judge. Unfortunately, a lesser charge of careless driving was not open to the jury. Prior to Shane's death, Zigimantas Gridziuska had repeated interactions with the criminal justice system, with his first conviction in Ireland occurring in March 2008. His repeated offending and the State's response to his consistent breach of court orders and sentences merits repetition before the House. It is an illustration of the havoc and, as we know, tragedy that can derive from the actions of a recidivist offender who is not held to appropriate account by our criminal justice system. These are the facts that we know about his criminal behaviour in the 24 months prior to Shane's death. We know that, on 27 January 2010, he was remanded on continuing bail in respect of four offences, having previously been granted bail for another offence on 28 August 2009. On 12 May 2010, Gridziuska was charged with two theft offences and was sent forward for trial on indictment to Monaghan Circuit Court. On 9 June 2010, Gridziuska was charged before Carrickmacross District Court with four offences of possession of heroin. He received a six-month concurrent sentence for two of these convictions and a three-month conviction for one other, with the final conviction being taken into consideration when imposing sentence.

On the same day, 9 June 2010, he filed an appeal against these convictions and lodged €1,000 in lieu of surety. This resulted in him being released from custody on that day.

The first failing by the State arose here because the appeal documentation was wrongly filed, with the result that the appeal was never processed within the District Court office in Monaghan. The appeal should have been recorded on the criminal cases tracking system that is operated by the Courts Service, but it was not. Had it been recorded, the appeal documentation would have been produced and the file would have been sent to the Circuit Court so that an appeal hearing could be arranged. The failure to record this appeal meant that there was never a determination as to whether his six-month sentence for the heroin offences should be activated. Instead, by simply lodging an appeal on the day of his conviction, Gridziuska avoided ever having to serve the sentence imposed.

It must also be recalled that, on the same day, 9 June 2010, Gridziuska also faced four other charges before Carrickmacross District Court. He was charged with theft and also charged with theft and receiving, and he was sent forward for trial on both charges to Monaghan Circuit Court. Between 9 June 2010 and 11 January 2011, Gridziuska committed ten further offences relating to road traffic offences, the possession of heroin and theft. Four of these cases came before his honour, Judge John O'Hagan, at Monaghan Circuit Criminal Court on 11 January 2011 and the Circuit Court judge directed that they be adjourned for one year until 11 January 2012. The judge said that if Gridziuska kept out of trouble and did not commit further offences, he would adopt a lenient approach. However, if he got into further trouble, he was to be brought back before the court and a custodial sentence would be imposed. It is worth reciting the exact words used by Judge John O'Hagan on that day. He said:

“If he does get into trouble again, it will come straight before me, anywhere on the Circuit, wherever I may be. You might even get a trip to Donegal, wherever

it may be. Bring it in front of me and I will deal with Zigimantas Gridziuska. I am giving him this chance and this chance only. If he messes it up so be it. And I can assure you, Zigimantas Gridziuska, if you do mess this one up and you do get convicted, you will be going to prison; not you might; you will be going to prison."

This is where the second failing of the State occurred, because between this date of 11 January 2011 and Shane's death, Gridziuska was charged with and-or committed 11 further offences, yet he was not returned to Judge O'Hagan. On 16 February 2011, Gridziuska was brought before Carrickmacross District Court on another drugs charge. He was convicted and sentenced to six months imprisonment. Again, he appealed his conviction, lodged €1,000 in lieu of surety and was again released. On this occasion, his appeal papers were properly lodged. The failure of the State was that this conviction should have been brought to the attention of Judge O'Hagan, who had very clearly indicated that any further offences should be brought to his attention.

On 23 February 2011, he was convicted of two counts of theft. On 8 March 2011 he was convicted of another theft charge before Cavan Circuit Court. None of these convictions was brought back before Judge O'Hagan. In fact, he was also arraigned on that date for another single theft charge that had been sent forward on 17 December 2010 from Virginia District Court.

The failure to notify Judge O'Hagan was again repeated when Gridziuska was convicted of five theft offences committed over five days, before Ardee District Court on 9 May 2011, resulting in a four-month suspended sentence. Once more, this conviction was not brought to the attention of Judge O'Hagan. On 11 May 2011, he was convicted

of speeding, with no referral back to Judge O'Hagan. On 8 June 2011, he was again convicted of a single drugs offence before Carrickmacross District Court and was fined €500. Again, this conviction was not brought to the attention of Judge O'Hagan. It is also noteworthy that he received a conviction in Northern Ireland on 15 July 2011, and arrest warrants issued against him at that time were not executed.

The O'Farrell family believe, and I agree with them, that had those convictions on 16 February, 23 February, 8 March, 9 May, 11 May, 8 June, 15 July and-or 25 July 2011 been brought to the attention of Judge O'Hagan, as he directed in his ruling of 11 January 2011, the likelihood is that Gridziuska would have had a custodial sentence imposed upon him on any of those dates. Had this occurred, Gridziuska may not have been at large on that fateful day on 2 August 2011 when Shane was killed while on his bike.

Between 27 January 2010 and Shane's death, Gridziuska was convicted of 30 offences. We know that the 30 offences he committed before Shane's death were committed while he was on bail, and we know that he was on bail for at least six offences on 2 August 2011.

On 26 January 2011, on 11 May 2011 and on 25 July 2011, Gridziuska breached his bail conditions when he was convicted of road traffic offences. None of these was brought to the attention of Judge O'Hagan. More significantly, the five theft offences he was convicted of on 9 May 2011 were not brought to the attention of Judge O'Hagan. In fact, the court hearing those theft offences was not informed of Judge O'Hagan's direction. Gridziuska was also charged with having no tax on his car on 6 April 2011, but this was not prosecuted until 16 November 2011.

*It is clear that throughout this time Gridziuska was ignoring the many different bail conditions set by the various courts. It is clearly the case that many of the offences committed by Gridziuska while on bail were summary offences. The broader question that must be answered is how our criminal justice system should respond to a recidivist offender who persistently breaks summary laws and whether, even if the theft offences had been brought to the attention of Judge O'Hagan, the judge would have had the jurisdiction, through statutory power, to remand Gridziuska in custody."*⁶

⁶ Statement of Minister for Justice Jim O'Callaghan TD, [Dáil Éireann](#), 27 May 2025.

COMMISSIONING OF THIS REPORT & METHODOLOGY

On 04 June 2025, I was appointed by the Minister for Justice to examine the current operation of bail in this jurisdiction, both legal and practical, and to consider whether there are any recommendations which could be made to improve the system. The terms of reference for this report are thus:

“1. Address how our criminal justice system should respond to a recidivist offender who persistently breaks summary laws and whether a judge faced with such an offender would have the jurisdiction, through statutory power, to remand that person in custody;

2. Undertake an assessment of the efficacy of our bail laws, having due regard to the presumption of innocence, the prima facie entitlement to bail, and the impossibility of refusing bail to every person accused of offences, both summary and on indictment and make recommendations for any changes to bail laws that are considered appropriate and workable.

3. Pay particular attention to the adequacy and operation of those laws in respect of:

(i) breaches of the conditions attached to bail and return to Court;

(ii) powers of Gardaí in respect of breaches of bail conditions and the commission of offences while on bail;

(iii) notification to Courts of previous breaches of bail conditions and existence of suspended sentences;

(iv) and decisions on the revocation of bail.”

Following my appointment, I wrote to the following bodies informing them of my appointment and intention to draft a report on the operation of bail, seeking any views they may have:

- The family of Shane O'Farrell
- An Garda Síochána ("AGS", "the Gardaí")
- The Office of the Director of Public Prosecutions ("the ODPP")
- The Courts Services
- The Irish Prison Service ("IPS")
- The Probation Service ("PWS")
- The Bar Council of Ireland
- The Law Society of Ireland
- The Irish Penal Reform Trust ("IPRT")
- The Irish Council for Civil Liberties ("ICCL")
- The Children's Rights Alliance
- The Dublin Rape Crisis Centre ("the DRCC")
- Extern
- The Inspector of Prisons
- Fair Trials Europe
- The Law Reform Commission
- The Irish Human Rights and Equality Commission
- Brian Keenan, Criminal defence solicitor

Certain of these bodies and persons made written submissions. Insofar as they were received, they have been incorporated into this report and included in the appendix. In addition, I received a written submission from Retired Sergeant Gerard McGrath.

Aside from these formal submissions, I spoke informally with District Court Judges (who deal with bail on a daily basis), the President of the District Court, Judges of the High Court and Court of Appeal, many practitioners (solicitors and barristers), Garda members from all levels of An Garda Síochána and representatives from the Department of Justice. I also met with representatives of the Garda Commissioner who provided me with an extensive presentation on the Garda information system known as PULSE (Police Using Leading Systems Effectively) as well as a live demonstration of its operation. In addition, I sat in on bail lists in the District Court and High Court.

Further, I have practical experience of the operation of the criminal justice system. I have been a practicing barrister in the Criminal Courts for twenty years. I have been a Senior Counsel for the last seven years. I have prosecuted and defended hundreds of criminal cases in that time. In my early career, I attended in the District Court on a daily basis and made hundreds of bail applications. Later, I spent several years regularly attending the High Court bail list. Over the last fifteen years I have acted as a trial lawyer, both prosecuting and defending, in the Circuit Court, Central Criminal Court, Special Criminal Court and conducting appeals in the Court of Appeal and Supreme Court.

STRUCTURE OF REPORT

This report is divided into two parts. First, I will consider the current legal provisions which apply to bail in this jurisdiction and the historic development of same in the past 30 years. I will also consider the practical operation of the criminal justice system at present, including prison capacity and court delays.

Second, I will consider a series of proposed reforms, giving stakeholder views on those proposals and coming to conclusions as to their viability. I will also consider these proposals as they pertain to the specific factual matrix from which this report derives, being the circumstances of the death of Shane O'Farrell. Views from Mr O'Farrell's family are included throughout.

As noted in my terms of reference framed by the Department of Justice this report must have:

"due regard to the presumption of innocence, the prima facie entitlement to bail, and the impossibility of refusing bail to every person accused of offences"

Such fundamental constitutional and practical realities render the consideration of every bail application by a Judge an exercise in risk management. It is axiomatic that, as with any other exercise of this kind, risk can never be eliminated, only managed.

CHAPTER TWO: THE LAW ON BAIL IN IRELAND

THE LAW PRIOR TO 1997

Article 40.4.1° of the Constitution provides:

“No citizen shall be deprived of his personal liberty save in accordance with law.”

The refusal of bail and the remanding of an individual in custody, unless strictly in accordance with law, constitutes a breach of constitutional rights. Where such a breach occurs, it is open to an individual to seek a High Court order for their immediate release (commonly referred to as an “Article 40” or *habeus corpus* application).

The O’Callaghan Principles

The seminal case which considered bail from a constitutional perspective is the Supreme Court decision in *The People (AG) v. O’Callaghan* [1966] IR 501. There, Walsh J referred to the rationale of bail thus:

*“The object of **bail is neither punitive nor preventative**. From earliest times it was appreciated that detention in custody pending trial could be a cause of great hardship ... **it is desirable to release on bail as large a number of accused persons as possible who may safely be released pending trial**... necessity demands that some unconvicted persons should be held in custody pending trial ... but in such cases **‘necessity’** is the operative test.” [Emphasis added]*

The fundamental question for a Judge considering an application for bail, therefore, is whether there exists a likelihood of the accused attempting to evade justice. This test follows from the presumption of innocence which is enshrined in the Constitution and requires bail to be granted **unless it appears probable the accused will not surrender at trial**.

In addition to setting out the principles which underlie bail and the interaction of pre-trial detention with the Constitution, Walsh J also set out a number of factors which should be considered by a Judge in deciding a bail application, being:

- 1 **Nature/seriousness of the charge:** The more serious the charge, the greater likelihood of an accused person absconding.
- 2 **Strength of the evidence:** Where substantial evidence makes a conviction more likely, this increases the chance of evasion.
- 3 **Likely sentence:** The more serious the probable sentence, the higher the risk of evasion. In this regard, although not pre-determining the guilt or innocence of the accused, the previous criminal convictions of the accused are relevant as they may increase any potential sentence.
- 4 **Past failures to answer bail:** Previous compliance with bail should also be considered.
- 5 **Caught 'red-handed':** Similar to the evidential factor, the higher the chance of conviction, the higher the risk of evasion.

Additional, but secondary, factors which a Judge may consider include:

6. Evidence relating to the **possibility of the disposal of illegally-acquired property.**
7. Evidence relating to the possibility of **interference with witnesses and / or jurors.**

In essence, Walsh J related bail back to securing attendance at Court proceedings as opposed to being some kind of punitive measure. He found it constitutionally

impermissible to punish or detain an accused simply because there may be a risk of future offending, save for in extraordinary circumstances set out in law. Walsh J emphasised the dangers of such an approach, stating that predicting future offending is speculative and not in accordance with the presumption of innocence. In summary, **he referred to bail as a right, not a privilege**, and made clear that there is a constitutional presumption in favour of bail which must be sufficiently displaced by evidence.

Similarly, in his judgment in *O'Callaghan*, Ó'Dálaigh CJ concurred that the denial of bail to prevent future criminal offending amounts to unconstitutional punishment and stated that the fundamental test is whether the applicant is likely to attend for their trial. He was also of the view that previous convictions of the accused should not be referenced at the bail stage unless they are relevant to the question of whether the individual is a flight risk.

POST-1997: BAIL AS A PREVENTATIVE MEASURE

The Supreme Court in *O'Callaghan* was unequivocal in its rejection of the use of pre-trial detention as a preventative measure.

In 1996, in order to change the law to allow for pre-trial detention as a preventative measure, the Constitution was amended following a referendum to include the insertion of Article 40.4.6°, which states:

"Provision may be made by law for the refusal of bail ... where it is reasonably considered necessary to prevent the commission of a serious offence by that person."

Following this amendment, the Bail Act 1997 was introduced into law. Section 2(1) of the Bail Act allows the Court to refuse bail where the accused is charged with a serious offence and such refusal is **reasonably considered necessary to prevent the commission of a serious offence** by the accused. A serious offence is one contained within the Schedule, being an offence punishable by at least 5 years' imprisonment. The Act directs that a Court assessing an objection to bail under section 2 must take consideration of the following:

- The nature and seriousness of the charge and the apprehended offence.
- The strength of the evidence.
- Past convictions while on bail.
- Previous convictions (including those under appeal).
- Other pending offences.

In specified circumstances, the court may also take into account:

- Any drug addiction (where applicable).
- Number and frequency of serious offences / any evidence of persistent offending.
- Nature and likelihood of danger to individuals or the community.

Standard of Proof

The standard of proof which applies in bail cases was considered in *Vickers v. DPP*

[2010] 1 IR 548. There, the Court held that the standard of proof is *not* probability or beyond reasonable doubt; it is whether the court is satisfied refusal is “reasonably considered necessary.” It stated that a court has a wide discretion in deciding whether to grant bail and must balance factors such as the risk of absconding, the seriousness of the charge, and the likelihood of future offending in a proportionate manner, ensuring that the protection of the presumption of innocence is maintained.

Burglary Offences and Recidivism

The **Criminal Justice (Burglary of Dwellings) Act 2016** was introduced specifically to deal with those who have previous convictions for domestic burglaries. It allows a Court to consider previous convictions and pending or recent charges when assessing the likelihood of re-offending while on bail.

Bail for Non-Serious Offences

In relation to bail for non-serious offences, the pre-1997 O’Callaghan standard remains the law. **This means that bail cannot be refused on a preventative or punitive basis for non-serious offences and previous failures to comply with bail conditions for non-serious offences cannot, by themselves, justify the refusal of bail if no real risk exists of absconding or interfering with evidence or witnesses.**

General principles & bail jurisprudence

Additional principles to be applied when assessing applications for bail have been

developed through case law. These including, *inter alia*;

- ***People (AG) v. Crosbie* [1966] IR 426:** “Bail is not to be withheld merely as a punishment.”
- ***People (AG) v. Gilliland* [1985] IR 643:** The burden of proof is on the prosecution and the focus of such applications is the likelihood of absconding.
- ***DPP v. Ryan* [1989] ILRM 333:** Refusal of bail must fit within preventing the evasion of justice—absconding, witness tampering and the destruction of evidence.
- ***Hannifin v. DPP* [2020] IEHC 206:** Past breaches of bail makes future breaches more likely, in principle, but are not proof that a person is a flight risk or that there will be interference with witnesses or evidence.

The following matters are also noted:

- **Bail conditions:** Courts should, where possible, impose conditions rather than refuse bail. This respects the presumption of bail but also allows for bail to be revoked where conditions are not complied with.
- **Appeals/reviews of bail decisions:** There are statutory avenues for both prosecution and defence to appeal a decision on bail. In practice, prosecution appeals almost never occur whereas defence appeals are very common.
- **European Convention on Human Rights:** Article 5 of the Convention influences the approach of the domestic Courts, as does the jurisprudence of

the European Court of Human Rights; this jurisprudence emphasises proportionality and necessity.

- **Failure to appear:** Where a person fails to appear in Court having been remanded on bail, a District Court Judge may issue a bench warrant pursuant to O22, r2 of the District Court Rules. As per Finlay Geoghegan J in *Stephens v. Governor of Castlerea Prison* [2002] IEHC 169, the power to issue a bench warrant is part of the inherent jurisdiction of the Court.

General Principles

Under Irish law, children (defined as persons under 18) are treated differently from adults in the criminal justice system, including in bail matters. The **Children Act 2001** establishes a principle of **detention as a last resort** for children, recognising their vulnerability.

Special Considerations in Juvenile Bail Decisions

- **Children's rights:** The best interests of the child are paramount, in line with the UN Convention on the Rights of the Child and Article 42A of the Constitution.
- **Family and accommodation:** Before remanding a child in detention, the Court must consider whether suitable accommodation with a parent or guardian is available.
- **Support services:** Courts often consider whether support services, such as social work or bail supervision, can help address risks which would cause them to refuse bail.
- **Bail Hostels / Schemes:** Where feasible, community-based facilities ("bail hostels") may provide structured environments as an alternative to custody.

CONCLUSION

The law presumes an entitlement to bail, with the **risk of absconding or interference with witnesses** as the sole grounds for refusal in most cases, except where specifically modified by statute, and with a high threshold for preventative refusal. For non-serious recidivist offenders, there is no lawful basis to refuse bail where there is no real risk of absconding or interference with evidence. Any attempt at legislative intervention would first require a constitutional amendment.

In the circumstances of Shane O'Farrell's death, it is noted that Mr Gridziuska was breaching *all* of his bail conditions - sign on, curfew, leaving the jurisdiction, failing to keep the peace and being of good behaviour and committing offences on bail.⁷ He was a recidivist committer of offences at the lower end of the criminal spectrum, therefore s2 of the Bail Act 1997 had no application to him.

⁷ See statement of Minister for Justice Jim O'Callaghan TD, [Dáil Éireann](#), 27 May 2025 and the submission of the O'Farrell Family dated 11 July 2025 (See Appendix 1)

CHAPTER THREE: THE CURRENT OPERATION OF THE CRIMINAL JUSTICE SYSTEM

This Chapter of the Report considers the practical operation of the criminal justice system, with particular focus on delays and the capacity of the Courts and Prisons.

STATISTICS OF OFFENCES COMMITTED WHILE ON BAIL

The written response of Minister for Justice Jim O’Callaghan, TD, to a Parliamentary Question of Matt Carthy on the 04th of March 2025 provides some statistics in relation to the types of offences which are committed by those on bail. In 2024, 40,348 suspected criminal offences were committed by individuals on bail for other offences.⁸

The vast majority of the offences alleged to have been committed by these individuals on bail for other offences were ones which would likely be dealt with in the District Court (i.e. offences on the lower end of the spectrum of criminal offences). Indeed, approximately 14% of the offences committed on bail were for failing to appear in Court in breach of bail conditions, an offence which, by definition, can only be committed by a suspect on bail.

These offences committed on bail can roughly be broken down as follows:

INCIDENT TYPE	PROPORTION (%)
Theft from Shop	19.9
Theft (Other)	13.8

⁸ Written response of Minister for Justice Jim O’Callaghan, TD, to [Parliamentary Question](#) of Matt Carthy, 04 March 2025. See Appendix 17.

Breach of Bail	13.7
Public Order Offences	7.3
Drunkenness Offences	4.7
Simple Possession ⁹	4.0
Criminal Damage (Not by Fire)	3.3
Handling / Possession of Stolen Property	3.3
Possession of Drugs for Sale or Supply	3.0
General Road Offences	2.5
Burglary	2.2
Possession of Offensive Weapon	2.0
Breach of Safety Order	1.7
Trespassing in Yard or Curtilage	1.4
Breach of Protection Order	1.3
Assault Causing Harm	1.2
Assault Minor	1.2

⁹ Simple Possession: refers to possession of a controlled drug for personal use.

Theft from M.P.V.	1.0
Assault / Obstruction / Resist Arrest	0.9
Dangerous Driving	0.9
Intoxicated Driving a Vehicle	0.8
Breach of Barring Order	0.7
Interfering with Mechanism of MPV	0.7
Obstruction under Drugs Act	0.7
Unauthorised Taking (Vehicle)	0.7
Begging	0.6
Insurance	0.6
Drugs- Driving Offences	0.5
Possession of an Article (Burglary or Theft)	0.4
Robbery from the Person	0.4
Theft from Person	0.4
Court Related Offences	0.3
Driving Licence	0.3

Murder – Threats	0.3
Robbery of an Establishment / Institution	0.3
Unauthorised Taking (Pedal Cycle)	0.3
Criminal Damage (by Fire)	0.2
Deception/Other	0.2
P.S.V. Regulations	0.2
Aggravated Burglary	0.1

In this context it is important to note that the District Court alone deals with approximately 95%-96% of all cases which amounts to approximately 300,000 criminal offences annually (with most being minor and non-violent) while, by contrast, there is capacity in the prison system to detain 4,672 people (although on the 31 August 2025, the prison population was significantly over capacity at 5,485).¹⁰

The above statistics indicate that there is a relatively high rate of offending by those on bail but, for the most part, the offences being committed appear to be minor in nature. This is consistent with Mr Gridziuska's offending history. Also notable from his offending history is the lengthy periods of time that Mr Gridziuska spent on bail awaiting the finalisation of these offences. It is a mathematical truism that the longer

¹⁰ [Irish Prison Service Monthly Information Note – August 2025](#)

it takes to conclude prosecutions against recidivist offenders, the greater the risk that further offences will be committed on bail. This was most certainly the case with Mr Gridziuska.

DELAY IN THE PROCESSING OF SUMMARY OFFENCES

There were lengthy delays in the finalisation of many of the offences for which Mr Gridziuska was on bail, with some very minor offending taking two years or more to process. Examples include:

- Theft of St. Anthony Poor Box; offence occurred on 20 January 2010, convicted on 11 January 2012.
- Theft of Perfume from Black's Chemist; offence occurred on 11 March 2010, convicted on 11 January 2012.
- Theft of Computer; occurred on 1 July 2010, convicted on 11 January 2012.

By way of contrast, Mr Gridziuska had also committed a number of minor offences in Northern Ireland but had those offences processed in a much speedier fashion. For example, he committed three theft offences in Northern Ireland on the 14 July 2011, was arrested, held overnight in a police barracks, brought to Newry Magistrates Court the next day and convicted. The efficiency of the system in Northern Ireland was demonstrated again when, on 13 and 14 September 2011, Mr Gridziuska committed thefts on two consecutive days in Belfast, and was convicted on the 15 September 2011.

Most of the stakeholders who provided written submissions to me and many of the individuals operating within the criminal justice system that I spoke to informally referenced serious delays which impact the system.

The Irish Council for Civil Liberties stated:

“Even with the procedure adopted to expedite the trials of people in prison on remand, it can still often take months or years to hold a trial. In 2022, Ireland had the lowest number

*of judges per capita in Europe. This relative lack of judicial resources contributes to a significant backlog in criminal cases. ICCL's 2024 report on bail and flight risk recommended the appointment of more judges and the construction of additional courtrooms to reduce the time it takes for cases, particularly those of people in prison on remand, to be heard. ICCL reiterates this recommendation while noting the concerns expressed by the head of the Irish Prison Service about the appointment of additional judges leading to an increased number of prisoners, compounding the prison overcrowding crisis."*¹¹

For context it should be noted that the current Programme for Government has committed to increasing the number of Judges by twenty while the Minister for Justice has indicated his intention to introduce the necessary legislation this year.¹²

The Dublin Rape Crisis Centre submitted that delays are also harmful to victims of crime, stating that *"long delays within the criminal justice system leaves victim/survivors feeling frightened, powerless and isolated."* They continued:

*"The current wait time for sexual offence cases to be heard places huge psychological strain on victim/survivors. These trials should be expedited to reduce the prolonged trauma experienced by those impacted by such crimes and limit their exposure to the accused while he/she is on bail."*¹³

The ODPP referred to delay as permeating every crevice of the criminal justice system, stating:

¹¹ See Appendix 12.

¹² [Programme for Government 2025 – Securing Ireland's Future.](#)

¹³ See Appendix 13.

“There are currently a range of inefficiencies in the court system. A report¹⁴ commissioned by the Department of Justice in 2024 identified a “last minutism” culture in the criminal courts and identified a range of relevant factors which require thoughtful consideration. These factors include historical under resourcing of various criminal justice agencies and of legal aid, as well as a shortage of judges. Other issues which have been highlighted by this Office include the importance of disclosure issues being resolved at an early stage, the need for greater certainty in ensuring that trials that are listed are ready to go ahead, the need for greater certainty around the impact of a plea at various stages in the process and the need for payments (to criminal defence practitioners and prosecution counsel) to be structured in such a way as to incentivise early engagement with a file.

...

It is noted that the 2025 Programme for Government states that a comprehensive review of the criminal justice system will be completed within 12 months and an action plan published to improve efficiency, remove blockages and cut waiting times. Any improvement in the time taken to dispose of criminal cases should also reduce the number of persons on remand and the opportunity for crimes to be committed by persons on bail.”¹⁵ [Emphasis added]

Extern echoed concerns about delay and stated that with summary offences in particular, delay is undermining the principle of timely justice.¹⁶ The Courts Services

¹⁴ Review of the Processing of Sexual Offences in Ireland: Stakeholder Experiences, Keenan, Healy, McLoughlin-Burke, Keenan K., October 2024: Chapter 4, Page 134

¹⁵ See Appendix 5.

¹⁶ See Appendix 11.

and District Court Judges also referred to delay, suggesting that some delay might be attributed to legal practitioners prolonging prosecutions to increase legal aid payments.

As the Department of Justice previously commissioned and published an extensive report on delay in the criminal justice system in 2024,¹⁷ this report will not consider the issue in any great detail, however, it is noted that in that report delay was primarily attributed to (i) the lack of sufficient and prompt legal aid, (ii) a unanimous view that the criminal justice system is grossly underfunded and (iii) the Courts operating far beyond their capacity.

CAPACITY OF THE COURTS

The capacity of the Courts is affected both by the lack of available resources and increases in the prosecution of offences. The Courts Services Annual Report 2024 sets out the following statistics:¹⁸

- 390,158 new criminal matters were presented to the Courts last year, an increase of 6.3% on the previous year.
- 356,045 cases were finalised by the Courts last year, an increase of 5.2% on the previous year.
- The Central Criminal Court saw a decrease of 16% in cases-on-hand. New cases also decreased by 10%, while matters disposed of increased by 24%. This trend continues a positive pattern of reducing the numbers of cases waiting to be

¹⁷ Review of the Processing of Sexual Offences in Ireland: Stakeholder Experiences, Keenan, Healy, McLoughlin-Burke, Keenan K., October 2024

¹⁸ Courts Service, [Annual Report](#), 2024

dealt with by the Court, having already reduced by 10% in 2023. Cases-on-hand remains 35% higher than pre-pandemic levels and the volume of new cases is 40% higher even with last year's reduction. With additional Judges from the implementation of Judicial Planning Working Group recommendations, the disposal rate jumped by 73% over 2019 figures.

- The Central Criminal Court, which largely deals with murder, attempted murder and rape cases, processed trials relating to 265 defendants and received new cases in relation to 435 defendants in 2024.
- The Circuit Criminal Court continued to make progress dealing with cases on hand, which decreased by 3% in 2024. New cases decreased marginally by 1%, while cases disposed of increased by 10%. As with the Central Criminal Court, positive progress is being made to reduce the number of cases on hand, but it is still 20% higher than 2019.
- Sentences in Rape Cases: 434 sentences for rape (including attempted rape) were handed down last year in the Central Criminal Court. This was made up of 177 prison sentences, 242 partly suspended prison sentences, one fully suspended sentence and 14 detention orders for juveniles. Of the 434 sentences imposed for rape cases finalised in 2024, 9 attracted life sentences, 261 received over 10 years imprisonment, 106 received sentences of between 5-10 years, 54 received sentences of between 2-5 years, while 4 received sentences of 0-2 years. 62% of the 434 sentences handed down for rape (including attempted rape) range from ten years to life imprisonment.

Having carefully examined this data I have some concerns over its usefulness insofar

as it refers to the “cases” and “sentences”. Very often an individual accused will have tens or even hundreds of charges in relation to one or more victims and can receive ten or more “sentences” in relation in one victim. It is more useful to focus on the number of accused and the number of trials.

In any event, the data, insofar as it can be relied upon, demonstrates a continued increase in both the number of cases being tried annually, as well as a particular increase in the number of sexual cases being tried.

The Courts appear to be finalising more cases than ever. This is as a result of significant efforts to clear the backlog of trials. Indeed, the increase of Central Criminal Court Judges from 5-6 to 11-14 has resulted in the time between the first appearance in the Central Criminal Court and trial being halved to approximately ten months. This is a very significant improvement. The new Central Criminal Court protocol for cases involving children has resulted in the time between the first appearance in the Central Criminal Court and trial being reduced to approximately two months. **This is very significant and positive development – all involved should be commended for their hard work and dedication.**

However, even with the appointment of additional Judges in 2023 and 2024, the Central Criminal Court still appears to be operating over capacity. Further, given the increase in cases being tried and finalised, with what appear to be longer sentences, Irish prisons are also severely over capacity.

CAPACITY OF THE PRISONS

Prison capacity is currently a matter of great concern for all actors operating in the criminal justice system. The Irish Prison Service provided statistics which evidence the ever-increasing numbers of persons being committed to Irish prisons, with a 14% increase in committals since 2023 and a 13% increase in warrants issued by the Courts. The statistics also indicate a 29% increase in prisoners being detained on remand-only warrants since 2023, with a 19% increase in prisoners ultimately released without sentence or credit for time served. IPS also noted that on 5 August 2025, the prison population was 5,571 with a bed capacity of 4,672; 1,005 of those detained were being held on remand-only warrants. As noted by Irish Penal Reform Trust, this means that nearly 1 in 5 detainees in Irish prisons are being held on remand.¹⁹

The Future Prison Capacity Working Group Report to the Minister for Justice states that *“the Irish prison system is facing significant capacity challenges, with record-high prisoner numbers placing increasing strain on the whole system.”*²⁰ It went on to state:

“While over 300 prison spaces have been added in recent years, prisons were operating at around 112% of capacity throughout December 2024 and January 2025...The female prisons are among the most overcrowded with Mountjoy (Dóchas Centre) at 132% and Limerick at 148%.

While efforts to develop alternative sanctions and diversionary measures continue, the demand for custodial sentences remains high, leading to persistent overcrowding in most

¹⁹ See Appendix 10.

²⁰ Department of Justice, Home Affairs and Migration, [Report of the Future Prison Capacity Working Group](#), 04 July 2025. See Appendix 8A.

*facilities. The current situation, in which occupancy levels far exceed the Council of Europe's recommended 90% threshold, underscores the urgent need for strategic planning to ensure the sustainability and effectiveness of Ireland's prison system in the coming decade and beyond."*²¹

The IPRT noted that there are a “disproportionate” number of women being held in remand custody, with a 96% increase in women being held on remand since 2021. They also note that in June 2024, an average of 25% of women in prison were on remand compared with 18.5% of men.²²

In their submission, the ODPP also expressed serious reservations in relation to the ability of the Irish prison system to expand to cope with any potential strengthening of the bail regime, stating:

*“Any discussion on the bail system in Ireland must be considered within the realities of our current prison system. It is well documented that our prisons are at capacity and, in many instances, are over-crowded. There is a risk that other jurisdictions will not extradite serious offenders here because we cannot guarantee appropriate prison conditions, as required by international law, when remanded in prison awaiting trial.”*²³

Overcrowding in Irish prisons is pervasive. In its most recent report,²⁴ the Council of Europe Committee for the Prevention of Torture (CPT) noted that “chronic overcrowding continues to plague the entire prison estate”, with severe consequences for

²² See Appendix 10.

²³ See Appendix 5.

²⁴ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, [Report to the Irish Government on the visit to Ireland](#), 2025.

people's lives in prison. The cumulative effect of the overcrowding in Irish prisons "may well, in the CPT's view, amount to inhuman and degrading treatment". IPRT note that since the CPT visit in 2020, overcrowding has surged, with a jump from 3 people sleeping on mattresses on the floor of Cloverhill Prison to 44 people in August 2025.²⁵

Chronic overcrowding also impacts the effectiveness of the prison system, with temporary release being utilised in order to relieve some of the pressure on prisons.

In their submission, ICCL state:

"Prison officials are being forced to use temporary release to free up space. This is undermining the judicial decision-making underpinning the sentences of the temporarily released. The prison overcrowding crisis is being exacerbated by policy decisions such as detaining people in prison before their deportation and increasing Judges' sentencing powers for commonly prosecuted offences. Further legislative restrictions on bail could put additional, unsustainable pressure on a system in a state of permanent crisis.

*ICCL acknowledges the government's plans to increase prison capacity to address the overcrowding in Irish prisons. However, regardless of whether this approach will be effective, it will take years for this proposed new capacity in the prison estate to become operational."*²⁶**[Emphasis added]**

IPRT note that overcrowding is also detrimental to the rehabilitation of prisoners, with significantly reduced opportunities to engage in education, training and other services, and occasionally the cancellation of family visits. IPRT also indicates that the

²⁵ See Appendix 12.

²⁶ See Appendix 12.

overcrowded conditions have led to an increase in reports of violence against prisoners, pointing to the 2023 Annual report by the Office of the Inspector of Prisons noting that inter-prisoner violence was the inevitable result of confining adult men in highly confined, stuffy and malodorous conditions.²⁷

Specifically in relation to Oberstown Children Detention Centre, juvenile defence solicitor Brian Keenan stated:

“There are currently 46 detention places provided under Ministerial Order: 40 for boys and 6 for girls. Since late 2024, and for most of 2025, Oberstown has been operating at full capacity for boys. This has resulted in an effective “one in, one out” system.

While there are several challenges in managing juvenile bail, the chronic shortage of detention places in Oberstown is, in my view, the most urgent and damaging. Without sufficient capacity, the courts are forced into granting bail to children who pose a clear and immediate risk to themselves and others, despite judicial findings to the contrary. This undermines public confidence, emboldens offending behaviour in young people who know the system’s limitations, and fails in our duty of care to vulnerable children whose chaotic lives demand structured intervention.”²⁸

The lack of availability in drug treatment centres and the Central Mental Hospital is also a serious issue and one which contributes to over-capacity in prisons. In this regard, the ODPP stated:

“A connected issue is the lack of sufficient beds in residential drug treatment centres.

²⁷ Office of the Inspector of Prisons, [Annual Report 2023](#) (2024) p. 5. See Appendix 10.

²⁸ See Appendix 14.

Gardaí will rarely, if ever, object to an accused being granted bail if they have confirmation of a bed waiting for them in a drug treatment centre. A shortage of spaces in the Central Mental Hospital can also contribute to persons either being inappropriately detained in custody or released on bail.”²⁹

IPRT referred to the high rates of self-harm and mental health issues in prisoners, with higher rates for those on remand. They note that those on remand for minor offences are frequently not accepted for psychiatric hospital admission due to a complete lack of bed capacity, stating:

“These people are then released into the community, often with no reliable psychiatric follow-up, only to find themselves back in the same vulnerable position that led to their low-level offending such as poverty, homelessness and substance use, before re-offending and re-entering the criminal justice system. In the Office of the Inspector of Prisons thematic report on mental health in prisons, an example was given of a person who had been convicted of 100 minor offences. From the perspective of a bail application before the Court, applying the relevant principles, it is clear why a person who has 100 prior convictions would not receive bail. This is demonstrative of a broken system, which leaves someone repeatedly going through the revolving door of the criminal justice system without addressing the underlying causes of their offending behaviour.”³⁰

In its annual report, the Inspector of Prisons stated in 2024³¹ that Cloverhill Prison was acting as a social safety net as a result of wider systemic failures to address causes of

²⁹ See Appendix 5.

³⁰ See Appendix 10.

³¹ Office of the Inspector of Prisons, [Annual Report](#), 2023.

offending, such as drug addiction and homelessness, stating that these root issues must be addressed.

CONCLUSIONS ON THE CURRENT OPERATION OF THE CRIMINAL JUSTICE SYSTEM

The above chapter can be distilled thus:

- (i) the prosecution of offences is on the rise,
- (ii) many of these are summary offences which are unlikely to attract a custodial sentence,
- (iii) these are offences for which the presumption of bail is strong and the refusal of bail unlikely,
- (iv) the Courts do not have capacity to process the volume of prosecutions which are coming into the system, leading to serious delays in the finalisation of proceedings and accused persons being on bail or in custody for lengthy periods of time,
- (v) prisons for both adults and children are already grossly overcrowded, resulting in both (i) the early release of prisoners convicted of more serious offences to make room for those remanded in custody for less serious offences and (ii) in some instances the granting of bail to those who pose a danger to themselves and the public.

CHAPTER FOUR: EXISTING INEFFICIENCIES IN THE SYSTEM

The provision of accurate information in a timely manner is critical to the proper administration of justice by the Courts. However, both the facts of the O'Farrell case and the participants to this report emphasised that the current operation of information management and information sharing is grossly deficient.

In the case of Mr. Gridziuska, on 11 January 2011 when before Monaghan Circuit Court, Judge O'Hagan stated in his order granting bail:

*"If he keeps out of trouble and is not convicted of any theft offences between now and January 2012, that is a clean sheet from today on; if something happens from today on, he is to be brought before me for sentence... If he keeps his slate clean and stays out of trouble between now and this time next year."*³²

Following this direction by Judge O'Hagan, Mr Gridziuska committed eleven further offences, nine of which were theft related offences, *before* the death of Shane O' Farrell. He also went on to commit seven further offences *after* the death of Shane O' Farrell. These events reveal a repeated failure of communication between the Courts Service, the Judiciary and An Garda Síochána.

The case of Mr Gridziuska highlights failures in relation to:

- the provision of information to the Courts;
- the provision of accurate information to the Courts and;

³² See Appendix 1.

-
- the provision of information in a timely manner.

THE GARDA SYSTEM: PULSE

In their submission, the Law Society attributed many of the deficiencies in the storage and sharing of information to the PULSE system:

“In the context of the assessment of the efficacy of bail laws, the Law Society recommends that there be a formal requirement for an improvement in the quality of information provided to the court regarding previous convictions and compliance with bail conditions for accused already on bail in other matters or who have previously been granted bail prior to finalisation of a criminal matter. The need for the provision of full and precise information to the court is important in order for the court to be in a position to accurately assess the risk of the applicant to not comply with bail conditions. In parallel, the provision of guidelines or/and increased training to members of An Garda Síochána would likely assist in harmonising the approach of An Garda Síochána towards bail applications and would likely result in an improvement of the quality of the information that is provided to the court...

It is our understanding that PULSE does not include information such as whether the offence was committed on bail or whether that applicant had previously breached bail in another case. To obtain this information the Garda would need to check individual charges and bail to know if bail conditions have been breached...

Practitioners have indicated that, in practice, it is not uncommon for the list of previous convictions to be inaccurate. Further, we believe that unless the member giving evidence had an opportunity to contact colleagues directly involved in the other matter(s) being prosecuted against the applicant they would not necessarily know if an applicant who was

already on bail in another case complies with the conditions imposed on them by the court.”³³

Similarly, the Bar Council submitted:

“It appears to many barristers who practice in the area that the Garda PULSE system is outdated and inadequate for managing bail the policing of bail conditions. It appears that PULSE does not create a notification where an individual is:-

- a) Currently on bail*
- b) Has breached bail conditions*
- c) Has committed offences while on bail*

Where a member of an An Garda Síochána has cause to interact with an individual and is making an entry on PULSE in relation same, it seems that it would be of significant benefit if the system was in a position to flag that the individual is on bail and alert the member of An Garda Síochána to the conditions of the bail recognisance. If such a system was in place, it would be readily apparent that a curfew condition or condition to stay out of a particular area, for example, had been breached.

Furthermore, it appears that there is currently no effective mechanism to manage or coordinate multiple concurrent bail bonds. Individuals can be on bail for several different matters simultaneously, potentially across multiple districts. This can sometimes lead to conflicting bail conditions (e.g. different curfews, reporting stations, or geographical restrictions).

³³ See Appendix 7.

The Council suggests that it would be very beneficial if there were a mechanism within the PULSE system to:

- a) Flag existing bail bonds*
- b) Prevent contradictory conditions from being imposed in respect of different bail bonds*
- c) Alert Gardaí, who can then alert the courts, to existing obligations when new bail is considered.”³⁴*

An Garda Síochána gave me the opportunity to examine the operation of the Garda PULSE system and how it interacted with issues surrounding bail. The system was originally implemented at the turn of the century. Contrary to the general impression of legal practitioners the system has been repeatedly updated and improved over the years. An Garda Síochána described the development of the system thus:

“While it is apparently the same system as was introduced in 2002 there have been continual incremental changes since then with improvements developed and opportunities maximised through IT rule changes and process implementation.”³⁵

However, even with these changes it does appear that the PULSE system remains inadequate and does not sufficiently capture important information, such as whether a person is on bail, what conditions attach to same and whether they are or have previously been in breach of their bail conditions. Indeed, Gardaí are still manually calculating whether a bail applicant has accrued previous convictions while on bail on

³⁴ See Appendix 6.

³⁵ See Appendix 3.

an individual basis for each bail application – this is time consuming and prone to error and inconsistency. It seems that either an amendment to the existing system or the introduction of a new and more advanced system is necessary.

INTERACTION BETWEEN AN GARDA SÍOCHÁNA AND COURTS SERVICES SYSTEMS

A further issue appears to arise in relation to the collation of data by the Courts and the failure of this system to interact with the PULSE system. To address the gap of information-sharing between the two organisations, the Criminal Justice Interoperability Project (CJIP) was established. An Garda Síochána advised me that CJIP is an collaboration between the District Courts and An Garda Síochána which supports the electronic transfer of all summons applications, courts schedules, court outcomes, bail records, warrants and appeals. An Garda Síochána stated that:

“The largest and most significant change was as part of the CJIP program in 2008 / 2009 when bail records arising from all District Court appearances began to be provided electronically from the Courts Service including details of ‘Conditions’ in an unstructured format. In 2021/2022, An Garda Síochána commenced providing station bail records electronically to the Courts Service for ingestion into their CCTS system.

The Courts services outcomes in relation to summonses automatically populated to the Garda PULSE system. This results in much more consistently accurate information being inputted into PULSE in relation to Court appearances and outcomes.”³⁶

As noted in Chapter 3 of this Report, approximately 95%-96% of all cases are dealt with in the District Court. Therefore, circa 95% of Court outcomes are inputted by the

³⁶ See Appendix 3.

Courts Services which in turn populates the Garda PULSE system automatically. **This is a very significant improvement in that a high level of accuracy now exists in relation to 95% of Court outcomes.**

The Courts Service also wrote to me in relation to the CJIP and its operation in the following terms:

“District Court outcomes are currently shared with An Garda Síochána (AGS) through the Criminal Justice Interoperability Project (CJIP), a precursor to the CJOH. Regarding the Criminal Justice Operational Hub, the following data sharing has been enabled from the Courts Service’s perspective over the last few years:

Jurisdiction	Type of Data	Direction	Justice Body
District Court	Charge Sheets	Inbound	AGS
District Court	Bail	Inbound	AGS
District Court and District Court Appeals in the Circuit Court	Probation Reports Requests	Outbound	Probation Service
District Court and District Court Appeals in the Circuit Court	Results/Orders	Outbound	Probation Service
ALL Jurisdictions	Court List	Outbound	Irish Prison Service
ALL Jurisdictions	Court List	Outbound	Oberstown

Transfer of higher court outcome data from Circuit, Central, Special and CoA is on our list of data sharing to enable, though is dependent on replacing our current legacy criminal systems in use within these courts. We are currently implementing a major project to put in place a new unified case management system (UCMS) (crime module)

to modernise and enable this data sharing. This project impacts all criminal jurisdictions, and we hope to begin roll out in 2026. This is likely to be a multi-year process due to the project's complexity and centrality of the new system in supporting operations of criminal courts. UCMS will provide the required technological foundation to share higher court outcomes but there will also be a subsequent significant body of work involving the Courts Service, Department of Justice, Home Affairs and Migration, AGS and other Justice agencies to implement sharing of court outcomes after the UCMS rollout. This data sharing project is likely to commence in 2027, though this date may vary based on the UCMS project."

Further, the Courts Service referred to there being *"significant room for improvement"*, describing *"limited functionality for bail."*

In their submission, the Courts Service stated that greater investment in modern ICT infrastructure could greatly improve the efficiency of the criminal justice sector as a whole.

They submitted that similar investment programmes are required across all justice agencies, emphasising that the justice system is increasingly complex making it very difficult for individuals and organisations to keep track of cases before the courts. They referred to investment in technology as *"the bedrock for improving the performance of justice agencies included the efficiencies of the bail system."*³⁷

It is clear from the foregoing that a unified case management system should be urgently put in place to cover all Court outcomes. The drawn-out timescale for the

³⁷ See Appendix 4.

implementation of a unified case management system as set out above is very concerning considering the importance of this issue to the proper administration of justice.

COMMON IDENTIFIER NUMBER

As a result of updates to the Garda PULSE system, Gardaí are now in a position to create profiles in relation to particular suspects/offenders within PULSE.

These profiles (known as "Person profile reports" or PPTs) are created in relation to recidivist offenders and other suspects who are believed to pose the greatest risk. These profiles collate in one location important information in relation to the suspect/offender including but not limited to addresses used, associates, intelligence, and previous convictions. PPTs currently exist for the following operations and bail is monitored for these suspects/ offenders:

- Operation THOR – For repeat burglary offenders;
- Operation TARA – For repeat drugs offenders;
- Operation TÁIRGE – For repeat shoplifting offenders.

An Garda Síochána have submitted that the advancement of a single person identifier for use across the justice system would improve the monitoring of such offenders and have suggested the use of the PPSN. Similarly, the Courts Services have outlined the difficulty with tracking repeat offenders, stating:

- An individual can have multiple prosecutions running in tandem in different Districts or Circuits,
- Each prosecution may have individualised bail conditions set by Court with no

reference to other existing conditions,

- While not directly impacting the Courts Service, it can make it difficult for prosecutors to know with certainty that an individual is in compliance with all of their bail conditions and can lead to queries to Court offices about the status of bail bonds. It can be difficult to interpret the full history of all prosecutions to understand the current bail situation.³⁸

For this reason, the Courts Service has also recommended the use of a unique identifier, submitting:

- The lack of a standard unique identifier for accused persons across the Justice Community is a hindrance in all criminal justice areas and impacts the ability of prosecutors to generate a complete bail history.
- The Justice Sector, in particular, An Garda Síochána, does not have permission to collect and use PPS numbers so often it is impossible to associate an array of cases against a person back to them with any degree of certainty.
- A person with multiple cases can, and frequently does, have multiple different instances of non-linked identities on An Garda Síochána and Court systems.
- The Courts Service has no direct engagement with defendants and relies on members of AGS to associate new prosecutions with existing personal identities. This can be very difficult and can lead to the same person having multiple identities on PULSE and on the Courts Service Criminal Case Tracking System (CCTS).

³⁸ See Appendix 3.

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- The Courts Service can never recount the full bail history of individuals to a Court as they cannot be certain that all bail bonds over time for an individual are linked consistently back to the same individual.
 - The same challenges face other prosecutors (e.g. local authorities, Revenue, An Post, etc). These entities can collect only limited personal details so Courts and prosecutors can find it challenging to reliably build an aggregate view of the history of the defendant.
 - The absence of a unique identifier makes it extremely challenging to identify persons who reoffend while on bail.
 - Access to a unique identifier will not fully solve this problem but would be a positive step in that direction. Not all accused may have a PPS number, for example those temporarily in the country and other situations – though the majority of accused would be expected to have one.

It was noted by the Courts Service that the Department of Justice is currently considering issues which arise in the use of PPS numbers.³⁹

LACK OF INTERNAL INFORMATION SHARING

Aside from inter-agency information sharing deficits, it appears that there may be a lack of information sharing within the Courts. This is particularly apparent where a person is on bail, fails to appear, is arrested and is brought back before the Court on a bench warrant. District Court Judges have informed me that frequently, a person with extensive bail conditions brought before the Court to have a bench warrant executed

³⁹ See Appendix 4.

will then be granted bail on their own bond with no additional conditions, undermining the entire process. The ODPP also noted this issue:

"This Office has observed differing approaches taken by both members of An Garda Síochána and District Court judges when an accused is brought before the court for failing to attend court i.e. on a bench warrant. When that warrant is executed, if the Garda member does not object to bail or ask the court to attach any conditions, then the accused is released on their own bond. This often happens in cases where there were onerous bail conditions attaching to the original bond, such as sign on conditions or a curfew. Once an accused is granted bail with no conditions attached, there are no grounds to seek to revoke this bail at a later stage."

Similarly, the ODPP outlines a disconnect in the manner in which the judiciary deal with fixing recognisance for appeal:

"Order 101 rule 42 of the District Court Rules states that when such a person wishes to lodge an appeal, "a recognisance for the purpose of appeal shall be fixed by the Court". If the person has received a sentence of imprisonment, the setting of this recognisance in essence operates as a form of bail...District Court judges take different approaches as to what type of recognisance is fixed, and whether they decide to seek the views of either the Garda(and/or the prosecutor (in cases where the prosecutor is not also the investigating Garda) before deciding the recognisance."

The ODPP have submitted that inconsistencies in the High Court bails list are also apparent, stating:

“8.1 It is the Director’s experience there that is a large rotation of Judges taking the High Court Bail list which can lead to inconsistencies in how the list is managed and how many cases are dealt with on a weekly basis. Different Judges take different approaches on how the list should be run.”⁴⁰

Recommendations:

Significant and immediate investment should be made in the information sharing systems for both An Garda Síochána and the Courts Service. The accurate recording and sharing of information between these bodies should be prioritised.

Guidelines should be developed with the judiciary in relation to the processing of bail applications, particularly where they relate to the execution of bench warrants and the fixing of recognisance.

⁴⁰ See Appendix 5.

CHAPTER FIVE: PROPOSALS FOR REFORM

This Chapter focuses on a variety of proposals to change the current system and the attitudes of stakeholders within the system to such potential reforms.

STAKEHOLDER VIEWS ON THE NECESSITY OF REFORM

Prior to seeking views on various proposed reforms, I sought submissions from key stakeholders as to whether fundamental reform of the current system is necessary.

The family of Shane O'Farrell are in favour of fundamental reform, stating:

*"The system, as it stands, places far too much emphasis on the presumption of innocence and insufficient consideration on the protection of society...Repeat offenders (including for summary matters), should face stricter bail conditions or be denied bail altogether."*⁴¹

Similarly, the Dublin Rape Crisis Centre are in favour of fundamental reform:

*"In sexual offence cases, the decision to grant bail can have lasting consequences for victim/survivors. While the presumption of innocence is a fundamental principle of the Irish legal system, it must be balanced against the rights, safety and wellbeing of those who have experienced serious harm. **While the presumption of innocence must be upheld, the lived reality of victim/survivors should not be ignored.** The safeguarding of rights within the criminal justice system must be broadened to reflect the **equally serious and legally recognised rights of victims**" [Emphasis added]*⁴²

However, the remaining stakeholders who engaged with the report were not in favour

⁴¹ See Appendix 1.

⁴² See Appendix 13.

of fundamental reform, stating that in their view the current system was adequate but needed to be properly funded and correctly implemented. The Bar Council stated:

“Overall, the legal principles governing the bail system are sound and fundamentally effective in that the right to liberty is balanced with the need to protect the public and to ensure that the accused attends for his or her trial. The law reflects a proportionate system where bail is only to be refused when strictly necessary.

Unfortunately, it appears to be the case that bail conditions imposed by the courts are often not effectively monitored in practice. Current monitoring mechanisms appear largely reactive rather than proactive and preventative. This means that compliance with existing bail conditions is often only assessed when an accused is charged with a further offence, rather than being monitored on an ongoing basis so that an application to revoke bail can be made at an appropriate point prior to further alleged offending.”⁴³

The Law Society of Ireland stated:

“The Law Society reaffirms the importance of preserving the current legal paradigm centred around the prima facie entitlement to bail and the necessity to avoid preventive detention.”⁴⁴

ICCL were stronger still in their view that “existing powers make legislative reform unnecessary.” They went on to state:

“Often when the merits and practicalities of bail are being debated, insufficient emphasis is placed on the harm incurred by people who are subject to sometimes lengthy pre-trial

⁴³ See Appendix 6.

⁴⁴ See Appendix 7.

detention. ICCL research from April 2024 has found that an increasing number of people are being held in pre-trial detention in Ireland. In 2020, 14.2% of the prison population were being held on remand; this grew to 18.9% by 2022.⁴⁵

There has also been an increase in the length of time people are spending on remand. In December 2020, 11.5% of people in prison on remand were on remand for a year or more, an increase from 6% in December 2019.⁴⁶

When someone is remanded in custody they risk losing their employment, their housing and any social welfare benefits they may be in receipt of. It can also significantly strain their personal relationships and prevent them from discharging their caring obligations to their children, partners, parents or anyone for whom they have caring responsibilities. Each of these potential outcomes can have a significant negative impact on the people and families involved, and can strip an individual of the protective factors that stabilise their lives and prevent or deter them from being engaged in criminal activity. Disrupting people's lives can lead to an increase in offending which harms the entire community. Criminological research has demonstrated that pre-trial detention is positively associated with arrest for further offences.⁴⁷ Researchers describe pre-trial detention as "criminogenic", meaning it generates further criminal behaviour.⁴⁸

In the Commission on the Future of Policing in Ireland (2019), An Garda Síochána stated as follows in relation to bail:

⁴⁵ Irish Council for Civil Liberties, 'Improving Judicial Assessment of Flight Risk', (Irish Council for Civil Liberties 2024) 1.

⁴⁶ *Ibid*

⁴⁷ Ian A. Silver and others, 'Does pretrial detention influence time until re-involvement with the criminal legal system?', (2024) 94 Journal of Criminal Justice

⁴⁸ *Ibid*

“Balancing rights lie at the centre of bail reform. While addressing bail and reform, An Garda Síochána (AGS) remains conscious of the crucial role that the organisation plays within the Criminal Justice system. This extends to the human rights of those who interact with AGS’s prosecutorial arrangements through the courts. In line with the Commissioner of Future of Policing in Ireland, “human rights are the foundation and purpose of policing”

The Probation Service did not offer any strong view in relation to reform of the current operation of the bail system, however, they did express a view that any potential reforms should not be focused simply on “serious offences” but should also encompass “multiple offences.” They stated that *“the most significant impact of offending is often felt through high-volume, relatively low-level crime. While bail legislation rightly focuses on serious offences, there is also considerable harm caused by persistent, low-level offending and repeated disregard for the law.”* They concluded that the system needs to respond more effectively to recidivist offenders who persistently commit summary offences.⁴⁹

The above submissions demonstrate that, save for a suggested limited reform of bail in relation to domestic violence offences from An Garda Síochána, none of the actors who work within the criminal justice system are advocating for radical reforms to the law on bail.

As per my Terms of Reference from the Minister for Justice, I will now set out a variety of potential reforms, summarising stakeholder views and providing my own view as to whether such reforms would be lawful, practical, effective and ultimately an

⁴⁹ See Appendix 9.

improvement to the existing system.

BAIL SUPERVISION SCHEME

In my view there is significant merit in designing and implementing a bail supervision scheme in an effort to deal with the problem of the persistent commission of lower level offences by recidivist offenders.

The reality of summary offences is that many are either fine-only offences or unlikely to ultimately attract a custodial sentence. The ODPP has indicated that in such cases, generally bail is not objected to by the prosecution “*unless there were multiple offences charged*”. The ODPP added that objections are likely to be made where a person is charged with an offence under s13 of the Criminal Justice Act 1984, being a failure to surrender to bail.⁵⁰

However, as noted above in the section on delay, the ODPP and other stakeholders have also indicated that such prosecutions can take a significant period of time to process and create a significant administrative burden as a result.

This means that a large number of offences are ones where bail will inevitably be granted and an accused person will then be remanded on bail for a lengthy period of anything from weeks to years.

The question that arises is what meaningful reform can be implemented which might improve the system of bail for the many offences where custody is simply not a reality. In this regard, a bail supervision scheme may be a viable option.

⁵⁰ See Appendix 5.

At present, Extern operate a limited bail supervision scheme for juvenile offenders which appears to have had positive results for those participating. Extern have proposed an extension of this scheme to all adults and children in the following terms:

“Extern has proposed the introduction of an Adult Bail Supervision Scheme (ABSS) as a proportionate, community-based alternative to custodial remand. There has been substantial success with the youth model⁵¹. This ABSS would provide structured case management, peer mentoring, and wraparound supports to individuals on bail. The scheme would aim to reduce reoffending, improve compliance, and enhance public safety – while upholding constitutional protections.

This scheme has the potential to address one of the more significant challenges facing the bail regime at present - dealing with recidivist offenders who persistently commit minor offences. Such offenders retain their constitutionally protected entitlement to bail as they are highly unlikely to seek to evade justice while there is no realistic prospect of s2 of the bail Act 1997 being utilised as the offences committed by them are at the low end of the spectrum of seriousness.

The objectives of this proposal are to:

- Reduce custodial remand;*
- Support compliance, risk reduction, and rehabilitation;*
- Address underlying needs such as addiction, housing, and mental health;*

⁵¹ Evaluation of the bail supervision scheme for children (pilot scheme), December 2019, Department of Children and Youth Affairs
<https://researchrepository.ul.ie/server/api/core/bitstreams/9765d2ba-de12-4a55-ac7e-144d73160ea5/content>

Such objectives are not only consistent with our bail laws as they currently stand but also have the potential practical benefit of reducing pretrial remand in custody at a time of chronic overcrowding in our prisons.

Further, the scheme has at its core an objective of assisting the suspect in their attempts to rehabilitate. This has potential to be a very positive addition to the criminal justice system as, at present, the Courts have very limited scope to assist a suspect in rehabilitating as their guilt or otherwise has not yet been determined and therefore the Courts have no remit to require the suspect to rehabilitate.

The multi-agency involvement in this scheme has the added benefit in addressing the underlying issues faced by the suspect. This approach has significant potential in reducing recidivism (and by extension the commission of further offences on bail) as many persistent offenders suffer from addiction, homelessness and mental health issues.

The scheme envisages the suspect being assessed for suitability for the scheme (considering the risk profile and needs of the suspect) and only being admitted to it with their consent to the supervisory terms of the scheme (which would include monitoring and compliance, support plans and peer mentoring etc.

The need for assessment and consent prior to admission has potential in that a suspect who might otherwise be refused bail could be admitted to bail to enter the scheme after a period of time on remand during the assessment. Experience has shown that persistent offenders with drug addictions and/or chaotic life circumstances can quickly "settle" and obtain the clarity necessary to engage in such a scheme after a short period of time on remand."

Extern suggest that the scheme could be delivered by a community-based

organisation in collaboration with the Courts Service, Probation Service, An Garda Síochána, housing authorities, the HSE, and peer-led organisations such as Spéire Nua.⁵²

In the Department of Justice *Review of Policy Options for Prison and Penal Reform 2022-2024*, the development of a pilot Bail Supervision Scheme for women and vulnerable members of the prison population was recommended.⁵³ The Review noted that similar schemes in Scotland had resulted in a saving of between £2 million and £13 million over a three-year period. The IPRT commend this recommendation in their submission, referring to their desire to see bail supervision schemes expanded to divert individuals away from the prison service and provide the “wraparound supports” required to assist individuals to move away from criminality and address the root causes of offending.⁵⁴

The Adult Bail Supervision Scheme Proposal (Headquarters Directive 17/2018) guides An Garda Síochána Policy for the Strategic Approach to Offender Recidivism (SAOR). This policy sets out An Garda Síochána’s approach to the management of prolific and recidivist offenders. It offers a consistent organisational approach when encountering recidivist offenders. It considers bail arrangements through the appointment of a Garda Case Manager to a specific individual. This is an additional role assigned to ensure systemic and coordinated case management. The role of the Garda Case Manager incorporates:

⁵² See Appendix 11.

⁵³ Department of Justice, [Review of Policy Options for Prison and Penal Reform, 2022-2024](#).

⁵⁴ See Appendix 10.

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- a) Coordinating charges relating to the individual,
 - b) Endeavouring to have court cases remanded to a single court date to streamline court business,
 - c) Attending court appearances in respect of the individual and;
 - d) Coordinating objections to bail where considered appropriate.

SAOR Policy represents AGS's considered position to bail management of recidivist offenders.

Brian Keenan stated that his experience of the assignment of Garda Case Managers in cases of child offenders is positive but was of the view that they are brought into the process at too late a stage:

"Early intervention is vital in addressing the needs and behaviour of a child in trouble. When a young person appears before the Children's Court, they have already been deemed unsuitable for diversion and are typically engaged in significant offending. The role of a dedicated Garda Case Manager in both supporting the child and monitoring bail conditions cannot be overstated. In my experience, early involvement of a Case Manager often leads to a reduction in offending, ensures bail conditions are properly monitored, and serves the best interests of the child.

Unfortunately, for many of my clients, a Case Manager is appointed far too late – by which time offending is already entrenched. I have long advocated for a formal process allowing a solicitor to request the appointment of a Case Manager at an early stage, and I believe such

a measure would improve outcomes for both children and the wider community.”⁵⁵

Garda Case Managers are part of the Extern scheme as currently administered in relation to children, in addition to separately acting as a standalone function within An Garda Síochána.

The Probation Service referred to their agreement in principle to assume responsibility for the governance and oversight of a Bail Supervision Scheme for children at the request of the Department of Justice which is expected to be progressed in 2026. The Probation Service outlined that their work, which involves effective supervision and the implementation of individualised support systems, assists offenders in changing their behaviour and in turn, reduces recidivism. The Probation Service emphasised that the child bail supervision scheme was not in line with the work their organisation is generally tasked to carry out but recognised the particular vulnerabilities attaching to children in the justice system. Although supportive of utilising supervision and assessment to reduce reoffending, the Probation Service do not view themselves as the appropriate body to implement or manage an adult bail supervision scheme.⁵⁶

I note the comments from IPRT⁵⁷ and the annual report of the Office of the Inspector of Prisons in relation to the mental health, addiction and other social issues which affect a large proportion of the prison population and the necessity to address these root causes in order to make a meaningful attempt to reduce the prison population.

In my view, adopting an Extern-style adult bail supervision scheme would be an

⁵⁵ See Appendix 14.

⁵⁶ See Appendix 9.

⁵⁷ See Appendix 10.

effective way to manage recidivist offenders who engage in the lowest level of criminal offending. This would have the potential to improve the rehabilitation of recidivist offenders by offering necessary supports and services which are not available to prisoners on remand. The supervisory aspect of the scheme would also require that any breaches of bail conditions would be monitored as they occur and therefore brought back before the Courts much more quickly.

Had Zigimantas Gridziuska been admitted to such a scheme in 2009 the “*series of failures*” in the criminal justice system would not have occurred.

Recommendation

An adult bail supervision scheme should be implemented, incorporating a wrap-around scheme with the necessary supports and services to ensure the proper management of recidivist offenders.

ELECTRONIC TAGGING

In 2007, the Bail Act 1997 was amended by the Criminal Justice Act 2007, making provision for the electronic monitoring of persons admitted to bail. Section 6B of the 1997 Act now states that electronic monitoring may be ordered by a Court where:

- (a) a person is admitted to bail for a serious offence and
- (b) the Court has imposed any of the following conditions:
 - (i) that the accused person resides or remains in a particular district or place in the State,
 - (ii) that the accused person refrains from attending at such premises or other place as the court may specify.

In this regard, the Court may order:

- (i) that the person's movements while on bail are monitored electronically so that his or her compliance or non-compliance with a condition mentioned in any of the said subparagraphs can be established;
- (ii) that for that purpose the person has an electronic monitoring device attached to his or her person, either continuously or for such periods as may be specified; and
- (iii) that an authorised person is responsible for monitoring the person's compliance or non-compliance with any condition mentioned in the said subparagraphs or in paragraph (ii) of this subsection.

Section 6C(1) of the 1997 Act provides that evidence of the person's (a) presence in or absence from a particular district or place at a particular time, or (b) non-compliance with a requirement under s.6B to wear an electronic monitoring device may be given in any proceedings by way of statement produced by the electronic monitoring device. This must be accompanied by a certificate which states that the statement relates to the whereabouts of the person at the dates and times shown on it, signed by an authorised person responsible for monitoring the person electronically. Such statement and certificate are admissible as evidence of the facts stated therein, unless the contrary is shown, but only if a copy of same has been served on the person concerned before the commencement of proceedings.

Despite the enactment of these provisions in 2007, they have not yet been commenced.

On 5 March 2019, the then Minister for Justice and Equality, Charles Flanagan, was questioned by Deputy Tom Neville as to the status of these provisions via a Parliamentary Question. In response, the Minister stated:

“Extensive preparations are underway to ensure these provisions can be implemented and more importantly, to ensure they can be effective. My Department is chairing a Working Group on Electronic Monitoring which includes the Irish Prison Service, the Probation Service, the Courts Service, An Garda Síochána and the Director of Public Prosecutions (DPP). The Working Group submitted a report to my Department’s Management Board and these recommendations were considered.

Following on from this, my Department has been engaging with the Office of the Government Procurement (OGP) to try and identify a suitable expert to advise the Department on Electronic Monitoring pre-market consultations. Discussions between the Department and the OGP in this regard remain ongoing.”⁵⁸

In their submission, An Garda Síochána addressed the progress of these provisions and this working group, stating:

“Presently, An Garda Síochána, represented by Assistant Commissioner, Eastern Region are contributing to High Level Steering Group, led by the Probation Service as initiated by the Department of Justice. This was the vision as set of in the Programme for Government (Government of Ireland, 2025). It is the intention of the Government to commence Section 6B of the Bail Act 1997 as amended by the Criminal Justice Act 2007 (Office of the Attorney

⁵⁸ Written response of former Minister for Justice Charles Flanagan, TD, to [Parliamentary Question](#) of Deputy Tom Neville, 05 March 2019.

General, 2007) with the introduction of Electronic Monitoring as a condition of bail.”⁵⁹

The ODPP also addressed the current status of the steering group in their submission but also expressed a view that this provision is unlikely to reduce the number of persons in custody:

“A steering group has been established to progress the use of electronic monitoring. One consideration behind the impetus to use electronic monitoring is the objective of reducing numbers in prison to ease the capacity issues. This Office was invited to provide observations and in response expressed the view that the legislation, as currently drafted, will not reduce the numbers of persons on remand in custody. The legislation (section 6B of the Bail Act 1997) provides that any consideration of imposing electronic monitoring of a person in the context of bail, is to take place after the person has been admitted to bail.”⁶⁰

The Law Society were also critical of the legislation in its current form, in particular section 6B which confines the ability to make an application for electronic monitoring to prosecutors. The Law Society were of the view that the legislation should be less restrictive and allow both accused persons and the Court to raise the possibility of electronic monitoring in appropriate cases.

However, An Garda Síochána were of the view that electronic monitoring could be quite beneficial, allowing them to track bail compliance for high-risk individuals and ensuring that Gardaí are notified when breaches occur.

The Probation Service were of the view that electronic tagging should be used in a

⁵⁹ See Appendix 3.

⁶⁰ See Appendix 5.

staggered manner, offering the judiciary a “more graduated set of options”. They submitted that the graduated options could be:

- (i) Bail with conditions;
- (ii) Bail with a condition of electronic monitoring;
- (iii) Refusal of bail.

The Probation Service was also of the view that electronic tagging should not be limited to serious offences but should be available in cases which involve multiple offences.

Having considered the above submissions and the wording of the legislation, I share some of the concerns espoused by stakeholders.

First, electronic tagging is a serious incursion into the right to privacy of an accused person. Although this right is not absolute and must be balanced against other rights and the public interest, I am nonetheless of the view that this is an invasive measure which allows the State to gather sensitive personal data of a person who has not yet been convicted of the offence for which they are bailed.⁶¹

Further, there have been significant developments in both the law and technology in the intervening 18 years since this provision was first drafted. In *DPP v. Quirke* [2023] IESC 2, the Supreme Court held that the right to privacy extends to the “digital space”, given the breadth of information which can be gleaned from electronic devices such as phones and computers. In both *Quirke* and *Corcoran v. Commissioner of An Garda*

⁶¹ See Appendix 9.

Síochána [2023] IESC 15, the Supreme Court emphasised the need for appropriate judicial oversight in applications for warrants where additional rights are required to be balanced by the Courts.

In light of these developments, the collection of personal data by the State is a task which should be approached with caution and may well require significantly more regulation than is currently present in the Bail Act 1997. Consideration would need to be given to the following, *inter alia*:

- Who will operate the system of data collection? Who will be entitled to access and obtain this data?
- Where will this data be stored and for how long will it be retained?
- What can this data be used for? Will it be confined to matters of bail? Could this data be used for the purposes of a prosecution or in the defence of proceedings?
- Will the accused be made aware of the potential use of this data for future purposes, by way as some form of caution? What are the consequences if an accused person does not consent to the use of their data in this manner - are they automatically remanded in custody? Could this be viewed as overly oppressive, particularly where a person may be remanded in custody for a number of years while they await trial if they refuse to be continuously monitored?
- Given an accused person is still entitled to the presumption of innocence at this stage of the proceedings, does this amount to a disproportionate interference with their right to privacy?

-
- If the location data could be used against the bailed individual in a future prosecution and they were cautioned of this possibility would this provide them with a powerful disincentive to become involved in crime?

In light of decisions such as *Quirke*, and the possibility of electronic tagging being viewed as oppressive / a disproportionate interference with the right to privacy, further consideration should be given to the manner in which the system of electronic tagging is intended to operate and whether such a system would survive judicial scrutiny.

I see the merit in the submission of the ODPP⁶² and the Law Society⁶³ in pointing out the limited usefulness of a provision which (i) can only be invoked after bail has been granted and (ii) can only be applied for by the prosecution.

For these reasons, I am of the view that this provision should be amended to:

- (i) Allow electronic monitoring to be considered only in cases where the Court would otherwise be inclined to refuse bail;
- (ii) Impose a proportionality test to be applied by a Court considering whether to impose such a condition, with a particular focus on the gravity of the offence and the necessity of electronic tagging in the particular circumstances of each case;

⁶² See Appendix 5.

⁶³ See Appendix 7.

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- (iii) Allow any party to proceedings, including the Court of its own motion, to request that electronic tagging be imposed as a bail condition.

Recommendation:

Further consideration should be given to the manner in which the system of electronic tagging is intended to operate and whether such a system would survive judicial scrutiny.

If such a system is to be implemented the current legislation providing for electronic tagging should be amended to (i) limit its application to cases where bail would otherwise be refused, (ii) include a proportionality test and (iii) allow any party to apply for its imposition as a bail condition.

HOUSE ARREST

At present in this jurisdiction, what is commonly referred to as “house arrest” does not appear to form part of the common law, nor is it provided for by way of legislation. On the contrary, s6(1)(b)(viii) of the Bail Act 1977, as amended, refers to the imposition of a curfew as a bail condition as commencing at 9pm and ending at 6am. This would seem to imply that there is a limit to the curfew that can be imposed on accused persons.

The ability of the judiciary to impose a condition requiring a person to be continuously confined within their home while on bail was considered by Peart J. in *Brennan v. Judge Brennan & Anor* [2009] IEHC 303. There, the District Court had imposed a 24-hour curfew on the Applicant as a condition of his bail. The Applicant judicially reviewed the imposition of such a condition on the basis that the Court had exceeded its jurisdiction and further, that such a condition was in breach of the Applicant’s rights under the ECHR. In the High Court, Peart J held that s.6(1)(b) of the 1997 Act did not provide a lawful basis for the imposition of a 24-hour house arrest order. He found that the power was so extreme that it would need to be explicitly provided for by way of legislation:

“The confinement of a person to a particular house or even a part of a particular house amounts to such a draconian limitation on the freedom of movement and liberty of the citizen that it would require a very specific and clear legislative provision to confer such a power. None such is provided.”

Without any legislative provision guiding the concept of house arrest, the Court held that the judiciary must approach the matter in a manner which is proportionate:

"I am not to be taken as concluding that a curfew order or even an order requiring a person to remain in his house for even a substantial number of hours in a given day would offend in the same way. It will be a matter of considering the degree of restriction, and for each case to be decided on its own facts and circumstances, and the evidence adduced in order to justify any such restrictions imposed."

It is noted that the jurisprudence in this area has suggested that the concept of house arrest is one which must be introduced by way of legislative amendment. In my view, the introduction of such a measure would be a welcome step towards reducing the prison population at a time of chronic overcrowding, while being cost-effective and relatively easy to monitor. However, such a condition is nonetheless a significant encroachment on the rights of an accused person. For this reason, the utilisation of house arrest should be limited and proportionate and reserved for borderline cases where bail would otherwise be refused. Both the defence and the prosecution should be permitted to apply to have house arrest attached as a condition to bail. It should also be open to the Court of its own motion to impose such a condition.

Recommendation:

Legislation should be introduced providing for house arrest (i) limited to cases where bail would otherwise be refused, (ii) including a proportionality test and (iii) allowing any party to apply for its imposition as a bail condition.

CRIMINAL BEHAVIOUR ORDERS

In their submissions to this report, An Garda Síochána recommended consideration of the UK system of criminal behaviour orders:

“In considering recommendations, An Garda Síochána considered a comparative analysis with similar common law jurisdictions while addressing bail decisions made in relation to recidivist offenders (Fig 1). In addition to this desktop research, a number of practical measures are put forward to meaningfully improve how bail decisions are approached within the Irish legal system.

An Garda Síochána draws attention to Criminal Behaviour Orders (“CBO”) which are incorporated into the Criminal Justice system in the United Kingdom (UK) (Crown Prosecution Service, 2020). While not directly correlating with bail, opportunities exist to essentially manage recidivist offenders through direct court orders. Essentially a CBO is a court order issued to individuals which allows the following:

- 1. Prohibits the offender from doing anything described in the order (which might include a condition preventing specific acts which cause harassment, alarm or distress or preparatory acts which the offending history shows are likely to lead to offences (for example the individual entering a defined area);*
- 2. Requires the offender to do anything described in the order (for example, attendance at a course to educate offenders on alcohol and its effects)”. (Crown Prosecution Service, 2020)”⁶⁴*

The purpose of CBOs appears to be to reduce recidivism by (i) preventing the accused

⁶⁴ See Appendix 3.

from entering areas or liaising with others who may have historically triggered offending by an accused and (ii) imposing requirements to engage in rehabilitative measures, such as addiction counselling or employment supports.

It is noted that a failure to comply with a CBO empowers the police to arrest the relevant accused without a warrant.

At present, a Judge may attach conditions to bail prohibiting persons from entering certain areas or liaising with certain individuals. Although not utilised very frequently in practice, I see no reason why the judiciary should not be empowered to direct positive actions to be taken by an accused, such as the engagement with addiction or mental health services. The incorporation of positive obligations into standard bail conditions would appear to be a more useful and efficient way to ensure engagement by an accused.

In my view, the current legislation setting out conditions of bail should be amended to significantly expand the conditions which may attach to bail, to include positive obligations such as the attendance at addiction services and employment supports, where same are available. The imposition of such positive obligations/conditions would require (i) an evidential basis and (ii) should only be imposed with the consent of the accused.

Recommendation:

Current bail legislation should be amended to significantly expand the conditions which may be attached to the granting of bail to include positive obligations such as the attendance at counselling, addiction or employment services where same are available. Positive obligations should only be imposed where an evidential basis exists for their imposition and consent of the accused should be sought.

TRIAL IN ABSENTIA

At present, Order 23, r4 of the District Court Rules allows a Court to hear a summary matter in the absence of the accused where the accused does not appear, is not represented and the Court is satisfied that they were duly served with a summons. This rule also allows a Court to issue a bench warrant in such circumstances. Order 22, r4 allows an accused to apply to have any order or finding made by the Court in their absence set aside on the basis that they were not served with the relevant summons or aware of the proceedings.

The jurisprudence around these rules makes clear that they should not be invoked carelessly or with undue haste; a Court must ensure that the accused was summonsed or was aware of the date and place of the hearing. The primacy of the accused's right to a fair trial must be respected and a Court should ensure that the panoply of constitutional rights of the accused are protected.⁶⁵ In particular, Order 22, r3 states that a Court may view it undesirable to proceed if, in light of the gravity of the offence, it is of the view that it is not in the interests of justice to do so.

From discussions with practitioners and others operating in this area of law, the view was expressed that this provision of proceeding *in absentia* where the accused has failed to appear is not utilised as often as it could be and that some District Court Judges have a preference to issue a bench warrant and await the production of the accused before the Court. This may in part be influenced by the jurisprudence of the Superior Courts emphasising the importance of the right to a fair trial, and may also

⁶⁵ See for example *Nevin v. Crowley* [2001] 1 IR 113 and *O'Brien v. Judge Coughlan* [2018] 2 IR 270

be attributed simply to District Court practice. However, I was informed by the President of the District Court that he has always encouraged his colleagues to utilise their power to proceed in the absence of the accused where the above mentioned conditions are fulfilled. This is a positive development which will result in significant savings in both the time and resources of the Gardaí and the Courts Service.

The language of the rules, “the Court may”, is permissive as opposed to prescriptive. This allows sufficient discretion for the Courts to balance the various rights at play when deciding whether to proceed in absence of the accused. However, it also means that the application of the rule is inconsistent. It seems to me that for offences which are fine-only, the rules could be amended in a manner which *requires* a Court to proceed in absence of an accused in certain circumstances which would still respect the constitutional rights of the accused. This would expedite proceedings and reduce Court time spent adjourning matters which are minor in nature. The issuing and executing of bench warrants also involves the expenditure of large amounts of Garda and Courts Service time and resources.

I recommend that where an accused person is not present in Court or represented by a legal professional, the Court shall direct that the matter be listed for hearing no later than 14 days subsequent to this date. If the accused fails to appear on this adjourned date, the matter should proceed to hearing where:

- (i) The offence is a fine-only offence which does not carry a custodial sentence;
- (ii) The Court is satisfied that the accused was summonsed or that they were made aware of the time and date of the hearing.

The accused may later make an application to have any determination of the Court set aside on the basis that they were not aware of the proceedings.

Such a provision would ensure the expeditious disposal of summary matters without unduly encroaching upon the right of an accused person to a fair trial. Importantly, any such provision should not be extended to cover matters which carry a custodial sentence. For such matters, the existing District Court Rules should be retained, giving the Court sufficient discretion to balance the rights of the accused with the necessity to dispose of matters promptly.

Recommendation:

Amend the District Court Rules to provide that fine-only matters shall proceed in the absence of the accused where:

- (i) The Court is satisfied that the accused was duly served or made aware of the time and place of the proceedings;
- (ii) The matter has been adjourned for no more than 14 days to allow the accused to appear and evidence has been offered that the accused was duly served of this adjourned date; and
- (iii) There are no exceptional circumstances which would result in inordinate unfairness to the accused.

CRIMINALISING COMMITTING AN OFFENCE WHILE ON BAIL

One suggested proposal to improve compliance with bail conditions is the criminalisation of committing an offence while on bail. At present, s11(4) of the Criminal Justice Act 1984 provides that where a Court is determining the appropriate sentence to impose for an offence committed while the accused was on bail, it is required to treat same as an aggravating factor. Further, section 11(1) requires the imposition of consecutive sentences for such offences. The Court may only deviate from these principles in exceptional circumstances.

The commission of an offence while on bail therefore has two consequences for an accused. First, they will receive a more severe sentence for the offence than if they were not on bail and second, this sentence will be imposed consecutive to any sentence imposed for the offence for which they were granted bail.

In my view the creation of a further offence of committing an offence while on bail would be disproportionate and excessive and would run the risk of amounting to “double-counting”. In my view, this level of criminalisation would not be constitutional.

It would also create an unnecessary administrative burden whereby a person would have to be first convicted of the offence allegedly committed while on bail and then subsequently arrested, charged and prosecuted with the offence of committing an offence while on bail.

Further, I am of the view that if the current provisions, which result in more severe sentences for an accused, are not sufficient disincentive for an accused then further

criminalisation by way of an additional offence is unlikely to result in any real increase in compliance with bail conditions.

PROSECUTION OF OFFENCES BY LEGAL PROFESSIONALS

In submissions from the ODPP, it was suggested that further legal training for the Gardaí would improve the prosecution of offences and the conduct of bail applications in the District Court. However, in their submission, the O'Farrell family have stated that the prosecution of offences should exclusively be a function of legal professionals, stating:

"In our view, all prosecutions should be taken away from the police and given to a solicitor or prosecuting service as in Northern Ireland.

An inconsistency arises when gardai are criticised for failing to bring the facts to the court...they then become defensive stating that they are not trained lawyers. They want to retain prosecuting in court, despite not being qualified to do so. In Northern Ireland, only a solicitor or barrister can prosecute. Our family put in a submission to the Commission in The Future of Policing in Ireland advocating for this, as did the Garda Inspectorate and the Irish Council for Civil Liberties. See p. 29 of the of The Future of Policing in Ireland Report, which states, "All prosecutions should be taken away from the police and given to an expanded state solicitor or national prosecuting service. We also recommend that the practice of police prosecuting cases in court should cease"

I agree with the views expressed above and recommend that Court proceedings should be conducted by legal professionals at all levels. This would ensure consistency in the prosecution of offences across all Courts, a higher standard of prosecution (as Gardaí are not trained lawyers) and would free up Garda time for their general duties,

including bail checks and other related matters.

Recommendation:

The responsibility for the prosecution of offences should be removed from the Gardaí and all future Court proceedings should be conducted by legal professionals.

STATION BAIL

The power of An Garda Síochána to release an accused person on bail (referred to as station bail) is provided for by statute. Station bail can be granted by a member of An Garda Síochána to a person in-custody at a Garda station (s31(1) of the Criminal Procedure Act 1967) unless this person is charged with one or more of the offences listed in section 29 of the Criminal Procedure Act 1967.

The decision to grant or deny bail at station level rests with the member in charge of the Garda station in accordance with the Criminal Procedure Act 1967, as amended. This decision is based upon the specific circumstances of the alleged offence and the accused person.

An Garda Síochána state that such decisions are made by considering “*all circumstances of the case including the victim, the accused person and the obligation to ensure public safety and confidence...in accordance with the Garda Decision Making Model (GDMM) (An Garda Síochána, Policy Document, Unrestricted HQ Directive 037/2019, 2019) and in consultation with supervisors, as appropriate.*”

However, there are limits on the conditions which can be imposed on a person granted station bail. An Garda Síochána point out that only a cash recognisance can be required of an individual.⁶⁶ This means that station bail is not offered in cases where it would otherwise be granted due to the inability of the Gardaí to require compliance with standard conditions such as a curfew; unnecessary Court time is then taken up making orders for bail on consent.

⁶⁶ See Appendix 3.

The possibility of changing the law to allow An Garda Síochána to set conditions when granting station bail was raised in correspondence received by the Attorney General from the President of the District Court, Judge Kelly, in which he suggested that amendments be made to the legislation regarding station bail in order, *inter alia*, to reduce the number of out of hours courts and to reduce the time spent in custody by the arrested person.

The Law Society made a similar submission, noting the inability of Gardaí to attach conditions to station bail but also making observations relating to station bail in practice. For example, the Law Society noted that in parts of the country, station bail is refused a matter of course for domestic violence offences. The Law Society also noted that Gardaí are not required to take into consideration whether a person has previously committed offences on bail. In that regard, the Law Society submitted that *“there might be some merit in introducing guidelines to constrict the granting of station bail for an accused person who has previously committed offences while on bail. In such a scenario the decision on the granting of bail would be at the discretion of the court.”*⁶⁷

Currently, Gardaí have internal guidelines in relation to the granting of station bail, however, for the purposes of transparency and consistency, it seems preferable that the factors considered in the granting of station bail should be put on a legislative footing. Further, the Gardaí should also have the power to impose further conditions than a cash recognisance. Basic conditions, such as a curfew or sign-on condition, should be available to the Gardaí to impose on the granting of station bail, with an

⁶⁷ See Appendix 7.

option to an accused person to make an application to the District Court if they are dissatisfied with the conditions attached to their bail bond at any stage prior to their first date before the Court on notice to the prosecuting Garda.

As mentioned above I met with the President of the District Court who explained the process of convening an out of hours Court when it is necessary to execute a bench warrant or where Gardaí are not objecting to bail, but seeking that conditions be attached to the bail bond.

He explained that often two Gardaí are necessary to bring the accused before the Court while an Inspector is necessary to present the case. A registrar and a Judge must be found to deal with the case. Oftentimes the actual hearing of the application might only take a minute or two, while the accused could spend as much as ten hours in custody even though there is no objection. In rare cases an available Judge cannot be found and in two particular cases the accused successfully mounted High Court proceedings challenging the lawfulness of their detention. It is self-evident that the scenarios described above are inefficient and result in a significant waste of both time and resources.

In these circumstances it was suggested to me that in cases where there is no Garda objection to bail that the member in charge of a Garda station should be entitled to grant station bail to the accused. I agree.

Recommendation:

Legislation should be introduced allowing the member in charge of a Garda station to grant bail to an accused who has taken a bench warrant where there is no Garda objection to bail.

Legislation should be introduced allowing the member in charge of a Garda station to attach conditions to a station bail bond.

This legislation should set out the factors which must be considered by the member in charge in deciding whether to grant station bail.

EVIDENCE FOR SECTION 2A OBJECTIONS

In accordance with Section 2A of the Bail Act 1997 as inserted by Section 7 of the Criminal Justice Act 2007 (Office of the Attorney General, 2007):

“2A. – (1) Where a member of the Garda Síochána not below the rank of chief superintendent, in giving evidence in proceedings under section 2, states that he or she believes that refusal of the application is reasonably necessary to prevent the commission of a serious offence by that person, the statement is admissible as evidence that refusal of the application is reasonably necessary for that purpose”

In their submission, An Garda Síochána has requested legislative change to s2A from the requirement of a Chief Superintendent to give evidence to *“a member of An Garda Síochána not below the rank of Superintendent”*. This submission reflects the Garda Síochána (Function and Operational Areas) Act 2022 (Office of the Attorney General, 2022), which relate to changes in operational management.⁶⁸

Aside from this submission, there were no other views expressed by other stakeholders in relation to this provision and aside from reflecting updated operational management, there was no indication that the current system is not workable or overly burdensome. Equally, I do not view such a proposed amendment as having any adverse impact on the system as it currently operates.

This is a matter which should be further discussed by An Garda Síochána and the Department of Justice.

⁶⁸ See Appendix 3.

STRENGTH OF EVIDENCE HEARINGS

A primary issue for consideration in this report is recidivist low-level offending and the granting of bail to persons who do not reach the threshold for refusal of bail under the O'Callaghan principles or s2A of the Bail Act 1997. One suggested approach was the refusal of bail for offences where the evidence in support of the charge is particularly strong.

Under the *O'Callaghan* principles, the strength of evidence in support of the charge is a factor to which the Court must have regard when assessing whether to grant bail. **Importantly, it is not a standalone factor and is considered in the overarching context of a person either being a flight risk or potentially interfering with witnesses or evidence.**

I have considered the possible wording of a statutory amendment which would isolate the strength of the evidence underlying the charge to formulate a separate test for the refusal of bail. Such a test could be formulated thus:

"Where a Judge is satisfied that the proposed evidence is so strong that it is highly likely that the accused will be convicted of the charge the Judge may remand the accused in custody."

I have also considered such a test being confined to cases where the evidence is overwhelming, such as where there is CCTV of the offence being committed or a suspect being found in possession of controlled drugs followed by admissions at scene and full admissions in interview.

The formulation of a test of this nature would have the effect of significantly expanding the remit for the refusal of bail for offences where bail would otherwise be

granted.

However, it is difficult to see how such a proposal could ever be constitutional, even where limited and cautiously worded. The presumption of innocence applies to all offences, even those where the evidence may appear overwhelming. An accused person is also entitled to a plethora of constitutional rights in defending themselves. A refusal of bail on the basis of the strength of the evidence alone or a view that the person would almost certainly be convicted has the potential to transform standard bail applications into mini-trials. Such applications, in order to be properly contested by the accused, would require the evidence in the case to be disclosed to the accused in advance of their bail application, as well as an opportunity for them to obtain any evidence of their own in response.

Aside from amounting to a serious incursion into fair trial rights, such an approach would likely cause more inefficiencies in the system than it would cure. Accused persons who choose to contest their charge and also seek bail would effectively be running two hearings. This would also likely lead to adjournments, put severe pressure on An Garda Síochána and the ODPP to disclose the evidence in support of the charge at an early stage, and may risk accused persons being remanded in custody for lengthy periods of time while evidence is being collated and disclosed for the purposes of a bail application.

In all of the circumstances, I am not of the view that the introduction of such a reform would be constitutional, or even workable in an adversarial system such as ours.

THE ELIMINATION OF CASH LODGEMENTS

Often, an accused person granted bail will be required to either make a cash lodgement or to offer an independent surety, being a person who guarantees a sum of money to be forfeited in the event that the accused person does not comply with their bail conditions. Despite this being a common condition of bail, the IPS have indicated their strong opposition to cash bail as being an administrative burden and an unnecessary drain on resources. They submit that:

- A simple cash bail involves 25 people from three different agencies in order for same to be processed, costing around €3,000 per individual processed. In 2022, it is estimated that around €6 million was spent on administering cash bail;
- Imprisoning persons who cannot pay the amount ordered to secure their release is harmful, results in children being without their caregiver, and contributes to overcrowding in prisons;
- Research from other jurisdictions indicates that cash bail does not result in compliance with bail conditions but does impact disproportionately on poorer communities;
- Cash handling puts the State at risk of money laundering;
- No other prison service in the EU is involved in the administration of cash bail; and
- The imposition of a large sum of money for release on bail does not necessarily secure compliance with bail conditions.

In all, the IPS recommends the abolition of cash bail.⁶⁹ The ODPP is also in favour of the abolition of cash bail but is of the view that the independent surety alternative should be retained, stating: *“It is the experience of this Office that the involvement of an independent surety increases the likelihood of compliance with bail conditions and is a stronger deterrent than a cash lodgement, where the source of funds is unclear.”*

In their submission, IPRT refer to the requirement for a cash lodgement as being a bar to those from low socio-economic backgrounds accessing bail. They cite a report from the Office of the Inspector of Prisons in 2024 where 11 people in detention had their bail set at €100 or less, with another 26 having their bail set at €500 or less.⁷⁰

However, in discussions with Judges of the District Court and other practitioners within the system it was made clear to me that it is their experience that cash bail “concentrates the mind” of the accused (and his or her family and friends) to ensure that the conditions of bail are complied with.

Further discussion and analysis should take place between the judiciary, the Courts Service, the Irish Prison Service and the Department of Justice to seek to weigh in the balance the administrative burden as well as the inequity created in depriving those of little means from accessing bail due to an inability to pay a cash lodgement with the

⁶⁹ See Appendix 8.

⁷⁰ See Appendix 10.

anecdotal utility of such a condition.

Recommendation:

Further discussion and analysis should take place between the judiciary, the Courts Service, the Irish Prison Service and the Department of Justice in relation to the manner in which cash bail is utilised as a condition of bail and whether it should be abolished.

ARREST FOR BREACH OF BAIL CONDITIONS

Garda records indicate that on 06 July 2011, Mr Gridziuska was stopped by Gardaí at 00.30am, in breach of the 11pm curfew which had been imposed on him as a condition of his bail. No action was taken by the Gardaí in relation to this breach. This is attributed to the limited power of arrest available to An Garda Síochána where there has been a breach of bail conditions.

Section 6(10) of the Bail Act 1997 provides a power of arrest for a person on bail in the following terms:

“(10) Where a member of the Garda Síochána –

(a) with reasonable cause, suspects that a person who has been admitted to bail –

(i) is about to contravene any of the conditions of the recognisance,

(ii) is in the act of contravening any of the conditions of the recognisance, or

(iii) has contravened any of the conditions of the recognisance,

and

(b) considers that it is necessary to arrest the person immediately to prevent harm to, interference with or intimidation of the person in respect of whom the offence is alleged to have been committed, a witness to the offence alleged or to any other person specified in a condition referred to in subparagraphs (v) or (vi) of paragraph (b) of subsection (1), he or she may arrest the person without warrant.” [Emphasis added]

The conditions which trigger the power of arrest are highly restrictive and only relate to one limb of the *O’Callaghan* test, namely the interference with an injured party or witness.

This is so as the power of arrest is strictly limited to situations where it is

“immediately” necessary to prevent harm to, interference with, or intimidation of defined individuals.

A second power of arrest is contained at s6(5) which states:

*“(5) Where a person charged with an offence is admitted to bail by a court on his or her entering into a recognisance with or without a surety or sureties, the court may, on the application to it in that behalf by a surety or sureties of the accused person or of a member of the Garda Síochána and **upon information being made in writing and on oath** by or on behalf of such surety or member that the accused **is about to contravene** any of the conditions of the recognisance, issue a warrant for the arrest of the accused person.”*

[Emphasis added]

Once again, this power of arrest is severely restricted, requiring a member of An Garda Síochána to make an application to Court where they believe an accused **is about to** contravene a condition of their bail.

A third power of arrest is contained at s9(4) which states:

“(4) The court may, on the application of a member of the Garda Síochána and on information being made in writing and on oath by or on behalf of the member that the person has contravened a condition of the recognisance (other than the condition referred to in subsection (1) that he or she appear before a specified court on a specified date at a specified place), issue a warrant for the arrest of the person.”

Both section 6(5) and section 9(4) are administratively cumbersome. While the legislation requires a Garda to provide his or her information “*in writing and on oath*” in practice this is very often by affidavit and evidence on oath. This requires the

engagement of a lawyer to draft the affidavit, the convening of a Court (perhaps out of hours), the presence of the Garda member in Court followed by the issuing of an arrest warrant by a Judge which is drawn up by a registrar and then given to the Garda who is then tasked with trying to find the accused. This can be a slow process which at a minimum will take hours to complete and can take days or weeks.

The Courts Service advocates for an expansion of the power of arrest for breach of bail conditions, referring to the current process of obtaining a warrant as being “*an unnecessary use of Court time.*”⁷¹ I agree.

It is entirely unsatisfactory that a Garda who meets an accused on bail, in public at a time outside his curfew or in a location where he is bailed to stay away from or in an airport about to depart the jurisdiction has no power to arrest the accused to bring him before the Court that granted him bail.

At present the legislation does not consider a failure to sign on, failure to obey curfews, failure to comply with a condition not to leave the jurisdiction or breach of other conditions serious enough to warrant any such power of arrest.

I recommend that the legislation be amended along the following lines:

“A member of An Garda Síochána may arrest without warrant a person who s/he reasonably suspects has breached, or is about to breach a term of their bail in order to bring them before the Court forthwith for the purposes of an application for the revocation of bail or the amendment of bail conditions.”

⁷¹ See Appendix 4

Recommendation:

A more expansive power of arrest should be added to the Bail Act 1997 along the following lines:

“A member of An Garda Síochána may arrest without warrant a person who s/he reasonably suspects has breached, or is about to breach a term of their bail in order to bring them before the Court forthwith for the purposes of an application for the revocation of bail or the amendment of bail conditions.”

SCHEDULED OFFENCES UNDER THE BAIL ACT 1997

At present, there are a number of scheduled offences contained in the Bail Act 1997 in relation to which the Gardaí are entitled to make a s2A objection to bail. These offences are “serious offences” which carry sentences of at least 5 years’ imprisonment. The ODPP in their submission noted that they have previously written to the Department of Justice in relation to same, seeking to expand the offences contained in this Schedule.

Similarly, the IPS note the harm of persistent low-level offending, suggesting that multiple summary offences should in some cases be treated similar to serious offences.⁷² An Garda Síochána were particularly concerned with the impact of domestic violence offences on victims and the difficulties in objecting to bail in such cases which often do not fall within the jurisdiction of s2A.⁷³ In addition, the ODPP were of the view that several of the offences contained in the Domestic Violence Act 2018 should be included as scheduled offences. The following offences were suggested as meriting inclusion in the Schedule:

- Section 33 of the Domestic Violence Act 2018 - breach of a domestic violence court order.
- Section 38 of the Domestic Violence Act 2018 - forced marriage.
- Section 39 of the Domestic Violence Act 2018 - coercive control.
- Section 41 of the Criminal Justice Act 1999 - intimidation of witnesses and jurors.

⁷² See Appendix 8.

⁷³ See Appendix 3.

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- Section 53 of the Road Traffic Act 1961 - dangerous driving. This is only a scheduled offence if it causes death or serious bodily harm. At present, objections can only be made under the O'Callaghan test as s53 is summary only unless death or serious harm occurs.
 - Breaches of obligations pursuant to the sex offenders register.

As noted in Chapter 1 of this Report, the jurisdiction for s2A objections is derived from a constitutional amendment at Article 40.4.6 of Bunreacht na hÉireann which allows for the provision in law for the refusal of bail by a Court to a person charged with a “serious offence” to prevent the commission of a further “serious offence” by that person. At present, the 1997 Act defines a serious offence as one for which a sentence of at least 5 years’ imprisonment applies.

Two of the suggested offences above are summary only.⁷⁴ In order for them to be constitutionally included in the scheduled offences to the 1997 Act, the legislature would have to amend each offence to impose a sentence of 5 years’ imprisonment or more.

In relation to the particular offences proposed to be incorporated into the Schedule to the 1997 Act, I note several steps which have been taken in recent times to eradicate gender-based and domestic violence, including:

- (i) The ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (also known as the Istanbul Convention) in March 2019. It is noted that this

⁷⁴ Section 33 of the Domestic Violence Act 2018 and section 53 of the Road Traffic Act 1961.

Convention specifically requires that States implement legislative measures to “prevent, investigate, punish and provide reparation” for acts of gender-based or domestic violence;

- (ii) The publication of the Government’s strategy to tackle gender-based and domestic violence, “Government publishes Zero Tolerance strategy to tackle domestic, sexual and gender-based violence” from the Department of An Taoiseach, dated 28 June 2022;
- (iii) The establishment of gender-based violence service CUAN, by way of the Domestic, Sexual and Gender-Based Violence Agency Act 2023.

Given the pervasive nature of gender-based violence and Ireland’s obligations under the Istanbul Convention, the inclusion of the offences contained in the 2018 Act as scheduled offences for the purposes of the 1997 Act appears to be appropriate so long as the sentence attached to same are amended to allow for their inclusion in the definition of “serious offence”.

Recommendation:

The following offence should be amended to increase the maximum penalty on conviction to 5 years imprisonment if tried on indictment and should thereafter be added as scheduled offences to the Bail Act 1997:

- Section 33 of the Domestic Violence Act 2018 - breach of a domestic violence court order.

The following offences should added be as scheduled offences to the Bail Act 1997:

- Section 38 of the Domestic Violence Act 2018 - forced marriage.
 - Section 39 of the Domestic Violence Act 2018 - coercive control.
 - Section 41 of the Criminal Justice Act 1999 - intimidation of witnesses and jurors.
 - Section 12(1) of the Sex Offenders Act 2001 – Breach of notification requirements by a sex offender
-

PROSECUTION APPEALS AGAINST THE GRANTING OF BAIL

Where an accused is refused bail, they are entitled to a *de novo* appeal before the High Court. Appeals of this nature are very common. The position in relation to the right of the prosecution to appeal against the granting of bail is less straightforward.

In relation to bail granted in the District Court, s28(3) of the Criminal Procedure Act 1967 allows the prosecution to appeal against a decision to grant bail. The ODPP reports that this provision is almost never utilised. In particular, they submitted that they rely on An Garda Síochána to notify them of situations where bail has been granted in spite of strenuous objections but the number of such notifications is “currently negligible.”

In relation to bail granted in the Circuit Court, there is no express statutory provision which allows the prosecution to appeal. The ODPP note that the decision in *Roche v. Governor of Cloverhill Prison* [2014] IESC 53 makes clear that the High Court has full *de novo* jurisdiction in all bail appeals, however they indicate that this “lacuna” might better be dealt with by way of legislative amendment.⁷⁵

In relation to appeals from the District Court, I note that the ODPP have voiced reliance on An Garda Síochána to alert them to cases where appeals to the High Court against the granting of bail in the District Court should be pursued. Earlier in this Chapter, I recommended that legal proceedings be conducted exclusively by lawyers. The question of whether an appeal should be pursued is a question of law. Requiring all legal proceedings to be conducted exclusively by lawyers would ensure that this

⁷⁵ See Appendix 5.

issue of law is considered by a lawyer (rather than a Garda) at the conclusion of bail applications. The current system of placing reliance on the Gardaí to discharge the function of determining whether an appeal is appropriate presents an additional burden on a body whose members are not trained lawyers and whose function is the prevention and investigation of crime.

In relation to appeals from the Circuit Court, I endorse the view of the ODPP in this regard and am of the view that a clear legislative provision allowing for prosecution appeals would likely lead to an increase in such appeals being pursued in appropriate cases.

Recommendation:

A legislative provision should be introduced to allow the prosecution to appeal against the granting of bail in the Circuit Court.

CONCLUSIONS ON REFORM

1. The Irish bail laws already go as far as is constitutionally permissible;
2. Any fundamental change to the law as it stands would require a constitutional amendment;
3. None of the major organisations within the system – An Garda Síochána, the ODPP, the Courts Service, the Bar Council or the Law Society are advocating for a fundamental change in the law as it stands;
4. Any fundamental change in the law as it stands resulting in the refusal of bail to many more accused would be unworkable without an enormous increase in the number of prison places currently available;
5. While very significant efforts are being made to improve the efficacy of the bail system as it stands, at present the system operates in a cumbersome, inefficient, inconsistent and haphazard manner;
6. The pace of reform continues to be too slow;
7. The risk of an accused on bail committing a very serious offence up to including the causing of the death of another citizen can never be eliminated. However, this risk can be significantly reduced by improving the manner in which the current system operates;
8. Should all (or even some) of the reforms set out in this report be implemented the risk of a future tragedy involving some or all of the “*series of failures*” surrounding the death of Shane O’ Farrell will be significantly reduced.

ACKNOWLEDGEMENTS

I would like to sincerely thank all of those who contributed to this report and provided views and insights into the system and proposed reforms. The written submissions received from interested parties were of great assistance to me in the drafting of this report; the co-operation of the O' Farrell family and the exceptional quality of their submission and the appendices provided by them were invaluable to me. In particular, I would like to acknowledge Gemma McLoughlin-Burke BL for her hard work and dedication to this project.

FULL LIST OF RECOMMENDATIONS

1. Significant and immediate investment should be made in the information sharing systems for both An Garda Síochána and the Courts Service. The accurate recording and sharing of information between these bodies should be prioritised.
2. An adult bail supervision scheme should be implemented, incorporating a wrap-around scheme with the necessary supports and services to ensure the proper management of recidivist offenders.
3. Legislation should be introduced providing for house arrest (i) limited to cases where bail would otherwise be refused, (ii) including a proportionality test and (iii) allowing any party to apply for its imposition as a bail condition.
4. Further consideration should be given to the manner in which the system of electronic tagging is intended to operate and whether such a system would survive judicial scrutiny. If such a system is to be implemented the current legislation providing for electronic tagging should be amended to (i) limit its application to cases where bail would otherwise be refused, (ii) include a proportionality test and (iii) allow any party to apply for its imposition as a bail condition.
5. Current bail legislation should be amended to significantly expand the conditions which may be attached to the granting of bail to include positive obligations such as the attendance at counselling, addiction or employment services where same are available. Positive obligations should only be imposed where an evidential basis exists for their imposition and consent of the accused

should be sought.

6. An amendment should be made to the District Court Rules to provide that fine-only matters shall proceed in the absence of the accused where:
 - i. The Court is satisfied that the accused was duly served or made aware of the time and place of the proceedings;
 - ii. There are no exceptional circumstances which would result in inordinate unfairness to the accused.

An accused person may later make an application to have any determination of the Court set aside on the basis that they were not been served with the proceedings or were not aware of the time and date of the proceedings.

7. The responsibility for the prosecution of offences should be removed from the Gardaí and all future Court proceedings should be conducted by legal professionals. I note that a Summary Prosecution Reform Steering Committee led by the Depart of the Taoiseach is currently considering this issue.
8. Legislation should be introduced allowing the member in charge of a Garda station to grant bail to an accused who has taken a bench warrant where there is no Garda objection to bail.
9. Legislation should be introduced allowing the member in charge of a Garda station to attach conditions to a station bail bond.

This legislation should set out the factors which must be considered by the member in charge in deciding whether to grant station bail.

10. The Bail Act 1997 should be amended to provide that a member of Garda

Síochána who reasonably suspects that a person has breached a condition of their bail bond may arrest them without warrant in order to bring them before the Court forthwith for the purposes of an application for the revocation of bail or the amendment of bail conditions.

11. The following offence should be amended to increase the maximum penalty on conviction to 5 years imprisonment if tried on indictment and should thereafter be added as a scheduled offence to the Bail Act 1997:

- Section 33 of the Domestic Violence Act 2018 - breach of a domestic violence court order.

12. The following offences should be added as scheduled offences to the Bail Act 1997:

- Section 38 of the Domestic Violence Act 2018 – forced marriage.
- Section 39 of the Domestic Violence Act 2018 – coercive control.
- Section 41 of the Criminal Justice Act 1999 – intimidation of witnesses and jurors.
- Section 12(1) of the Sex Offenders Act 2001 – Breach of notification requirements by a sex offender

13. A legislative provision should be introduced to allow the prosecution to appeal against the granting of bail in the Circuit Court.

14. Guidelines should be developed with the judiciary in relation to the processing of bail applications, particularly where they relate to the execution of bench warrants and the fixing of recognisance.

15. Further discussion and analysis should take place between the judiciary, the Courts Service, the Irish Prison Service and the Department of Justice in relation to the manner in which cash bail is utilised as a condition of bail and whether it should be abolished.

APPENDICES TO REPORT

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3.	An Garda Síochána report, An Assessment of the Efficacy of the Irish Bail Laws, 2025	35
4.	Submission of the Courts Service dated 23 July 2025 and appendices x3	9
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6.	Submission of the Bar Council dated 1 August 2025	4
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8.	Irish Prison Service Presentation on Bail Reform, undated	7
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11.	Submission of Extern dated 7 August 2025	2
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Lorcan Staines SC

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Via email to lorcanstaines@lawlibrary.ie

11 July 2025

Dear Mr Staines,

We refer to your letter of 20 June 2025 in which you invite us to make representations to you in relation to the assessment you have been asked to conduct. We are doing so by way of this letter and the provision of accompanying relevant supporting documents (which will be delivered by hand to the address above). We have tried not to overburden you with documentation and to provide key documents. If there is anything below, we have mentioned which you require additional information on please let us know.

In Part 1 of this letter, we are first setting out an overview highlighting some key issues, in Part 2 we will then make submissions under four headings and finally in Part 3 we make some final concluding remarks in respect of some other matters.

I. Overview/key issues

Bail is a very important issue. As you know, Shane was killed by a man who was in continuous breach of bail conditions from numerous District and Circuit courts over two years. The system, as it stands, places far too much emphasis on the presumption of innocence and insufficient consideration on the protection of society. In our view current bail laws are not providing adequate protection to the public, a reformed system must better account for the risks posed by suspects who have shown a propensity for reoffending. Repeat offenders (including for summary matters), should face stricter bail conditions or be denied bail altogether.

The below submissions are made to you based on the facts we have available to us and from our personal perspective. It is difficult to recommend and comment on bail reform in a vacuum and absent a consideration of how we interacted with the "system". The submissions made and information enclosed are provided to you on this basis as we note that you do *"not need to establish any facts since the relevant facts are already known"*. We hope that our submission is helpful as an example of how an individual interacted with the system over a two-year period, before he killed.

In our view, there appears to have been a lot of failing to monitor bail, failure to object to bail, failure regarding the implementation of bail conditions, and failure to return this criminal to court to seek to have bail revoked. Over a two-year period, the perpetrator/Zigimantas Gridziuska was on bail and was before the courts having committed various crimes, having bail conditions imposed and, in some cases, entering a guilty plea. These conditions were breached again and again and he continued to reoffend while on bail. The Gardai knew that he was breaching those bail conditions but bail wasn't revoked and they failed to act. Only on one occasion on the 26 October 2010, did a Drogheda based garda issue a warrant for a breach of bail, but it would appear he got bail again the next day. Again and again, bail wasn't objected to nor was there a request to the court to revoke bail. It is not clear if this was executed.

Where bail conditions are breached and no steps are taken requires in our submission further action. If bail had been revoked, on any one of numerous occasions, we believe the perpetrator wouldn't have been free to kill Shane. While bail laws are essential and we note the presumption of innocence, there must be some consequence where there is a breach of conditions imposed by a judge.

Often bail is granted in summary matters, however where Gardai interacts with the same individuals and they are or should be aware of their bail conditions, there needs to be positive action. This is important for our society and ensuring safety within the community.

As reflected in your Terms of Reference, there is a question of how the state "should" respond to a recidivist offender who breaches summary laws and bail conditions but secondly is the issue of how the law as it stands is being implemented. It would appear to us that if the law had been applied and implemented there would have been a different outcome for Shane as Gridziuska would have been in custody, instead of being at liberty to kill. However, it is clear the law as it stands is not being implemented or is not working and thereby requires reform.

II. Submissions in relation to bail

We make our submissions in relation to bail under the following headings and provide detail where relevant.

- 1. Delay between charge and trial/sentencing resulting in prolonged periods of bail**
- 2. The circumstances of the granting of bail and when full information is not being given to the courts**
- 3. Breaches of bail conditions**
- 4. Offending while on bail**
- 5. Convictions and sentencing when offences have been committed on bail**

We will deal with each in turn below:

- 1. Delay between charge and trial/sentencing resulting in prolonged periods of bail**

Exhibit 1, illustrates one example where it took two years from the time of the arrest, charge and caution, to the trial taking place—meanwhile, Gridziuska committed 30 offences during that period, getting bail again and again, had killed Shane, yet continued getting bail and reoffending.

He committed a theft between March 2009 and August 2009 (€3625.00 of electrical equipment). He received bail on 18 December 2009 and this was continued on 27 January 2010 and entered a plea of guilty 12 October 2010, for sentencing on 11 January 2011. Sentencing on 11 January 2011 was adjourned for a year and he was continued on bail, with permission to re-enter anywhere he/Judge O'Hagan was on the Circuit. See full account of what Judge O'Hagan said on p.12 & 13. Despite committing a further eleven offences, he was not returned and killed Shane on 2 August 2011. This offence of Theft from 2009 was not dealt with until 11 January 2012 (**exhibit 2**) 18 December 2009; Possession of stolen property from Harvey Norman., pleaded guilty on 12 October 2010, dealt with 11 January 2012.

Other examples of offences which took place in 2010 which were not dealt with until Jan 2012:

- Theft of St. Anthony Poor Box; on 20 January 2010, convicted on 11 January 2012. (Almost two years later) **Exhibit 3**
- Theft of Perfume/Blacks chemist on 11 March 2010---this conviction on 11 January 2012. **Exhibit 4**
- Theft of Computer; 1 July 2010, conviction for this was 11 January 2012. **Exhibit 5**

During this time, he was committing other offences and bail was not objected to and no effort was made to seek to revoke bail.

In contrast, in Northern Ireland, there is a much speedier process. For example, when Gridziuska committed three theft related offences in Northern Ireland on the 14 July 2011, (two weeks before he killed Shane) he was held overnight in the police barracks, and brought to Newry Magistrate' Court the next day and convicted. **See Exhibit 6.**

Again, on 13 and 14 September 2011, Gridziuska had two consecutive days of theft in Belfast (six weeks after he killed Shane). He was convicted on 15 September 2011 and jailed in Maghaberry prison. See Court Records. **Exhibit 7.**

Charge, caution and bringing forward a trial, is a matter not only for the Court Service, but for the Gardai. If the police can do it in Northern Ireland in a timely manner, they should be able to do it here. Very often when someone commits an offence here, they are given Station Bail, (we will address Station separately) instead of holding the accused in the Garda barracks overnight and brought to the nearest court with jurisdiction the next day.

2. The circumstances of the granting of bail and when full information is not being given to the courts

The duty of the prosecution is to bring the facts to the court:

“It is the role of the prosecuting authority to bring to the attention of the court any convictions, bail or court orders of which the court needs to be aware of prior to reaching a decision on the case before the court”¹

Gardai generally prosecutes at District Court level. In our experience in researching what happened to Shane, it is clear that all facts are not brought to the attention of the court. The court does not appear to get the full picture of breaches of bail or previous convictions; therefore, the court does not make an informed decision. It certainly appears to us that had courts being presented with a completed, relevant and factual picture, bail may not have been granted again or sentencing may not have been adjourned.

27 January 2010

Bail was granted with conditions in relation to 5 theft related offences from 2009 on 27 January 2010. See discovery record. (**Note GSOC Report, p. 7. Exhibit 8**, which states *“As the offences dated from 2009 and 2010 Mr. Gridziuska was on bail with this required condition for much of 2010. When the case was adjourned until the 11th of January 2012 the same bonds continued and therefore the condition continued to require Mr. Gridziuska not to commit any offence not just theft offences as required by Judge O’Hagan”*. When the case was adjourned to 11 January 2012 the same bonds continued. For the next two years, the full facts were not brought to the court by the Gardai, the court repeatedly made a decision to grant bail, but it was not an informed decision. Between 27 January 2010 and killing Shane on the 2 August 2011, Gridziuska had committed 30 offences and was granted bail on each occasion.

See below list of Offences between 27 January 2010 - 2 August 2011 committed while on bail

- (a) **9 June 2010** Carrickmacross DC Heroin, 4 heroin offences and 4 theft offences -no mention he was on bail at the time, see Report for Minister by Court Service into their “Error” Sentencing should have been consecutive. **Exhibit 9.** (also another heroin offence on 24 May 2010-see conditions of Bail 16 February 2011) **Exhibit 10.**
- (b) **23 June 2010**, bail granted, sent forward on guilty plea, yet reoffended a week later;

¹ see email From Court Service to Dept of Justice, 20/06/2018

- (c) **1 July 2010** he had a Theft offence and got Station Bail. Note Recognisance form signed by Zigimantas Gridziuska on 2 July 2010, "I shall not commit any offence while on bail", **Exhibit 5** and See **exhibit. Doc, 386**.
- (d) **26 July 2010**, He then appeared before Monaghan District Court, (in relation to theft of 1 July 2010) where he was granted bail. Between 1 July 2010, when he committed the theft and 26 July 2010 Monaghan District Court, he had reoffended, on 5th July with 3 road traffic offences; (parked on hatched markings, no tax, no insurance) and committed a further offence on 16 July (road traffic offences) yet on 26 July Monaghan District Court he was remanded on continuing bail to 4 October 2010.
- (e) **4 October 2010**, remanded on continuing bail to 22 November 2010 yet, had a speeding offence on 11 August 2010 and heroin offence on 20 September 2010.
- (f) **5 October 2010**, a Probation/Community Service Report was submitted to Monaghan Circuit court. The report on this occasion stated that Gridziuska was not suitable for Community Service. The court adjourned the matter to 11 January 2011, for an updated report. On that date the court was informed by the Probation Service that it was unable to provide a comprehensive assessment as the accused had only attended one of three scheduled appointments.
- (g) **22 November 2010**, a body warrant issued, as not in court—remanded on continuing bail to 6 December 2010. (he had been jailed on 5 November 2010 in relation to another theft offence)
- (h) **6 Oct 2010**, court cancelled, remanded on continuing bail to the 20 December 2010.
- (i) **20 Dec 2010**, Trial Order, consent to bail. multi No objection to bail, despite reoffending on 8 October 2010 (theft), and theft 4 November 2011, no application to seek to have bail revoked. Facts not brought to court.
- (j) **20 December 2010**, Consent to bail, Trial Order Multi, to Monaghan Circuit Court 11 January 2011.
- (k) **11 January 2011** - Of particular note is January 2011 where full information was not provided and an adjournment led to continuing bail and no sentencing. On 11 January 2011, Monaghan Circuit Court, facts not brought to the court, Judge not told he had been reoffending while on existing bail. Court not corrected by prosecution, see p. 12, line 29 and 30 of transcript of Judge O'Hagan. See enclosed transcript. Full facts not given to the court. Judge not corrected by prosecution, where Judge believed that there were no further convictions, *"he has been free of convictions apparently, since the last occasion that this happened, which is July 2010"*. This was not correct, see p. 12 of Transcript. In fact, there were three convictions and three offences. He was not informed, that since the plea of guilty on the 12 October, he had reoffended on 4 November 2010 (for which he later received six months). The judge made a decision to adjourn sentencing but it was not an informed decision. Gridziuska had also

committed 21 offences while on bail and was in breach of all bail conditions, set at the various District and Circuit Courts, over a two-year period, the court was not informed of this by the prosecution. **Exhibit 11.**

- (l) **16 February 2011** - Court not informed that sentence for 4 counts of possession of heroin from Carrickmacross DC from 9 June 2010 had not been served. This information stays on the PULSE system until it reaches a conclusion so Gardai are fully aware of this. Court not informed that Gridziuska was in breach of Order of Judge O'Hagan of 11 January 2011 and was reoffending (26 January 2011) and in breach of bail conditions set by the various courts. Exhibit 10.

- (m) **9 May 2011**, Ardee District Court, 5 counts of theft; **Exhibit 12** the Court was not informed:

- (i) Order of Judge O'Hagan on 11 January 2011—to stay out of trouble, permission to re-enter anywhere he/Judge O'Hagan was on the Circuit. This is what Judge O'Hagan had said on 11 January 2011 at Monaghan Circuit court.

“What I propose to do is this; I’m going to adjourn this case to this time next year. He has been free of convictions, apparently, since the last occasion that this happened, which is July 2010. (Not true, he had three convictions and three offences) I am advised that he is clean of drugs since November of last year. (Evidence of drug use in the car after November) And what I propose to do is this; I’m going to adjourn this case to January 2012. If he keeps out of trouble and is not convicted of any theft offences between now and January 2012 of the same as he has been charged with here, that is a clean sheet from today on; if something happens from today on, he is to be brought before me for sentence...If he keeps his slate clean and stays out of trouble between now and this time next year, I will give him a chance, but it's completely up to him...If he does get into trouble again, it will come straight before me, anywhere on the Circuit, wherever I may be, you might even get a trip to Donegal, wherever it may be, bring it in front of me and I will deal with Gridziuska, I’m giving him this chance, and this chance only. If he messes it up, so be it. And I can assure you, Gridziuska, if you do mess this one up and you do get convicted, you will be going to prison; not you might, you will be going to prison” Exhibit 11.

- (ii) He committed 11 offences following this court sitting, but was not returned to J O'Hagan anywhere he was on the Circuit.

(iii) the conditions of bail set out on 16 February 2011 some of which had been breached. e.g, to abstain from alcohol and illegal drugs (this was theft of 5 days of alcohol), breaching curfew, failure to sign on daily (there were gaps of 5 and 7 days, and no signature since 4 April 2011). See Bail sign on book. etc. and on 6 April 2011 evidence of drug use in car and no tax.

(iv) Court not informed of him being on bail from 8 March 2011 Cavan Circuit Court. There was again, a failure by the prosecution/Gardai to bring the facts to the court.

(n) **4 August 2011** when Gridziuska was being charged with the hit and run offences arising on 2 August 2011, the Gardai did not object to bail. **Exhibit 13**. The circumstances in which Gardai consent to bail in such circumstances, considering the below warrant investigation. At this point, Gridziuska was:

- On bail from Monaghan Circuit Court, (Jan 2011) not to commit any offences, and permission to re-enter anywhere he was on the Circuit.
- On Bail from Carrickmacross District Court 16 February 2011.
- On bail from Cavan Circuit Court, 8 March 2011.
- On a suspended Sentence and Bond to keep the Peace, from Ardee DC 9 May 2011 (and a Suspended sentence in Northern Ireland)

(o) **24 August 2011**, (3 weeks after he killed Shane) Gridziuska committed a theft offence in Carrickmacross, theft of alcohol. and p. 16, no 20& 21 of GSOC report. At this stage, as above, Gridziuska was;

- On bail in relation to the hit-and run offences
- On bail from Monaghan Circuit Court, (Jan 2011) not to commit any offences, and permission to re-enter anywhere he was on the Circuit.
- On Bail from Carrickmacross District Court 16 February 2011.
- On bail from Cavan Circuit Court, 8 March 2011.
- Serving a suspended Sentence and Bond to keep the Peace, from Ardee DC 9 May 2011. (On Suspended Sentence in Northern Ireland)
- He was also on full temporary release from prison. Prior to his release date of 29/08/2011, he received full temporary release on 23/08/2011. This was for a 7 day fine –see email from the Irish Prison Service. The theft offence was committed the first day on Temporary Release.

We understand that Gridziuska should have been charged and returned to prison. Instead, An Garda Siochana did not take any action. On the 12 October 2011, this offence came before Judge Sean McBride at Carrickmacross District Court. Superintendent Noel Cunningham was prosecuting. Superintendent Cunningham,

failed to bring any of the above facts to the court and the Judge adjourned the case for a month, to consider community service. see enclosed. **Exhibit 14.**

What is astonishing, is that this was the Superintendent who was prosecuting who was or should have been fully aware of Gridziuska's criminal history and breaches of his bail conditions. Also, according to the Recommendations made by Judge Reilly, in the Reilly Report 2010, if a person on Full Temporary Release reoffends, they would be immediately charged and returned to prison. This was supposedly implemented—but it obviously hasn't been. **Exhibit 15.**

3. Breaches of bail conditions

In our submission there appear to be no consequences to breach of bail conditions. While there is a requirement for the presumption of innocence, where there is a flagrant and repeated breach of bail conditions, whether for summary offences or otherwise, there needs to be positive action. Gridziuska flagrantly breached conditions with no consequence – he disobeyed curfews, he left the jurisdiction and he committed further offences. It was rarely taken on board in sentencing also. Below are examples of offending and breaches of bail conditions.

Some of these offences are referred to above in the context of delay etc but are presented and repeated here with emphasis on the within point and to illustrate that breaches of bail had no effect.

1. On **18 December 2009**—Theft from Bose Factory, theft of Electrical Equipment. See Bail conditions, **Record no. 156.** This offence was not dealt with until January 2012—Five months after he killed Shane.
2. **27 January 2010** Carrickmacross DC, five offences, pleaded guilty to one, received community service. (reoffended with eight offenses during Community Service) Continued on Bail in relation to the other four offences. Conditions mentioned, but not listed. **Exhibit 16**
3. **17 December 2010**, Gridziuska was released on bail. See Conditions; in Newspaper "The Anglo Celt" dated Thur 23 Dec, 2010. (Although, letter from IPS, states he was released on 26 November 2010). They include, obey a curfew between 11pm and 7am, he does not leave the jurisdiction until the case has been dealt with, and sign on daily at Carrickmacross Garda Station between 9am and 9pm. **Exhibit 17**
 - This case was not dealt with until 11 January 2012—five months after he had killed Shane.

- Gridziuska breached these bail conditions on a regular basis, failing to sign on as ordered, see bail sign-on book. **Exhibit 18**. In breach of a curfew at night - on 6 July 2011, he was stopped at 00.30 by Gardai, who failed to act. **See record no. 319**.
 - Also on 14 July 2011, he was held overnight in police barracks in Newry N.I. See Yellow tab Newry N.I. the PSNI had informed the Gardai and a Fax was sent from the Gardai to the PSNI, but the Gardai, failed to act on the breaches of Bail, to seek a warrant and return him to court. **Exhibit 6**, with See **Red Tab PSNI letter**.
 - Gridziuska, again left the jurisdiction and was jailed in Maghaberry Prison Northern Ireland for two consecutive days of theft in Belfast, 13 & 14 September 2011. He was imprisoned in N.I, for 5 days in September 2011 yet no revocation of bail. See **Exhibit 7**.
4. **11 January 2011** - Bail Conditions/Order of Monaghan Circuit Court. Judge O'Hagan said, *"If he keeps out of trouble and is not convicted of any theft offences between now and January 2012, that is a clean sheet from today on; if something happens from today on, he is to be brought before me for sentence" ... "If he keeps his slate clean and stays out of trouble between now and this time next year.* **Exhibit 11**
- Following this direction by Judge O'Hagan, Gridziuska committed 11 offences, 9 of which were theft related offences, before he killed Shane. (he committed seven more afterwards). He had convictions for 15 offences - 16 February, 23 February (2 offences), 8 March, 9 May (5 theft offences), 11 May, 8 June, 15 July (three offences), 25 July 2011.
- Our family were informed by GSOC, that the outcome of this Court sitting, was not recorded on the PULSE System, by the Sergeant Martin. (We were informed, that the responsibility for recording the outcome of the Circuit Court, is the responsibility of the Garda. In the District Court the responsibility is of the Court Service). We have since been informed, that "Garda Legal" at Garda HQ, confirmed that the outcome of Monaghan Circuit court of the January 2011, was recorded on PULSE on 22 February at 10.26 am by Garda James Gallagher. Either way, it was not recorded onto the PULSE system, when it should have been. **Exhibit 19**.
5. **16 February 2011** - Bail Conditions on 16 February Carrickmacross District Court. In Carrickmacross DC on 16 February 2011 he received a six-month sentence (appealed it and it was adjourned twice 7 June and Oct) and dealt with in Jan 2012. As he was appealing, he received bail with conditions; **Exhibit 10**
- (i) curfew 11pm-to-7am; (he was pulled up on 6 July 2011, at 00.30 by Gardai, no action taken by Gardai), **Record no. 319 29 June 2011**,

Gridziuska stopped at midnight. Yet curfew from 11pm. Record no. 317.

- (ii) sign on daily; Intermittent signing, with gaps of 5 days and no signature after the 4 April 2011. See sign- On- Book. **Exhibit 19.**
- (iii) abstain from alcohol and illegal drugs; Theft of alcohol x 5 days on 30 April, 2, 3, 4 and 5 May 2011 and 25 May 2011 and 24 August 2011. On the 6 April 2011, there was evidence of Drug use in vehicle. **Record no. 319.**
- (iv) Do not leave jurisdiction or apply for travel documents during proceedings; Gridziuska was arrested in Northern Ireland, on the 14 July 2011 re theft related offences x 3 and held overnight in Police Barricks, PSNI notified the AGS, but they failed to seek mutual assistance and arrange to return him to Judge O'Hagan as requested by him on 11 January 2011. The gardai should go back to the court who issued the bail condition, say there has been a breach, the court will then issue a warrant. Which should be enforced by the gardai. The person should then be arrested and brought back to that court and then the court will determine what should be done. **Exhibit 6.**
- (v) Also left Jurisdiction on 13 and 14 September 2011, with Theft in Belfast. N.I. **Exhibit 7.**

Despite breaching all bail conditions, AGS failed to seek to have his Bail revoked.

6. **9 May 2011, Ardee DC. (5 counts of theft).** Due to the facts not been brought to the Court (which is accepted), Gridziuska received a four-month suspended sentence and he signed a bond to keep the peace. **Exhibit 12, See Court Order No. 5.** Despite the suspended sentence and peace bond on the 9 May 2011 Gridziuska committed another theft offence two weeks later on the 25 May 2011. As you will see, despite the offence taking place and been reported on the 25 May 2011, he was not charged until 19 October 2011, and convicted on 17 November 2011, where again, the prosecution failed to bring the facts to the court. It is unclear to us why the delay between it being reported on 25 May and him being charged on 19 October 2011—when was CCTV obtained and viewed, statements taken etc. **Exhibit 20.**

As above, on 14 July 2011; Gridziuska was arrested in Northern Ireland in relation to three theft related offences. Despite the Bail Conditions from Virginia DC, 17 December 2010 and Carrickmacross DC 16 February 2011, stating do not leave the jurisdiction—this was breached and the Gardai knew it. The PSNI have confirmed in writing that they contacted the Gardai. **Exhibit.6,** with Letter attached.

7. **Special sitting in Dundalk DC, 4 August 2011 (following hit and run on 2 August 2011)**

Garda stated there was no objection to bail. Conditions of bail, € 500 and Sign on Monday, Wednesday and Friday. Gridziuska did not comply with the conditions of bail. (See P. 15, no. 16 & 17, of GSOC s.103 report Exhibit 8) and **Exhibit 13**.

Gardai failed to act on the breach of bail conditions. The GSOC Report states:

"Gridziuska was in custody for five days in Northern Ireland he could not sign on at Carrickmacross garda station as required by the order of the DC made on 4 August 2011 in relation to the driving offences arising from the collision. To be precise, the 14 of September 2011 was a Wednesday, the 16 of September 2011 was a Friday and the 19 of September 2011 was a Monday. Gridziuska did not sign on at Carrickmacross garda station on those days as he was in custody in Northern Ireland. The last time he signed on was the 12 of September and the next time he signed on was Tuesday 20 September 2011.

No inquiries were made about Gridziuska's failure to sign on by the Gardai during that period as far as GSOC has been able to establish.

It also transpired that Gridziuska was not honouring the terms of the DC Order of the 4 August 2011 to sign on Monday, Wednesday and Friday in other ways. Examination of the garda records showed that Gridziuska signed on at the station on the 18 of August 2011, a Thursday; on the 27 August 2011, a Saturday; on 20 of September 2011, a Tuesday. He failed to sign on Friday 2 September 2011." (first paragraph, p. 16 of GSOC report)

"No application to revoke bail was made by the gardai on the 28 September 2011 when the case in relation to the driving offences arising from the collision with Mr O'Farrell was up for mention in the district court. The case was adjourned on the same terms and conditions until the 2 November 2011 and Gridziuska was continued on bail." 16, no. 18 of GSOC Report.

*"GSOC found that Gridziuska continued not to honour his bail conditions after the court appearance on the 28 September 2011. He signed on 1 October 2011, a Saturday and on 4 October 2011, a Tuesday. No application was made to bring him back to the DC to inform the Judge of his failure to comply with the conditions set on the 4 August 2011 by Judge Hamill". P. 16, no. 19 of GSOC s.101 report. **Exhibit. 8***

As you will note, p15 of GSOC report states that the conditions imposed were appropriate in that, if complied with correctly, they would have prevented Gridziuska leaving the jurisdiction (this is not true—Carrickmacross is 9 kilometres from the border, where cars come and go without out any checks. A driving licence can be used to then get a ferry to England). He left the jurisdiction six weeks later with two consecutive days of theft on 13 & 14 September 2011, in Belfast/ Northern Ireland and was not missed) and by signing on regularly at the local garda station which is designed to keep him under supervision of the gardai. As Judge Mary Ellen Ring said in relation

to another case, *"If Bail is fixed and not adhered to that is a breach of a court order. Gardai did nothing. Both parties have shown scant regard for court undertakings. Gardai and accused are thumbing their nose at the bail orders."* **Exhibit 21**

The Report states, *"GSOC is investigating the failure to monitor the conditions of bail set by Judge William Hamill on the 4 August 2011"* - this is available in the section 101 GSOC Report, if you wish to request it from GSOC/Fiosru.

Arising from bail granted on 4 August 2011, he breached all bail conditions. Despite 7 offences between 4 August 2011 and the trial in CCJ in February 2013, this €500 bail was not taken from Gridziuska.

8. **24 August 2011**—Theft; See. P, 16, no. 20 & 21 of GSOC report. And **Exhibit 14**.
 9. **13 & 14 September 2011**, convicted **15 September 2011** - arrested in Belfast and jailed in Maghaberry High Security Prison, in relation to Theft on 13 and 14 September. He was in custody for five days. But no action was taken when he failed to sign on, ignored the curfew, and left the jurisdiction. See Court Orders from Belfast Magistrate' Court 13 & 14 September 2011.**Exhibit 7**.
 10. **20 September 2011**; Heroin, convicted, 17 November 2011, See P. 16, no. 21 of GSOC report. **Exhibit 8**.
 11. **12 November 2011**; No insurance, convicted April 2012
 12. **16 November 2011** the Probation services said they could not assess him, as he was not turning up to be assessed. see enclosed. Should bail be revoked where there is a failure to comply with this condition. **Exhibit 22**
- During this period and following delivery of the book of evidence he remained on bail and breached bail and was the subject of a number of High Court Bail applications.
13. **18 December 2012**; no insurance - Following the release on High Court bail on the 26 September 2012, the Conditions of Bail was to sign on daily at Carrickmacross Garda Station. (Trial in CCJ 11, 12 and 15 Feb 2013) Gridziuska failed to sign on; on five days. (one Sat and four Sundays.) He was pulled over driving on 18 December 2012 and charged with no insurance and returned to court. On 2 January 2013 the Court was informed of the breach of the bail conditions (to sign on daily) and he was remanded in custody. See 21, no 37 of GSOC report. **Exhibit 8**.
 14. **6 March 2013**; The account by GSOC and the account by prosecuting Superintendent of what took place on the 6 March 2013 regarding the estreatment of this bail (4

August 2011) is polar opposite. See enclosed letter from the superintendent who prosecuted the case, and see different account by GSOC, who had the transcript. **Exhibit 23.**

The Garda Inspectorate Crime Investigation Report was published in 2014. Thereafter there was a Report in 2022 on the recommendations of this Report. See Recommendation 10.18: *“The Inspectorate recommends that the Garda Síochána conduct an urgent examination of the use of bail. A national Standard Operating Procedure should be created for the whole process of bail management.” (medium term) To achieve the above recommendation, the following key actions need to be taken.*

- *Ensure consistent standards in the use of station bail.*
- *Ensure objections to bail are raised in all appropriate cases.*
- *Review all types of bail conditions imposed on offenders and provide guidance to investigating officers to ensure consistent approach.*
- *Ensure that Bail conditions are entered onto the as person PULSE intelligence record with a warning marker.*
- *Provide protocols and supervisory oversight for efficient management of bail conditions that require sign on at garda stations.*
- *Ensure breaches are always brought to the attention of the court.*
- *Ensure that gardai are tasked to monitor compliance with bail conditions.*
- *Improve the recording of bail and court convictions on PULSE and create more efficient system for extracting information for court cases etc. See enclosed. **Exhibit 24.***

4. Offending while on bail

Separate to the issue of a breach of bail conditions and the consequences for that, is the issue of offending on bail. This arises even with summary offences where recidivist offenders continue to commit crime. There must be consequences for offences on bail as it is at the core of the granting of bail that further offences won't be committed.

Official figures show an increase in figures in offences committed by people on bail. There should be a presumption against bail where the person has committed a series of offences (even if they are summary offences) because very often, a person with a series of previous convictions (including a series of minor convictions) goes on to commit a serious offence. We often hear and it has been repeated in recent months of the occurrence of a death where the accused was on bail and had a number of previous convictions. In a letter to the Editor, 4 august 2021, *“It's all too easy for repeat offenders charged with criminal offences to get bail, whether in the district court or the High Court. Those who do plead guilty and are sentenced will appeal that sentence and be given bail, only to be allowed to commit further criminal offences. Offenders*

will accumulate a number of criminal charges before they will plead guilty in the district court. They will then hope to get concurrent or reduced sentence” Exhibit 25

As can be seen from the enclosed, Gridziuska had offences for summary and indictable theft offences and also for possession of heroin, road traffic offences and handling stolen property which is suggestive he was stealing to feed a drug habit.

See below chronology of offending while on bail. As with the previous heading, the below are set out to illustrate the offences which occurred while on bail:

1. See p. 7 GSOC report – (below are the dates the offences took place)

- **Theft 28 August 2009; Bail** and not yet convicted. Reoffended while on bail. Between 18 March 2009 – 28 August 2009 (on a date unknown between the 18 March 2009 and the 28 August 2009 at BOSE did steal property of electrical equipment to the value of 3,625 euro. (Electrical equipment €3,625 BOSE) 17 December 2009---Following Search of House stolen elect equipment found value €3,600.00—source; Remained on bail for this from 27 January 2010 until 11 January 2012 (5 months after he killed Shane) (having received station bail in December 2009) **Exhibit 1.**
- **September 2009—No insurance;** Dublin Airport.
- **18th December 2009—Theft Harvey Norman Theft** - plea of guilt for this and other on 12 October 2010. Convicted of this offence on 11 January 2012.**Exhibit 2.**
- **22nd November 2009—** Drugs.
- **20 January 2010 –** Theft of Poor Box, convicted January 2012. **Exhibit 3.**
- **27 January 2010, Sent forward on bail re four offences. BOSE Theft.** He attended Carrickmacross DC, in relation to 5 offences, pleaded guilty to one offence and received Bail in relation to the other four. All of the offences below—took place on bail. Ultimately **dealt with in Jan 2012 remained on bail for two years for this offence. Exhibit -Discovery Record A.**
- **16 February 2010—** Drugs offence error by Courts Service on 9 June 2010 at sentencing where “misplacing of notice of appeal” meant sentence in relation to this offence not served. Exhibit 9.
- **27 February 2010—** Drugs—Substantial quantity found, error by Courts Service

on 9 June 2010 at sentencing where “misplacing of notice of appeal” meant sentence in relation to this offence not served. **Record 165**

- **11 March 2010—Heroin –Sentenced and “misplacing of notice of appeal”, error by Courts Service on 9 June 2010 at sentencing where “misplacing of notice of appeal” meant sentence in relation to this offence not served. **Exhibit 9.****
- **17 March 2010—Heroin. Error by Courts Service on 9 June 2010 at sentencing where “misplacing of notice of appeal” meant sentence in relation to this offence not served. **Exhibit 9.****
- **11 March 2010** – Theft perfume from Blacks chemist Monaghan /tin foil bag. Dealt with in Jan 2012. **Exhibit.4.**
- **19 March 2010; Road Traffic Offence; No N.C.T.** Conviction 8 September 2010, received a fine of €350 with six months to pay, didn’t pay, committed to prison on 26th May—and received full temporary release on 27th May 2011 for non-payment of fine. Prior to his sentencing expiring on the 9th June 2011. **Exhibit 26.**
- **3 April 2010; Theft of Perfume in Dundalk.** Conviction for this and theft of 21 April on 23 February 2011, where he received Community Service. A Probation Service Report was available from a previous court sitting on the 1st December 2010. (For three weeks of Nov 2010, Gridziuska was in prison, so could not reoffend) This report was obsolete as conviction and reoffended following this report been prepared. Gridziuska had been in state custody for three weeks of November 2010 and a conviction on 3 Dec 2010, 5 January 2011, 26 Jan 2011 and 16 February 2011. He had also reoffended on 26 January 2011. No application was made by the Probation services to revoke bail and we must ask why when he was in continuous breach of bail conditions and reoffending while on bail. **Exhibit 27**
- **21 April 2010; Theft. Exhibit 27**
- **24 May 2010. Heroin; Conviction 16 Feb 2011—but appealed to January 2012. Exhibit 10, and see Court Service Report Exhibit 9-p. 2.**
- **20 June 2010 No Tax- Road Traffic Offence.**
- **1 July 2010: Theft** charges of Computer and pair of pliers with intention to

commit a theft. Convicted January 2012. Exhibit 5.

- **5 July 2010. No Tax displayed**, fine not paid, summons issued. Penal warrant out for two weeks before he killed, but not executed. **Exhibit. 28.**
- **5 July 2010: Traffic– No Insurance.**
- **5 July 2010; Road Traffic Offence**; Entering Hatched markings. Conviction, 5 Jan 2011, received a fine of €300.to pay within 60 Days. Failed to pay before 6 March 2011. Should have been addressed when; pulled up by Gardai on 6 April 2011; (5 May when he was charged and bailed) 6 July 2011; 2 August 2011. And; when he was in Court on the 8 March 2011 Cavan CC.; 9 May 2011 Ardee DC; 11 May 2011 Dundalk DC; 7 June Cavan Circuit Court & 8 June 2011 Carrickmacross DC; and 25 July 2011 Monaghan DC. Not addressed until 23 August 2011 which was three weeks after he killed Shane, Despite Court Penal warrants issues by the Court Service 18 July 2011 (Penal warrant issued 18 July 2011, Date received by gardai 21/07/2011 Date recorded 18/07/2011 Source; **Discovery Record; 95.** **Exhibit 29.**
- **16 July 2010:** Traffic Offence – Dundalk. General Road Offence 95- KE 5033. Failed to produce documents within 10 days following lawful demand.
- **27 July 2010**, no insurance.
- **11 August 2010:** Traffic Office - Speeding—Dundalk.75 in 50 zone. Dealt with on 11th May 2011---**Wrong Date of Birth 11/08/1973 recorded.** Convicted on 11 May 2011 Dundalk DC fined €150 with 150 days to pay. **Exhibit 30** & Exhibit 8, p. 8, no 4.GSOC report Exhibit 8.
- **16th Aug 2010:** Took out fraudulent Insurance, convicted 6 March 2013, yet court led to believe he had valid insurance when he killed Shane. Slipped in 6 days later in Carrickmacross DC on 6 March 2013, as a minor offence with a guilty plea. **See record 558**
- **13 Sept 2010:** Heroin (Case dealt with 8th June 2011 Carrickmacross DC –fine 500 euro—with 90 days to pay. -(yet 6th heroin offence) Source Court Order. **Exhibit 31.**
- **8 Oct 2010:** Thef, Convicted 3 December 2010. **Exhibit 9**, Court Service Report end of P, 3.and **Exhibit 32.**

- **4 Nov 2010: Theft**, Convicted. –January 2012. **Exhibit 33**
- **26 Jan 2011: No tax**, conviction on the 25 July 2011, received a fine. **Exhibit 8**, p. 11, no.8.. **Exhibit 34**.
- **6 April 2011: No Tax**, convicted 16 November 2011. **Exhibit 8**, p. 16, no.20. **Exhibit 35**.
- **30 April 2011**, theft convicted on 9 May 2011.suspended sentence. **Exhibit 8**, p. 7 & 8 no.3 of GSOC report. (Same reference for all five days of theft)
- **2 May 2011** -2nd theft. convicted on 9 May 2011.suspended sentence.
- **3 May 2011** - 3rd, Theft. convicted on 9 May 2011.suspended sentence.
- **4 May 2011** - 4th Theft. convicted on 9 May 2011.suspended sentence.
- **5 May 2011** theft convicted on 9 May 2011.suspended sentence & Peace bond. Ardee, Co. Louth. Despite continuing to reoffend, this suspended sentence for theft x five days was never activated.
- **25 May 2011** Theft. Convicted on 17 November 2011. **Exhibit 20**.
- **14 July 2011** (three offences) Northern Ireland, convicted 15 July 2011.**Exhibit 6**.

An Garda Siochana failed to object to bail, or make an application to seek to revoke bail despite the above offending.

- **2 August 2011**; Killed Shane. Breached all bail conditions. Yet AGS, failed to return Gridziuska to court to seek to have bail revoked. And failed to inform the court that he was continuing to reoffend. **Exhibit 8**, p.14, no14 and p. 15. **Exhibit 36**.
- **24 August 2011**—Theft. **Exhibit 14**.
- **13 & 14 September 2011** Theft in N.I. **Exhibit 7**.
- **20 September 2011**; Heroin, convicted, 17 November 2011. **Exhibit 8**, p. 16, no.21.
- **12 November 2011**; No insurance, convicted 11 April 2012. Fine €400.
- **18 December 2012**; no insurance. **Exhibit Record no. 557**.

- Released on Bail **26 September 2012**---Ordered in High court to sign on Bail---Failed to sign for 5 days---One day was a Saturday and four consecutive Sundays.

Gridziuska continued to offend after killing Shane in breach of multiple bail orders and bail was not revoked. He was sentenced in November 2011 for an offence but bail was never revoked.

5. Convictions and sentencing arising when offences have been committed on bail

Of note and while not squarely within your Terms of Reference is the sentencing for those who committed the offence while on bail. Gridziuska has 7 heroin offences before he killed Shane and no custodial sentence was imposed for any of them. He continued to offend while on bail which reflects that bail should not have been continuously granted to him.

As you know there is law that sentences “shall” be consecutive where offences committed on bail. As is illustrated above this does not appear to happen in practice with a number of offences rolled up and running concurrently. There is no deterrent where this is the case and proper application of this law may serve as a deterrent to those on bail not to commit further offences in breach of bail.

III. General comments

1. Pulse System and bail

At the court sitting on the 9 May 2011, Garda McIntyre failed to inform the court that four months earlier, on the 11 January 2011 at Monaghan Circuit Criminal Court, Gridziuska had admitted guilt in relation to four thefts offences and Judge O’Hagan had adjourned sentencing on condition he stay out of trouble, with permission to re-enter anywhere he was on the Circuit. Garda McIntyre also failed to inform the court that Gridziuska was also on bail from Cavan Circuit Court (8th March 2011), Carrickmacross District Court (16 February 2011) and was in breach of bail conditions. Following a lengthy GSOC Investigation (7 years) GSOC recommended to the Garda Commissioner that three Garda receive a fine in relation to minor discipline, Garda McIntyre being one (Garda Nelson being a second garda that also claimed she was not trained on Pulse).

Garda McIntyre and took Judicial Review proceedings challenging the fine of €200 imposed. The Garda Commissioner agreed to the orders on consent (there was no hearing). The Gardai appeared to be successful as no document could be found to show that they had been shown on the PULSE system, to check the “Court Outcome” tab on the pulse system. It was not part of their training then (2010) and still isn’t now.

See sworn Affidavit. **Exhibit 37.** Similar proceedings were resolved in relation to another garda on the same basis and arising for the same reasons. This vital information was not given to the judge on 9 May 2011, and less than three months later Gridziuska, who should have been in custody, was at liberty and killed Shane

2. Station bail

Station bail appears to be used by the Gardai (instead of holding the accused overnight in the barracks in the Garda station and bringing the accused the following day to the nearest court). With station bail, recognisance is signed by the accused saying he will keep the peace and they are given a date to attend court. In our experience, ZG was given station bail and regularly continued to reoffend before the court sitting date and the court wasn't informed of that reoffending on station bail. We think that station bail should not be used, and accused should be brought to court the next day with jurisdiction, as is the case in Northern Ireland.

It is worth noting, that on 5 May 2011, when Gridziuska was arrested in Ardee, in connection with the theft x 5 days, he was taken to Drogheda garda station, where he was granted station bail. One would expect that someone would have checked the PULSE System "Bail tab" to see that he was on existing Bail, from Monaghan Circuit Court, (11 Jan 2011) Carrickmacross DC (16 Feb) Cavan Circuit Court (8 March) and that the prison sentences handed down on the 9 June 2010, had not been served. As set out above Gridziuska was convicted and sentenced in May 2011 following theft offences. A sentence was imposed suspended for 2 years. He continued to offend (25 May 2011 and 14 July 2011, 24 August, 20 September, 12 Nov, 18 Dec) and this sentence was not activated.

While the Gardai Siochana do not grant bail, they make the first decision in respect of whether to keep a person in garda custody prior to court or release a person under their own recognisance on station bail to attend court. Persons who should be kept in custody are sometimes released on station bail, when the local court is not sitting on the next day. In such cases according to the law, the person should be taken to the nearest court with jurisdiction.

3. Bail Conditions for drug and alcohol abusers

If a person is abusing heroin and alcohol, they should not be permitted to hold a driving licence as part of their bail conditions, until it can be shown that they have stopped abusing those substances. Note in the transcript p. 8, line 29, 11/01/2011, Judge O'Hagan asks, *"Is he on a methadone programme at this time?"* answer; *"He isn't on a methadone programme."*—Judge; *"But he has a drug habit, is that right?"* Answer; *"He's is known to be a heroin addict, yes judge."* Gridziuska was in prison for three weeks where offenders are offered a methadone programme and this was not

taken up by Gridziuska. Perhaps being on a methadone programme could be a requirement of bail conditions if the person has previous drug convictions and is on bail for further drugs offences.

Heroin impairs the mental and physical abilities needed to drive a car. Effects include slow driving, weaving, poor vehicle control, poor co-ordination and falling asleep at the wheel. Heroin in combination with alcohol enhances this. A person abusing heroin and alcohol could commit a serious driving offence if released, in our view a proportionate curtailment on that person's freedom, is the removal of their driving license given the public policy objective of protecting the public from preventable road fatalities.

Gridziuska also abused alcohol, having theft of alcohol over 5 consecutive days before he killed Shane and following the bail conditions of the 16 February 2011 that he "*abstain from all alcohol and illegal drugs.*" (See Ardee DC 9 May 2011, re Theft of 30 April; 2 May, 3 May; 4 May; 5 May 2011 **Exhibit 12** and 25 May 2011. **Exhibit 20**, and **Exhibit 8**, P. 16, no.20 and 21 of GSOC report. Three weeks after he killed, he was charged with theft of alcohol on 24 August 2011, while on bail, **Exhibit 14**)

See Statement/interview on 3 August 2011 at 15.21 pm, given by Gridziuska, after he killed Shane, where the Gardai state, p. 5, "*Sometimes you drink heavy*". This criminal who abused heroin and alcohol, yet was permitted to hold a driving licence. This should be removed where you are charged with a drug offence as part of bail conditions. **Exhibit 38**.

4. Electronic Monitoring

Electronic Monitoring should be introduced. It would allow the Gardai to monitor if the offender is obeying the curfew set by the courts. It would also show if the person had left the jurisdiction. The Gardai should be obliged to act when they know the conditions of bail are being breached. In our case, the Gardai did know he was in Northern Ireland in July 2011, in breach of bail conditions, as the PSNI informed them, but the gardai did nothing. The Gardai would have also been aware that he was not signing on, when he was jailed in Maghaberry Prison N.I. The Gardai were aware he was not obeying the curfew, having been pulled up at a Garda check point at 00.30 on 6 July 2011, three weeks before he killed and did nothing. On 29 June 2011, Gridziuska stopped at midnight (yet curfew from 11pm). The Gardai showed scant regard for Court Orders also.

Electronic monitoring, would provide a record which would direct the Gardai to enforce bail conditions.

5. Prosecution of cases by legal profession only

In our view, all prosecutions should be taken away from the police and given to a solicitor or prosecuting service as in Northern Ireland.

An inconsistency arises when gardai are criticised for failing to bring the facts to the court (see Ardee May 2011 and JR proceedings above) they then become defensive stating that they are not trained lawyers. They want to retain prosecuting in court, despite not being qualified to do so. In Northern Ireland, only a solicitor or barrister can prosecute. Our family put in a submission to the Commission in The Future of Policing in Ireland advocating for this, as did the Garda Inspectorate and the Irish Council for Civil Liberties. See p. 29 of the of The Future of Policing in Ireland Report, which states, *"All prosecutions should be taken away from the police and given to an expanded state solicitor or national prosecuting service. We also recommend that the practice of police prosecuting cases in court should cease"* **Exhibit 39**

Conclusion

The Courts Service were requested by the Minister for Justice to provide him a report following the publication of the GSOC report. Their report states:

"...In this regard, it appears that the sharing of information between the Courts Service and HMCTS will be neither here nor there when it comes to avoiding a repetition of events highlighted by Mrs. O'Farrell. It needs the prosecution to have this information available to it in order that the Court can make an appropriate order. The crux of the matter will therefore be what sharing of information can be facilitated between AGS and other police forces and what systems can be out in place so that prosecuting gardai or the Office of the DPP can put all available information before a Court." **Exhibit 40.**

We hope the above is of assistance. We note the repetition in parts but wanted to present under each of these headings.

Please get in contact should you have any further queries or seek any further documentation from us, we are of course happy to assist and we wish you well in your work.

Yours sincerely

The O'Farrell family

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Luaigh an uimhir tharaghta seo a leanas le do thoil:

CMR_48-282433/25

CONFIDENTIAL

Mr. Lorcan Staines
Senior Counsel
Member of the Inner Bar
Accredited Mediator (CEDR)
The Law Library
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Dublin 7

Re: An assessment of the efficacy of Irish Bail laws

I am directed by the Commissioner in this matter.

I write in response to your communication of 20 June 2025, regarding the review of efficacy of Irish bail laws which was directed by the Minister for Justice, Home Affairs and Migration.

In addition to the terms of reference, it is noted that it was also sought to understand how the PULSE system is used by An Garda Síochána to assist in monitoring bail conditions and suspended sentences. It was also indicated that both summary and indictable matters should be included in the review. The recommendations in the attached report could apply to summary and indictable matters.

As you know, Detective Superintendent Seamus Maher has represented An Garda Síochána in collaboration with you regarding this review.

Find attached a comprehensive report compiled from An Garda Síochána following internal collaboration which sets out a number of recommendations include legal, administrative, and resourcing options for consideration in the context of your review.

This report was informed by

1. A practical overview of bail processes within An Garda Síochána, including a demonstration of actions undertaken by Gardaí on a daily basis.
2. An outline of how the PULSE IT system collects and supports relevant data regarding offender & bail management.

3. Sample data taken from month of June 2025 in Kilkenny City around curfew management and how *Performance Accountability Framework* meetings collate and impact Garda management decisions and individual Garda actions.

It is clear that the issue of the efficacy and enforcement of our bail laws is an evolving subject. In recognition of same, both the legal framework and the administrative structures which underpin it must keep pace with the changing societal environment in which they operate.

There are multiple areas of interdependence and good cooperation across the criminal justice system. In that regard, An Garda Síochána and its justice partners continue to engage with the Criminal Justice Interoperability Project and the Criminal Justice Operational Hub to ensure that any identified gaps in service provision are addressed, efficiencies identified, and solutions implemented in a timely manner.

This review reinforces the importance that bail laws exist to balance the rights of the people against the legitimate Constitutional rights of the person who is accused and subject to those laws. An Garda Síochána is acutely aware of its particular and discreet role in balancing Constitutional rights.

Noting the attached document suggests legislative amendment, An Garda Síochána is conscious that any such proposed change will require careful consideration for all potential consequences. It is noted that any deliberation of new criminal offences or civil orders, which could result in an increased number of arrests, revocations, or refusals of bail, should anticipate the associated interdependencies, and additional resourcing that will be required by state agencies seeking to implement such changes.

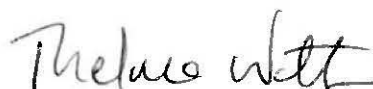
Despite the inter-dependence of the various administrative systems in place, there is a significant need to enhance systems to support the efficient flow of information between the various state agencies: the Courts Services, An Garda Síochána, the office of the Director of Public Prosecutions, the Irish Prison Service and the Probation Service.

Due to the absence of a unique single person identifier for use across the whole justice sector, along with standardised data categorisations to replace the current free text based entries, and joined-up ICT infrastructure to facilitate real time access to information from the Courts, reliance will still have to be made upon existing structures. While the current system manages existing demands upon it, careful updating and modernisation will ensure capacity and professionalism required in an evolving and complex criminal justice system into the future.

The attached reports represent an overview of An Garda Síochána's observations and submissions relevant to this area.

Should you require any further information from An Garda Síochána, please do not hesitate to contact me at the Commissioner's Office.

Yours sincerely,



**THELMA WATTERS
CHIEF SUPERINTENDENT
OFFICE OF THE COMMISSIONER
AN GARDA SÍOCHÁNA**

18th August 2025



An Garda Síochána

Seirbhís náisiúnta póilíneachta agus slándála na hÉireann
Ireland's National Police & Security Service

An Assessment of the Efficacy of the Irish Bail Laws

Submitted by An Garda Síochána following internal engagement
with stakeholders

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CONCISE SUMMARY

Mr. Lorcan Staines, SC was appointed by the Government to write a report in relation to the efficacy of the bail laws with listed terms of reference (*TOR*) are set out as follows:

1. Address how our criminal justice system should respond to a recidivist offender who persistently breaks summary laws and whether a judge faced with such an offender would have the jurisdiction, through statutory power, to remand that person in custody;
2. Undertake an assessment of the efficacy of our bail laws, having due regard to the presumption of innocence, the prima facie entitlement to bail, and the impossibility of refusing bail to every person accused of summary offences, and make recommendations for any changes to bail laws I believe are appropriate and workable.
3. Pay particular attention to the adequacy and operation of those laws in respect of:
 - (i) Breaches of the conditions attached to bail and return to Court;
 - (ii) Powers of Gardaí in respect of breaches of bail conditions and the commission of offences while on bail;
 - (iii) Notification to Courts of previous breaches of bail conditions and existence of suspended sentences; and
 - (iv) Decisions on the revocation of bail.

This may require an examination of indictable offences as they impact summary matters with possible crossover as issues arise. Further to the listed *TORs*, Mr. Staines SC has indicated that he would further consider any practical or administrative changes which would improve bail management.

In this context, and owing to An Garda Síochána's role enforcing bail laws, the Commissioner of An Garda Síochána was requested to consider the efficacy of the Irish bail laws and make recommendations as to whether the law should be changed.

INTRODUCTION

Balancing rights lie at the centre of bail reform. While addressing bail and reform, An Garda Síochána (AGS) remains conscious of the crucial role that the organisation plays within the Criminal Justice system. This extends to the human rights of those who interact with AGS's prosecutorial arrangements through the courts. In line with the Commissioner of Future of Policing in Ireland, "*human rights are the foundation and purpose of policing*" (Commission on the Future of Policing in Ireland, 2019).

Through the advent of the Garda Síochána Operating Model ("the Operating Model") coupled with the Court Presentation Programme, An Garda Síochána has developed approved policies, key processes across all layers of policing that involve interaction with the courts extending to bail management.

The Operating Model provides for the management and supervision of the structures within An Garda Síochána to ensure a standardised, professional and cohesive approach to bail, building capability and supporting Court Services.

In line with professionalising the organisational approach and extending the knowledge base, An Garda Síochána and the School of Law at the University of Limerick have developed key programmes to support policing namely the (i) *The Policing and Human Rights Law in Ireland Programme* and (ii) *The Courts Presentation Programme*. An Garda Síochána recognises that bail reform and human rights are interconnected, and so must be balanced with both public safety concerns and with the rights of victims.

It is further proposed to expand on recommendations and technical considerations previously submitted by the Garda Commissioner to the Department of Justice who directed that a High Level Bail Review Working Group be set up that would examine the area of bail, with a view to addressing related matters.

METHODOLOGY

The methodology employed was to engage formally with, Mr. Lorcan Staines, Senior Counsel and provide a practical overview of internal processes and systems. This involved the following elements:

1. A practical overview of bail processes within An Garda Síochána, including a demonstration of actions undertaken by Gardai on a daily basis;
2. An outline of how the PULSE IT system collects and supports relevant data regarding offender & bail management; (and)
3. Sample data taken from month of June 2025 in Kilkenny City around curfew management and how *Performance Accountability Framework* meetings collate and impact Garda management decisions and individual Garda actions.

The methodology employed also included co-opting supports from senior stakeholders within An Garda Síochána, seeking formal views regarding organisational position around the efficacy of the Irish bail laws and making recommendations as to legal changes that may be considered. This involved stakeholder meetings with the following listed sections of An Garda Síochána:

- Assistant Commissioner, Eastern Region and representatives
- Assistant Commissioner, Roads Policing and Community Engagement and representatives
- Executive Director, Legal and representatives
- Executive Director, ICT and representatives
- Assistant Commissioner, Governance and Accountability and representatives
- Chief Superintendent Sean Colleran, North Western Regional HQ

The paper as presented is a composite position of nominated stakeholders for consideration of the Commissioner of An Garda Síochána.

CHAPTER 1

A Contextual Analysis of the Practical Application of Bail Laws

by An Garda Síochána

1.0 Role of An Garda Síochána - High Level Overview of Current Bail Laws

An Garda Síochána discharge a critical role when a decision to grant station bail to an accused person is considered as this decision impacts on the constitutional rights of the accused person (Ireland, 1937). The decision to grant or deny bail at station level rests with the member in charge of the Garda station in accordance with Section 3 of the Criminal Justice (Miscellaneous Provisions) Act, 1997. This decision is based upon specific circumstances of the alleged offence and the accused person.

1.1 Station Bail – Circumstances and Conditions

When an accused person is charged with a criminal offence they can be considered for bail. The member in charge must consider all circumstances of the case including the victim, the accused person and the obligation to ensure public safety and confidence. This should be carried out in line with the Garda Decision Making Model (GDMM) (An Garda Síochána, Policy Document, Unrestricted HQ Directive 037/2019, 2019) and in consultation with supervisors, as appropriate.

Station bail will only be granted if it is appropriate and where there is no live warrant for the arrest of the accused. Station bail cannot be granted where a warrant directing the arrest of the accused is in existence (excepting where a section 8 endorsement exists) or for certain serious offences where the District Court does not have jurisdiction to grant bail. Station bail should not be denied unless there is a legal basis for doing so. Decisions relating to the granting of station bail must be recorded.

A cash recognisance is currently the only condition that can be applied to station bail. Cash in the possession of An Garda Síochána must be handled in compliance with relevant procedures and forwarded to Court Services.

1.1.2 Court Bail – Objections

Article 40.4.1 of the Irish Constitution states that “*no citizen shall be deprived of his liberty save in accordance with the law*”. (Ireland, 1937) . In circumstances where an accused person is not offered station bail or it is deemed necessary to apply certain conditions, then they are brought before the District Court. An Garda Síochána may object to bail in certain circumstances which are provided for in law.

- **Section 2 of the Bail Act 1997** - Objections to bail are proffered in the courts and made in accordance with Section 2 of the Bail Act 1997 (Law Reform Commission, 2024). This is dependent on a number of factors such as seriousness of the offence of person charged/apprehended and likely sentence imposed on conviction. There are a number of other factors which supports the objection such as other offences charged and awaiting trial, addiction to controlled drugs within the meaning of Misuse of Drugs Act 1977 along with the strength of the evidence to support the charge. With regard to Section 2 of the Bail Act 1997 (Irish Statute Book, 1997), the substantive ground under Section 2(1) is to prevent the commission of further serious offences. In addition, the Criminal Justice (Burglary of Dwellings) Act 2016, specifically, states that previous convictions for domestic burglary, coupled with pending charges or recent convictions, can be considered as evidence that the accused is likely to re-offend while on bail.

Under Section 2(2) the court can take into account the conviction of that person for an offence while on bail. The Court must be satisfied that:

- a) The offence before the court is a serious offence (defined as an act which if convicted may be punished by a term of imprisonment of five years or more); (and)
 - b) Such refusal of bail is reasonably considered necessary to prevent the commission of further serious offences.
- **The O’Callaghan Rules** - Gardaí objecting to bail on the above grounds are to

be aware that the objections to bail in cases such as this were enabled by a Supreme Court Decision *The People v Roger O'Callaghan, SC, 1966* (The People (at the suit of The Attorney General) V Roger O Callaghan, 1966) which set out factors to be considered when the Prosecution are objecting to bail. These factors are known as the O'Callaghan Rules.

When considering bail, Justice Murnaghan set out factors to be considered by a court when admitting an accused to bail:

- a) The seriousness of the charge (the more serious the charge, the less likely a person will appear)
- b) The nature and strength of the evidence.
- c) The likely sentence to be imposed upon conviction.
- d) The likelihood of committing further offences if granted bail.
- e) The possible disposal of illegally acquired property.
- f) The possible interference with witnesses.
- g) The person's failure to answer bail previously.
- h) The fact that the person was caught red handed.

These grounds are complimentary, not mutually exclusive, and An Garda Síochána can potentially object to bail on both grounds depending on the facts of the case.

1.1.3 Monitoring Bail Conditions - Obligations

When Bail conditions are imposed on a defendant who has been brought to a District Court in Custody, the conditions of the Bail will be recorded by the Court Service and will appear on Pulse under the Bail tab. However, where the defendant is before the Circuit Court or a higher Court, the prosecuting Garda must create the Bail record and include details of the conditions imposed. The recording of this information on Pulse is necessary to ensure that all Gardaí will have access to this information and be able to act effectively and lawfully if the defendant breaches any conditions of his bail.

Gardai may apply to the District Court for an arrest warrant when they become aware of a breach of bail. Members of An Garda Síochána must be in a position to confirm whether

conditions were being complied with and act immediately as they became aware of non-compliance with bail conditions or of a breach of bail conditions.

There is therefore an obligation on prosecuting members in cases where the defendant has conditions attached to their bail to check and ensure the conditions are being complied with and to be pro-active in cases where the conditions are breached.

1.1.4 Accused Breaches - Conditions of Bail

In the event that an accused person fails to attend court on the nominated date, An Garda Síochána may apply for a bench warrant for the arrest of the accused. The issuance of a bench warrant empowers and obliges An Garda Síochána to arrest the accused and bring him/her back before a court where the accused may be charged with a further offence under Section 13 of the Criminal Justice Act 1984.

If an accused person breaches the conditions of their bail, they may also be subject to arrest if the presiding Judge deems the breaches sufficient to revoke their bail. In this situation, An Garda Síochána may apply to the court for an arrest warrant for the accused to bring him/her back before the court. Recommendations in relation to revocation of bail are further explored in this paper.

1.1.5 High Court Bail – Process and Arrangements

High Court Bail is applied for in relation to certain serious offences when bail has been refused in the District, Circuit and Special Criminal Courts, or for serious offences where bail is reserved to the High Court eg. murder. High Court Bail applications require close communication between An Garda Síochána and the High Court Bails Office.

The DPP instructs prosecution counsel on their behalf. Members of An Garda Síochána will provide testimony at listed bail hearing to the High Court in support of their objection to the accused being admitted to bail. It is also the case that in certain circumstances, An Garda

Síochána will facilitate the attendance of any witnesses or victims giving evidence in opposing the bail application.

In addition, if an accused person is granted High Court Bail, the DPP can apply to revoke the bail of the accused if they are in breach of the conditions attached to it. To revoke such bail an application must be made to the High Court by the DPP.

1.1.7 Criminal Justice Act 1984

Section 13 of the Criminal Justice Act 1984 provides for an offence where a person, who has been admitted to bail (court or station bail), fails to show up at court.

1.1.7 (b) - Revocation of Bail

Currently, if a member of An Garda Síochána wishes to apply for a revocation of bail, they must apply to the court which granted bail for a warrant. If granted, the member can arrest the person granted bail on foot of this warrant. Section 6(10) of the Bail Act 1997 (the 1997 Act) provides for a power of arrest for a person on bail subject to the following conditions:

Where a member of the Garda Síochána—

(a) with reasonable cause, suspects that a person who has been admitted to bail—

(i) is about to contravene any of the conditions of the recognisance,

(ii) is in the act of contravening any of the conditions of the recognisance, or

(iii) has contravened any of the conditions of the recognisance,

and

(b) considers that it is necessary to arrest the person immediately to prevent harm to, interference with or intimidation of the person in respect of whom the offence is alleged to have been committed, a witness to the offence alleged or to any other person specified in a condition referred to in subparagraphs (v) or (vi) of paragraph (b) of subsection (1),

he or she may arrest the person without warrant.

The conditions which trigger the power of arrest are quite prescriptive and only relate to one part of an objection under *O’Callaghan*, namely the interference with an injured party or witness etc.

1.1.8 - Execution of Warrants

A Judge can issue a Bench Warrant to command the attendance of suspects/and or witness. This order is issued to a member of An Garda Síochána to execute. When executed the warrant is endorsed in accordance with Section 8 of the Bail Act 1997 (Irish Statute Book, 1997). This provides An Garda Síochána with the authority to re-admit the defendant to bail on condition, with or without a surety or sureties. Such warrants can issue in circumstances whereby a defendant or witness fails to appear or to have a defendant appear to hear an application to revoke bail.

Part II –Recommendations to Assist Practical Enforcement of Bail Laws

1.2.1 Improving Bail Monitoring and Enforcement – Electronic Monitoring

Breaches of bail conditions such as curfews and compliance with court instructions can go undetected for a number of reasons. It is stated that an examination of conditions requires a resource input. To assist resourcing, it is presented that the use of electronic tagging (GPS monitoring) for high-risk individuals would mitigate against the existing monitoring procedures and provide an ICT platform to track bail compliance and alert An Garda Síochána in respect of to bail breaches.

Presently, An Garda Síochána, represented by Assistant Commissioner, Eastern Region are contributing to High Level Steering Group, led by the Probation Service as initiated by the Department of Justice. This was the vision as set of in the Programme for Government (Government of Ireland, 2025). It is the intention of the Government to commence Section 6B of the Bail Act 1997 as amended by the Criminal Justice Act 2007 (Office of the Attorney General, 2007) with the introduction of Electronic Monitoring as a condition of bail.

The Council of Europe has referred to electronic monitoring as a form of surveillance;

“Electronic monitoring is a general term referring to forms of surveillance with which to monitor the location, movement and specific behaviour of persons in the framework of the criminal justice process. The current forms of electronic monitoring are based on radio wave,

biometric or satellite tracking” - This is set out in the recommendation from the Committee of Ministers to Member States (Council of Europe, 2014).

It is considered that any changes in the law through proposed enactment of Section 6B of the Bail Act 1997 (as amended) may have to consider any potential conflict with terms of the Criminal Justice (Surveillance) Act 2009 (Government, 2009). In the interim, An Garda Síochána will continue to contribute to the High Level Steering Group to support future recommendation around process and law reform.

1.2.2 Consider Offence for Being Convicted while on Bail

Section 6 of the Criminal Justice Act 1960 (Irish Statute Book, 1960) provides for a specific offence if a suspect is found to have committed a criminal offence while on temporary release from a prison or place of detention. Where a prisoner breaches a term of their temporary release or conditional release, they are classed as unlawfully at large. Subsection (2) creates an offence for such a breach.

Section 7 of the 1960 Act provides for a power of arrest to allow a member of An Garda Síochána to arrest, without warrant, any person who is unlawfully at large. They can also prosecute for the breach. An Garda Síochána recommends that a similar offence is considered for a person who is found guilty of having committed an indictable criminal offence while on bail for another indictable criminal offence. Considerations of new powers and offences would have a deterrence value but may also inform decision making around the granting of bail.

1.2.3 Consider Proposed Legislative Change - Garda Power of Arrest - Bail Act 1997

A standalone offence for a breach of bail would increase the powers of An Garda Síochána to deal with persons who breach their bail conditions. This offence would require an expanded power of arrest to allow members of An Garda Síochána to enforce same. Currently there is no power of arrest without warrant when an accused breaches a bail condition, except in very carefully defined circumstances (that their immediate arrest is necessary to prevent harm to, or interference with, the victim, another witness or another person that the court has specifically

tried to protect) in accordance with; Section 6(d) of the 2017 (Irish Statute Book, 2017) Act inserted a new subsection, ss.10, into s.6 of the 1997 Act.

The legislative change options that may be considered are as follows:

1. Expand section 6 of the Bail Act 1997 to cover both considerations of *O'Callaghan* (Attempt to flee/ Interference) and section 2 (serious offence).
2. Amend section 6 of the Bail Act 1997 to grant the power of arrest for a breach of bail conditions only – Sever the link to a requirement for interference with a witness etc. Use section 6 of the Criminal Justice Act, 1960 as a template – Where a person breaches a bail condition, their bail is considered revoked and they can be arrested and returned to the court which granted them bail.
3. Create a standalone offence for a breach of a bail condition, which would allow a member of An Garda Síochána to charge a person who breaches a condition of their bail.

Operational Considerations

Organisational consideration of An Garda Síochána Senior Leadership would need to be sought as additional powers of arrest for a breach of bail which will have a corresponding impact on resources. The question then arises, will an expansion of the power of arrest lead to an expectation of an arrest in every case of a breach of a bail condition? It is recommended that careful consideration is given to limiting the conditions which, if breached, would trigger a power of arrest. For example - should there be a power of arrest where a person fails on one occasion to bide by curfew / sign on? – This would require further examination.

1.2.4 Further Legislative Considerations

a) Evidence in Applications for Bail Under Section 2- Evidence of Chief Superintendent

In accordance with Section 2A of the Bail Act 1997 as inserted by Section 7 of the Criminal Justice Act 2007 (Office of the Attorney General, 2007):

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“2A.— (1) Where a member of the Garda Síochána not below the rank of chief superintendent, in giving evidence in proceedings under section 2, states that he or she believes that refusal of the application is reasonably necessary to prevent the commission of a serious offence by that person, the statement is admissible as evidence that refusal of the application is reasonably necessary for that purpose”

An Garda Síochána considers legislative change to Section 2A of the substantive Act where a Chief Superintendent gives evidence may be amended to *“a member of An Garda Síochána not below the rank of Superintendent”*.

The purpose is to consider the Garda Síochána (Function and Operational Areas) Act 2022 (Office of the Attorney General, 2022), specifically Sections 4 and 5 which were enacted to reflect the Operating Model and changes in operational management.

b) Consider Recommendation to include Section 33, Domestic Violence Act 2018 for a Breach of a Barring order to be a Scheduled offence under the Bail Act 1997 as amended.

This would legislatively provide members of Garda Síochána to make Section 2 Bail applications for this type of offence. Currently, An Garda Síochána are relying on the *“O’ Callaghan Rules”*. This would expand powers to assist victims of crime.

CHAPTER 2

**Bail-Information & Communication Technology
Systems Impact**

2.0 PULSE Developments to Assist Bail Monitoring and Recording

Pulse was developed to support granting of station bail, the recording of courts issues and related matters. The functionality was designed to align with the provisions of the Bail Act 1997. While it is apparently the same system as was introduced in 2002 there have been continual incremental changes since then with improvements developed and opportunities maximised through IT rule changes and process implementation. The attached table (*Fig 1*) represents key updates and times.

Fig 1

DATE	KEY ICT UPDATES
November 2015	Bail alert message displayed when a person's record is added to incident who may have been on bail (requires user to review to confirm)
Mid-2021 through April 2022	Electronic Charge Sheets & Station Bails with Criminal Justice Operational Hub (CJOB) – Deployed on rolling basis
November 2022	Bail prompt - user to input if committed on bail
November 2023	Usability improvements – date picker provided and increased size of narrative
November 2023	Revised and improved validation of CCTS bail messages received via CJIP
November 2023	Usability improvements – a date picker was provided and increased the size of narrative field
November 2023	Revised and improved validation of CCTS bail messages received via CJIP
November 2024	PULSE Release 7.8.5 introduced a digital Court Presenters module which facilitates the collation, recording of and presentation by the Court Presenter of relevant details in connection with an objection to bail

The table as presented not only highlights interoperability with Courts Service but also continuous ICT project management to meet user needs.

2.1 Inter-Dependence on Criminal Justice Interoperability Project (CJIP)

Criminal Justice Interoperability Project (*CJIP*) is the application between An Garda Síochána and the District Courts which currently supports the electronic transfer of all summons applications, courts schedules, court outcomes, bail records, warrants and appeals.

The largest and most significant change was as part of the CJIP program in 2008 / 2009 when bail records arising from all District Court appearances began to be provided electronically from the Courts Service including details of '*Conditions*' in an unstructured format. In 2021/2022, An Garda Síochána commenced providing station bail records electronically to the Courts Service for ingestion into their CCTS system. The co-dependence on courts is significant. In essence, An Garda Síochána's reliance on Court Services for clear, accurate and timely data is evident. It is submitted that data as held by AGS is not the single source of factual information around bail and related proceedings. The interdependence between Courts Services and AGS gives rise to listed recommendations

2.2 Simplification of ICT Bail Arrangements

Considerations/Recommendations

- Adopt a single person identifier to utilise cross systems to facilitate more readily identifying when a person is on bail
- Add IT structure/process to bail conditions in Courts systems for subsequent transmission to AGS to facilitate enhanced policing of bail conditions
- Provide updates/changes of bail records to An Garda Síochána in timely manner – members reference this data for operational activities
- Advance the provision of a single Person identifier for use across justice sector. The PPSN could be an example of same.

2.3 - Garda Information Service Centre

The Garda Information Services Centre (GISC) (An Garda Síochána, 2018) is a contact centre for operational members of An Garda Síochána. Post incident, Gardaí contact GISC by mobility device instead of returning to their station to record the case details. Details are submitted to trained civilian call-takers who enter the details on the PULSE system.

The objectives of GISC (An Garda Síochána, 2018) are to:

- Increase Garda visibility
- Reduce Garda administrative workload
- Improve the data quality on PULSE

2.3.1 Data Transfer and Recording –Recommendations

Considering the role of GISC and objectives, there is a requirement for a real time transfer of bail data at both lower court and higher courts to AGS using above referenced single person identifier to allow real time monitoring of bail alongside management of same. Transfer of data exists at the lower courts. It is submitted that opportunities should be explored to expand this transfer of data to Higher Courts. This should include the opening, updating and closing of bail alongside bail conditions.

- Bail conditions need to be structured and not free text. Transfer of structured data rather than verbatim text from the Judge can result in misunderstanding of operational members monitoring bail conditions.
- AGS work closely with the Courts Service of Ireland and their input regarding future change is essential. Inter-Agency operability is further explored at Chapter 2.5

2.4 ICT Inter-Agency Dependency & Recommendations

Coherent network systems operate between the District Court Services and An Garda Síochána. As presented, this level of data exchange may be replicated in the Higher Courts in the future.

The attached recommendations may be considered:

- 1) ICMS (Courts Service System for Higher Courts) and PULSE are not interoperable, meaning information is not travelling across systems. Interim Court Outcomes and mention dates are not subject to automation at this point. This impacts availability of accurate, live data. ICMS does not link to the Courts Service District Court System (CCTS). In addition, when charges become counts in Higher Courts, PULSE does not have the capacity to match, read/record. Positive engagement has taken place between AGS and at the Circuit Court Offices at Courts of Criminal Justice with a view to addressing information gaps.
- 2) Consider utilising same categorisations for data fields. As stated, bail conditions are being put on in “*free text*” by the Courts Service, which restricts monitoring and reporting capabilities; there is a lack of consistency in how items are designated (sometimes variations of abbreviations, other times, full word, etc.). This can make it more difficult to get accurate results from PULSE searches. Addressing this area should form part of ongoing project planning.
- 3) Consider interconnectivity of data system between the IPS and AGS when bail is taken up from a prison.
- 4) Create process and IT rules regarding information around sensitive issues such as prisoner release. Time may be required to notify family, victims etc., and indeed for AGS to actually be aware in real time that an individual has been released.
- 5) Reliance on individual Gardai to update PULSE post court attendance. This may affect quality and timeliness of data held on PULSE.

Chapter 3

Recidivist Offending

Opportunities for Development

3.0 Practical Application of Offender Management

Criminal Behaviour Orders (UK Model)

In considering recommendations, An Garda Síochána considered a comparative analysis with similar common law jurisdictions while addressing bail decisions made in relation to recidivist offenders (*Fig 1*). In addition to this desk top research, a number of practical measures are put forward to meaningfully improve how bail decisions are approached within the Irish legal system.

An Garda Síochána draws attention to *Criminal Behaviour Orders* (“CBO”) which are incorporated into the Criminal Justice system in the United Kingdom (UK) (Crown Prosecution Service, 2020). While not directly correlating with bail, opportunities exist to essentially manage recidivist offenders through direct court orders. Essentially a CBO is a court order issued to individuals which allows the following:

1. *“Prohibits the offender from doing anything described in the order (which might include a condition preventing specific acts which cause harassment, alarm or distress or preparatory acts which the offending history shows are likely to lead to offences (for example the individual entering a defined area);*
2. *Requires the offender to do anything described in the order (for example, attendance at a course to educate offenders on alcohol and its effects)”*. (Crown Prosecution Service, 2020)

The introduction of a legal mechanism similar to UK Criminal Behaviour Orders, which can be imposed alongside a conviction and carry civil penalties for breaches. These could be used in following:

- Prohibit offenders from certain areas/premises,
- Impose conduct requirements (e.g., attend addiction services)
- Enforce behavioural curfews.
- Deter new offending.

Such orders permit enforcement even where no new criminal charge is pursued. i.e. if a recidivist offender is observed entering an area or engaging in behaviour specifically prohibited by the criminal behaviour order a power exists to arrest without warrant and bring the suspect

back before the courts. (UK Government, 2014). This could have valuable application in relation to summary offences. See **Fig 2**

Fig.1

International Models Informing These Concepts		
Jurisdiction	Legal Mechanism	Key Outcome
UK (England & Wales)	Criminal Behaviour Orders	Proven reduction in antisocial behaviour and repeat public order offending
Australia (Victoria)	Conduct Conditions Orders	Used to protect public spaces from repeat nuisance activity. Individuals charged with certain offences while on bail face a reverse onus, i.e. they must show why bail should be granted.
Canada (Ontario)	Community Safety Orders	Civil mechanism targeting persistent behaviour in local communities

3.1 Development of a Bail Risk Assessment Tool / Matrix

Currently, decisions around whether to grant or oppose bail are guided by the Garda Decision Making Model (An Garda Síochána, Policy Document, Unrestricted HQ Directive 037/2019, 2019) (GDMM), which underpins all operational decisions made by members of An Garda

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Síochána. While the GDMM provides a robust foundation, it is submitted there is scope to enhance its application by introducing a standardised **Risk Assessment Tool** in relation to bail.

Such a tool would support decision making for both Gardaí and the Courts by offering clearer insights into flight risk, the potential for reoffending, and any threats posed to public safety, while balancing the legal obligations and discretions placed on An Garda Síochána. All the relevant data to generate such an assessment already exists within An Garda Síochána and the Courts Service.

Research has highlighted a model utilised by colleagues in the PSNI (Police Service of Northern Ireland Corporate Policy Service Instruction, 2019) – *See Fig 2 & Fig 3*

Fig. 2

Offence type	1	2	3	4	5	
Most Serious offences – homicide, terrorism, rape, serious violence offences						5
Violent offences, sexual offences, offences involving weapons						4
AOABH, drugs offences with intent						3
Driving offences with injury, common assault, drugs offences (not w/intent), hate crime						2
Regulatory offences – no insurance, driving offences (non-GBI)						1
Likelihood to breach conditions Likelihood to commit offences	No history of breaching bail, offending on bail, breaching court orders, no criminal record	Criminal record or history of offending on bail, breaching bail or court orders PPANI Category 1 offender Former ROU nominal	4 or more of bail breaches, committing offences on bail or breaching court orders Offends against vulnerable persons On licence	High risk DV offender Current ROU nominal, PPANI Category 2 offender 3 or more serious violence convictions (GBH and above)	PPANI Category 3 offender, Registered Sex Offender, Subject to ROSHO / VOPO / TPIM / TNO 3 or more serious violence convictions AND significant other offending	
Additional Factors	Vulnerable Victim	2	Community Tensions	2	Confidence	1

A model with similar considerations would aid decision making and remove subjectivity around offender management, informing decision making through custody arrangement for supervisors and members in charge when evaluating risk. A standardised framework would create consistency across Garda Divisions which could be integrated into bail management templates through existing databases. This is particularly relevant in the context of safeguarding victims.

It is to propose to leverage all data such as prior convictions, past breaches of bail conditions, history drug use, and non-compliance with court orders to generate a quantifiable risk score. This score / assessment may then serve as a standardised guide during the bail decision-making

process, helping ensure decisions are both informed and consistent. Any model considered should incorporate legal considerations as set out.

3.2 Managing Recidivist Offender Bail – A Multi-Agency Approach? - Considerations

The foregoing represents the approach of other jurisdictions with regard to offender management such as; The Multi-Agency Public Protection Arrangements (MAPPA) in England, Scotland and Wales – *“Multi-agency public protection arrangements are in place to ensure the successful management of violent and sexual offenders. This guidance sets out the responsibilities of the police, probation trusts and prison service”* (UK Government Publications, 2014)

The represented agencies manage the shared risks posed by certain offenders when in the community.

By way of example, management of Sex Offenders as defined by the act is a joint agency approach. **Sex Offender Risk Assessment and Management (SORAM)** is underpinned by legislation in the Section 14B Sex Offenders (Amendment) Act 2023 (Irish Statute Book, 2023). This provides a legal mandate for risk assess, risk manage and monitor a specific relevant offender.

The Risk Assessment and Management Team includes the following;

- (a) a representative of the Garda Síochána, being a member not below the rank of inspector,*
- (b) a representative of the Probation Service, being a probation officer not below the grade known as Senior Probation Officer, and*
- (c) such of the following as the member of the Garda Síochána and the Senior Probation Officer referred to in paragraphs (a) and (b) consider appropriate, having regard to the expertise required to assess the risk of harm posed by the relevant offender, and to manage that risk effectively:*
 - (i) a representative of the Child and Family Agency;*
 - (ii) a representative of the Health Service Executive;*

- (iii) a representative of the Irish Prison Service (being the prison service of the Department of Justice, which is charged with the management of prisons);*
- (iv) a representative of any children detention school in which an offender was detained;*
- (v) a representative of a housing authority;*
- (vi) a representative of such other organisations or bodies as may be prescribed.*

This Multi-Agency approach is a successful model with very specific aims and goals. There are learnings that may be brought forward when identifying and managing serious recidivist offenders. Legislative enactment would need to consider operational capacity.

3.4 An Garda Síochána – Recidivist Offender Management (SAOR)

Headquarters Directive 17/2018 (*Restricted*) guides An Garda Síochána Policy for the Strategic Approach to Offender Recidivism (SAOR). This policy sets out An Garda Síochána's approach to the management of prolific and recidivist offenders.

It offers a consistent organisational approach when encountering recidivist offenders. It considers bail arrangements through the appointment of a Garda Case Manager to a specific individual. This is an additional task and assigned to ensure systemic and coordinated case management. The role of the Garda Case manager incorporates the following:

- a) Coordinates charges relating to the individual,
- b) Endeavours to have court cases remanded to a single court date to streamline court business
- c) Attends court appearances in respect of the individual &
- d) Coordinates objections to bail where considered appropriate.

SAOR Policy represents AGS's considered position to bail management of recidivist offenders.

Chapter 4

An Garda Síochána High Level Bail Review Working Group

4.0 Proposed Amendment to Station Bail - Previous Considerations

As referenced at the outset, the Department of Justice has previously requested the observations of An Garda Síochána in respect of a proposed amendments to section 31 of the Criminal Procedure Act 1967 to allow Gardaí to:

- a) Set conditions when granting station bail, (and)
- b) In that context, removing the prohibition on granting station bail to a person in respect of whom there is an outstanding warrant.

The query arose in the context of correspondence received by the Attorney General from the President of the District Court, Judge Kelly, in which he suggested that amendments be made to the legislation regarding station bail in order, inter alia, to reduce the number of out of hours courts and to reduce the time spent in custody by the arrested person.

An Garda Síochána, through Executive Director Legal canvassed senior Garda leadership for observations and proposals. In summary, while the proposal was broadly welcomed to allow conditions to be set on station bail, there was some concern expressed with regard to the proposal to delegate authority from the courts to An Garda Síochána to grant station bail to those for whom a bench warrant has issued and the responsibilities and resultant risks this would pose to the organisation. Any change to the legal position that bail should be determined by the Judiciary merits careful consideration.

A number of responses noted that the provisions of the Garda Síochána (Amendment) Act 2022 which restored the rights of audience to all court presenters to conduct a prosecution instituted by another member. However, pursuant to section 6 of the Criminal Justice (Miscellaneous Provisions) Act, 1997 the member of An Garda Síochána who has arrested a person on foot of a warrant is still required to attend court. It is recommended that the removal of the phrase “*otherwise than under a warrant*” in section 6, would reduce court costs, eliminate the need for Gardaí to spend unnecessary hours in court and enhance the organisation’s ability to maintain frontline operational policing.

Executive Director Legal suggests that an amendment to section 31 of the Criminal Procedure Act 1967 (as amended) which would allow Gardaí to set conditions when granting station bail

is to be welcomed. However, the risk to the organisation in allowing station bail to be granted to individuals against whom a bench warrant is a matter of concern in the absence of something similar to a section 8 endorsement (see above), on the basis that this could be at odds with a direction of the court i.e. to effect an arrest and bring such a person before a court. An amendment to section 6 of the Criminal Justice (Miscellaneous Provisions) Act, 1997 along the lines suggested above would also be welcomed for the reasons set out. A letter of update was provided by the Executive Director Legal to the Department of Justice on the work of the High Level Review Group dated 1st March 2024.

4.1 High Level Bail Review Working Group

In 2021, the Garda Commissioner directed that a High Level Bail Review Working Group be set up that would examine the area of bail, with a view to addressing issues. Findings were presented to Senior Leadership which includes key internal stakeholders with impact on key external stakeholders.

Please find below a synopsis of the Working Group's findings:

- a) *Review of Garda College Training Materials.*
- b) *Bail Portal – Improved information now available on the Garda Portal to improve the awareness of operational members in relation to bail. Includes videos on how to prepare for High Court Bail applications and applications for arrest warrants relating to breach of bail.*
- c) *Internal communications – Newsbeat articles to raise awareness in relation to bail assessments. Most recent newsbeat article highlighting the content on the Bail Portal page due for release the week of 14th- 18th July 2025.*
- d) *Bail Podcast - A podcast on bail was developed in conjunction with the office of the DPP to increase members' awareness of High Court Bail procedures.*
- e) *Communication with ODPP in relation to updating form CM13.*
- f) *Overhaul of the HBC1 – High Court Bail Application form for use by members of AGS in order to brief the office of the Chief Prosecution Solicitor in bail applications.*
- g) *Commencement of work to create a unified Bail Policy, A Bail Related Guidelines document is now available to members on the Garda Bail Portal page.*

An Garda Síochána Submission-An Assessment of the Efficacy of the Irish Bail Laws

- h) ICT User Feedback Survey - 64 items identified as IT issues. The analysis by ICT is that a significant number of these matters identified could not progressed without collaboration from the Courts Service which would involve the Courts Service making changes to their IT systems.*
- i) Research and engagement undertaken with regard to instigation of a flagging system for offences. This research looked at different jurisdictions, such as PSNI and Police Scotland, however, the results were disappointing as their systems only cover curfews.*
- j) Bail Risk Register – This register was developed for Bail in AGS. Crime Legal suggests further detail sought from ICT on this point.*
- k) High Court Outcomes – Justice Interoperability Hub, Higher Court outcomes as previously advised have impeded progress at this time.*

The listed recommendations form part of ongoing work through multiple project management teams within An Garda Síochána. These project and their impact remain a key focus for the Garda Commissioner and the Senior Leadership Team.

Conclusions

In September 2023, a report was forwarded to the Department of Justice on behalf of the Garda Commissioner that highlighted many of the sectoral risks identified and concerns of An Garda Síochána with regard to bail. Through the full Divisional implementation of the Operating Model, there is a framework and mechanism to drive sustainable and transformational change within An Garda Síochána. It provides a vehicle to align and measure the organisation's performance to meet the future needs of Garda Personnel, while better serving the community by enhancing response to the nature of crime and demand.

This paper may be considered non-exhaustive, but represents an accurate representation of the on-going work within An Garda Síochána in relation to bail, highlighting work completed with some areas of risks identified.

Many of the recommendations of An Garda Síochána's High Level Bail Review Working group have been implemented and An Garda Síochána is currently developing a new organisational Bail Policy, which will be kept under review with respect to any future legal, technical or procedural arrangements which will make demands on the organisation.

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Mr. Lorcan Staines S.C.,
Suite 4 Lincoln House,
Lincoln Lane,
Smithfield,
Dublin 7.

23rd July 2025

Re: An assessment of the efficacy of Irish bail laws

Dear Mr. Staines,

I refer to your letter of 24 June 2025 regarding an assessment of the efficacy of Irish bail laws that you have been asked to carry out by the Minister for Justice, Home Affairs and Migration.

As you will appreciate the Courts Service, which was established in 1999 pursuant to the Courts Service Act 1998 and under section 5, as amended has the following functions:

- (a) manage the courts,
- (b) provide support services for the judges,
- (c) provide information on the courts system to the public,
- (d) provide, manage and maintain court buildings,
- (e) provide facilities for users of the courts, and
- (f) perform such other functions as are conferred on it by any other enactment.

It is in the context of these functions that we provide the following representation to you, and you will appreciate this limits our ability to comment on many of the matters that come within the remit of your assessment.

First, we note that in addition to your assessment the Government has committed in its Programme for Government to review the law regarding breaches of orders to ensure that bail can be limited in cases where there is a history of violence, enhancing victim protection; and to complete a comprehensive review of the criminal justice system. These and other commitments may have an impact on your assessment and any recommendations you may make.

The Courts Service cannot comment on policy matters that are more properly left to the Government and the Department of Justice, Home Affairs and Migration (DoJHAM) but we are happy to provide our views on the current operation of the bail system and the difficulties this can pose to the Courts Service and our colleagues in other Justice Agencies.

Please note, we agree with your assessment that it is difficult to focus solely on summary offences as summary and indictable prosecutions often run in parallel against defendants in the District Court. We cannot separate different categories of offences from an operational or practical point of view.

1. Unique Identifier

- The lack of a standard unique identifier for accused persons across the Justice Community is a hindrance in all criminal justice areas and impacts the ability of prosecutors to generate a complete bail history.
- The Justice Sector, in particular, An Garda Síochána (AGS), does not have permission to collect and use the PPS number so often it is impossible to associate an array of cases against a person back to them with any degree of certainty.
- A person with multiple cases can, and frequently does, have multiple different instances of non-linked identities on AGS and Court systems.
- The Courts Service has no direct engagement with defendants and relies on members of AGS to associate new prosecutions with existing personal identities. This can be very difficult and can lead to the same person having multiple identities on PULSE and our Criminal Case Tracking System (CCTS).
- The Courts Service can never recount the full bail history of individuals to a Court as we cannot be certain that all bail bonds over time for an individual are linked consistently back to the same individual.
- The same challenges face other prosecutors (e.g. local authorities, Revenue, An Post etc). These entities can collect only limited personal details so Courts and prosecutors can be challenged to reliably build an aggregate view of the history of the defendant.
- The absence of a unique identifier makes it extremely challenging to identify persons who reoffend while on bail.
- Access to a unique identifier will not fully solve this problem but would be a positive step in that direction. Not all accused may have a PPSN, for example those temporarily in the country on vacation and other situations – though the majority of accused would be expected to have one.
- Please note, DoJHAM are considering issues around the use of PPSN by justice agencies.

2. Complexity

- A common occurrence is what is known colloquially as “jumbo sheets” where some offenders face multiple charges and summonses for offences

committed over a period and these are condensed into a single entity before Court. In some instances, Courts consider evidence in respect of tens or even hundreds of different offences being prosecuted. We refer to this as an entity for want of a better expression as the concept of a “case” is not defined for the District Court.

- Offences can occur over an extended period, involve multiple different prosecuting members of AGS with new offences being added and offences being disposed of at different times.
- There may also be multiple different active bail bonds assigned to the person with offences being added or removed as necessary.
- There is often a situation where a person is remanded on bail on certain offences and in custody on others.
- If a person who has been released on bail in criminal proceedings and fails to appear before a court in accordance with his recognisance, he shall be guilty of an offence under S.13, Criminal Justice Act, 1984. It would not be unusual to have multiple instances of this offence included in “jumbo sheets” as a result of failure of a defendant to attend court.
- High Court Bail can be added to or override existing bails.
- Complexity can lead to uncertainty about the bail status of defendants, and this can lead to errors in processing cases.

3. Imposition of multiple Bail Conditions

- An individual can have multiple prosecutions running in tandem in different Districts or Circuits,
- Each prosecution may have individualised bail conditions set by Court with no reference to other existing conditions,
- While not directly impacting the Courts Service, it can make it difficult for prosecutors to know with certainty that an individual is in compliance with all their bail conditions and can lead to queries to Court offices about the status of bail bonds. It can be difficult to interpret the full history of all prosecutions to understand the current bail situation.

4. Legal Aid

- There is an anecdotal belief that the current legal aid system incentivises the prolonging of individual prosecutions as legal aid payments are based on appearances of defendants before court.
- It would be simplistic to identify as the main factor, but it does not necessarily help.

5. Cash Bail

- Managing cash bail creates a significant amount of work for both the Courts Service and the Irish Prison Service (IPS) and its efficacy as a tool to either improve public safety or ensure that accused persons appear at future court dates is not clear.

- The administrative burden and costs of managing cash bail are resources that could be utilised more beneficially elsewhere within the justice system.
- The IPS and Courts Service carried out a study of costs of processing cash bail and we have attached copies of this work.
- There is precedent in other common law jurisdictions of initiatives to eliminate cash bail. We include a link to an article relating to a decision of Illinois Supreme Court for your consideration.
(<https://www.fox32chicago.com/news/safe-t-act-illinois-supreme-court>).
- We have included another link to a US government study on this topic. The full report was publicly available but access is now restricted. The link is to an abstract of the study.
(<https://www.ojp.gov/ncjrs/virtual-library/abstracts/unsecured-bonds-most-effective-and-efficient-pretrial-release>)

6. Technology

- There are already initiatives for greater integration between Justice agencies (Criminal Justice Operational Hub) but there remains significant room for improvement.
- In District Courts, AGS and Courts are currently integrated to a good level but there is limited functionality for bail.
- Greater investment in modern ICT infrastructure could greatly improve the efficiency of the criminal justice sector as a whole.
- The Courts Service is currently developing a new Unified Case Management System (UCMS) for all criminal cases and one objective of this work is to build a modern technology infrastructure to drive opportunities for greater integration with AGS and IPS.
- Investment in UCMS will improve our capacity to integrate with other justice agencies and we hope to continue being funded to progress our modernisation programme. Similar investment programmes are required across all justice agencies.
- The justice system is increasingly complex making it very difficult for individuals and organisations to keep track of cases before court. Investment in technology will be the bedrock for improving the performance of justice agencies included the efficiencies of the bail system.

The issues outlined above can lead to a negative loop cycle where there are:

- prolonged prosecution times,
- jumbo sheets,
- complexity,
- confusion and uncertainty, and
- errors.

We would suggest a number of changes to existing processes that would be beneficial:

- Where a defendant fails to attend court while on bail, there should be automatic estreatment and forfeiture of bail. A judge presently needs to make an order to this effect. The option to challenge an automatic estreatment/forfeiture of bail should remain open to the defendant, and
- The power of AGS to arrest a defendant without a warrant for breach of bail conditions should be expanded. Currently, an application for a warrant is required in most circumstances and would seem to be an unnecessary use of court time.

It may be helpful for you in your analysis to plot the most common bail pathways in order to illustrate the complexity and the issues.

Finally, we know that the Bail system operates within a complex environment, but we also know that there is increasing calls for transparency in relation to outcomes, as well as increased expectations more generally in terms of how the criminal justice system operates for our society. We have provided our representation in this context.

We remain available to assist you in your work and please feel free to ask for further information, or clarification on the material provided above.

Your sincerely,

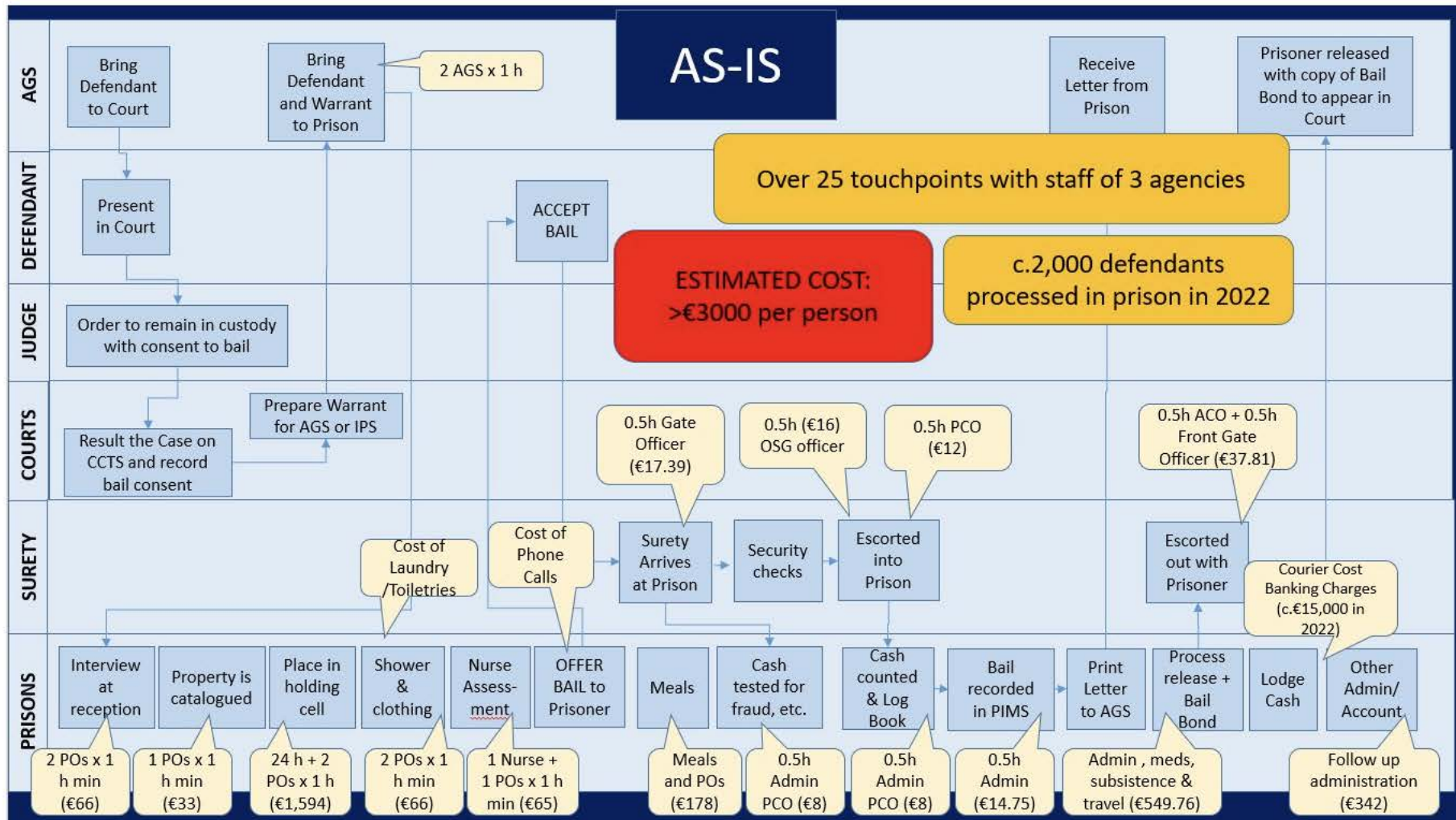


Angela Denning

CEO Courts Service

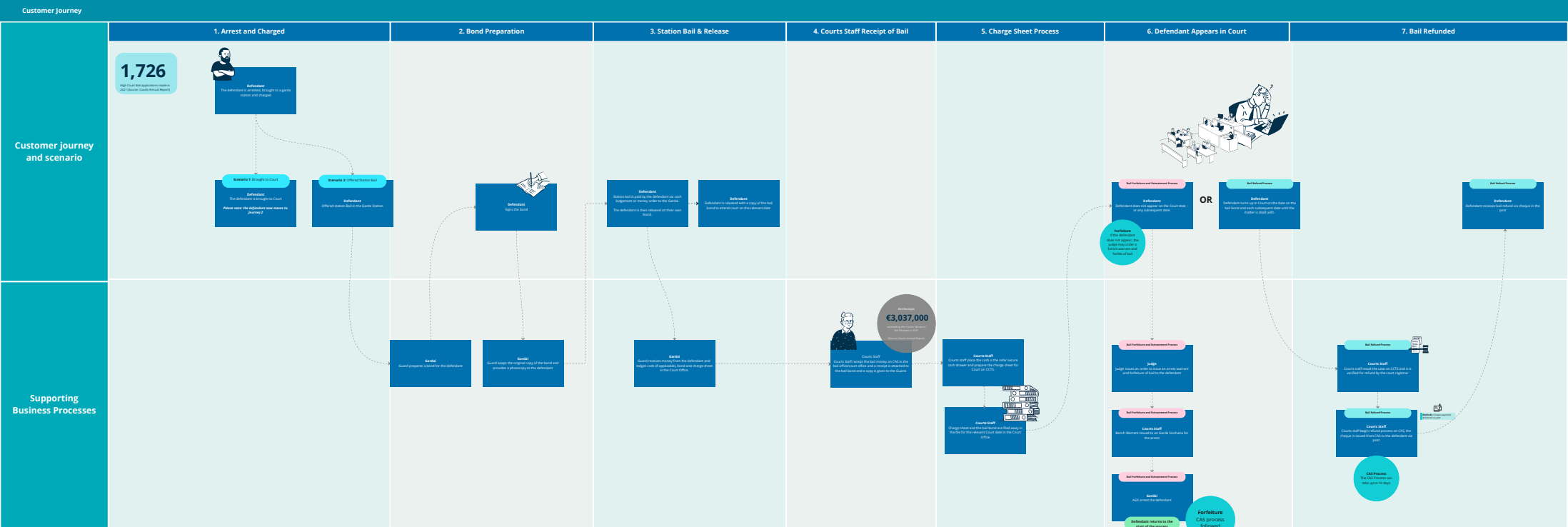
Additional Documents: Study on Cash bail

1. Cash Bail – Current As is process
2. Courts Service – Customer bail map



There are several types of bail:

- **Station bail:** A person arrested and brought to a Garda station can be charged by way of charge sheet and released on station bail to appear before a court at a specific date and time. They may be required to lodge money before being released from Garda custody.
- **District Court bail:** When a person is brought before the court, the Judge may release them on bail and set conditions to be tried to the bail. The person may be required to lodge money before being released from court.
- The court may decide that an **independent surety** is required to guarantee the appearance of the accused person. An **independent surety** is a person who makes him or herself responsible for the appearance of the accused person in court. He or she promises to pay a sum of money to the court if the accused person does not appear as agreed. The court must approve the independent surety.
- **High Court bail:** When a person is charged with treason, war crimes, murder, attempt to murder, conspiracy to commit a crime and genocide, the court may refuse to grant bail. However, if they are granted bail, the District Courts will have to follow the terms of the [Criminal Justice Act 1993](#) and the [Official Secrets Act 1963](#) also rule out the granting of bail in the District Court. In those cases, the accused person or their legal representative must apply to the **High Court** for bail.



Pain Points

Over pain points

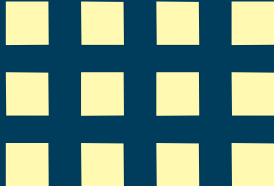
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Staff pain points

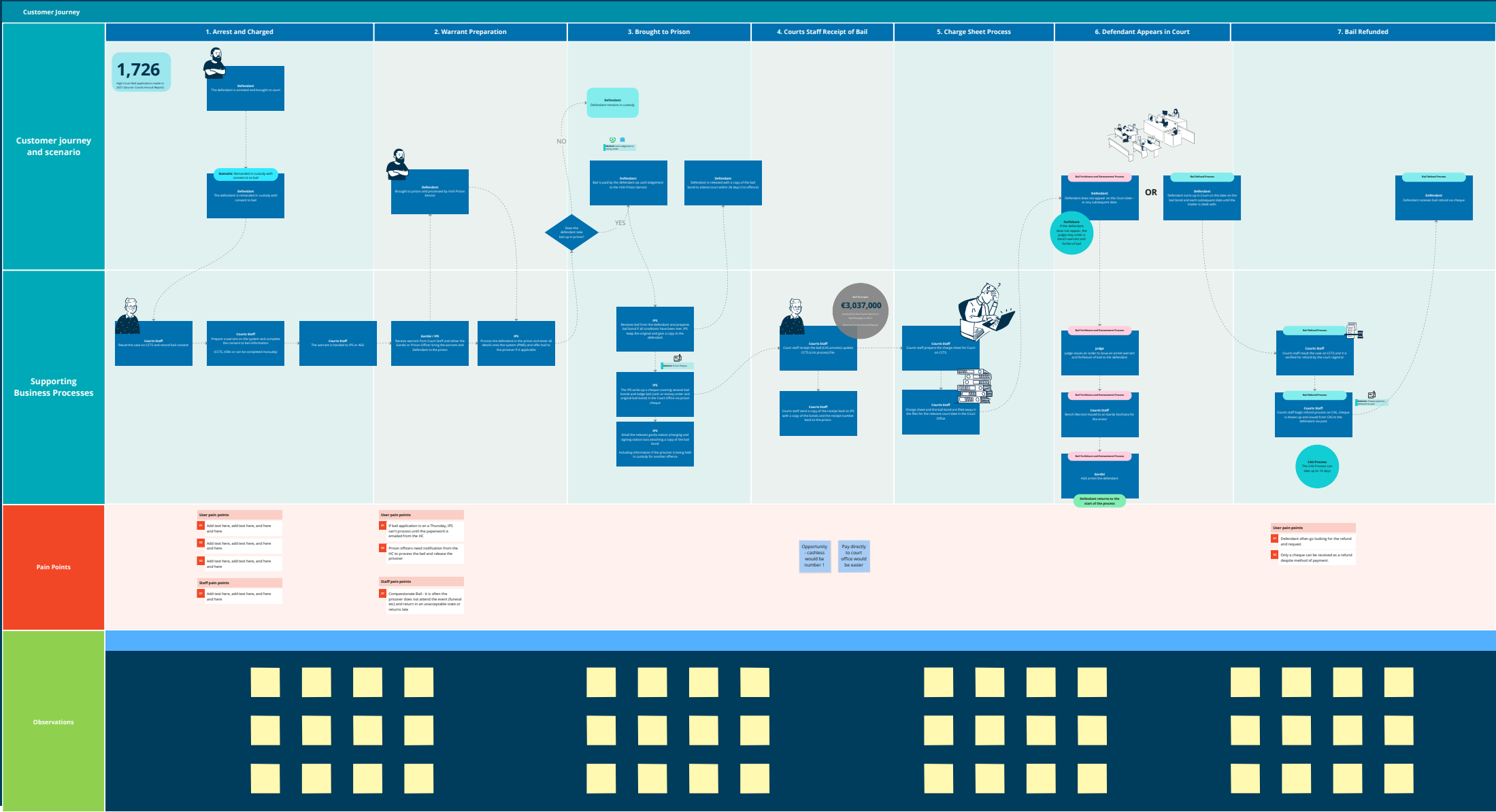
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User pain points

- 01 Defendant often go looking for the refund and request
- 02 Only a cheque can be received as a refund despite method of payment.
- 03 Defendants can change addresses
- 04 Many don't have bank accounts



This bail journey represents the journey when a defendant pays bail to the Irish Prison Service who then in turn lodge the money with the Courts Service.



Subject: CS-CEO-00660-2025 - Review of Bail Laws
Date: Thursday 21 August 2025 at 10:34:14 Irish Standard Time
From: Office of the CEO <courtsservice-ceo@corr.cloud.gov.ie>
To: Lorcan E. Staines <LorcanStaines@lawlibrary.ie>

You don't often get email from courtsservice-ceo@corr.cloud.gov.ie. [Learn why this is important](#)

Dear Mr. Staines,

I refer to your query seeking an update on the implementation of the Criminal Justice Operational Hub. I have made enquiries and the following is the position.

District Court outcomes are currently shared with An Garda Síochána (AGS) through the Criminal Justice Interoperability Project (CJIP), a precursor to the CJOH. Regarding the Criminal Justice Operational Hub, the following data sharing has been enabled from the Courts Service's perspective over the last few years:

Jurisdiction	Type of Data	Direction	Justice Body
District Court	Charge Sheets	Inbound	AGS
District Court	Bail	Inbound	AGS
District Court and District Court Appeals in the Circuit Court	Probation Reports Requests	Outbound	Probation Service
District Court and District Court Appeals in the Circuit Court	Results/Orders	Outbound	Probation Service
ALL Jurisdictions	Court List	Outbound	Irish Prison Service
ALL Jurisdictions	Court List	Outbound	Oberstown

Transfer of higher court outcome data from Circuit, Central, Special and CoA is on our list of data sharing to enable, though is dependent on replacing our current legacy criminal systems in use within these courts. We are currently implementing a major project to put in place a new unified case management system (UCMS) (crime module) to modernise and enable this data sharing. This project impacts all criminal jurisdictions, and we hope to begin roll out in 2026. This is likely to be a multi-year process due to the project's complexity and centrality of the new system in supporting operations of criminal courts. UCMS will provide the required technological foundation to share higher court outcomes but there will also be a subsequent significant body of work involving the Courts Service, Department of Justice, Home Affairs and Migration, AGS and other Justice agencies to implement sharing of court outcomes after the UCMS rollout. This data sharing project is likely to commence in 2027, though this date may vary based on the UCMS project.

I trust the above will be of assistance to you.

Yours sincerely

Brenda Casey

Office of the CEO

An tSeirbhís Chúirteanna

The Courts Service

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12th August 2025

Re: An assessment of the efficacy of Irish bail laws

Dear Lorcan,

In response to your letter of 20 June 2025, please see below observations regarding the efficacy of Irish bail laws. It is not intended to set out in this letter the current law regarding applications for, and objections against, bail. It is simply noted that the law in this area is currently found in the principles laid down by the Supreme Court in the case of AG v O'Callaghan and under Section 2 of the Bail Act 1997.

The Office of the DPP has a limited role, vis a vis the role of An Garda Síochána, in respect of bail applications. The majority of bail applications are dealt with in the District Court without the involvement or knowledge of the ODPP. In the higher courts, or in District Court prosecutions involving a prosecutor from this Office, prosecutors rely on the views and intelligence of An Garda Síochána on whether an objection to bail should be made, and in receiving information on whether or not bail conditions are being complied with. However, bail is an important issue for all stakeholders in the criminal justice system, including this Office.

1. Prison capacity

1.1 Any discussion on the bail system in Ireland must be considered within the realities of our current prison system. It is well documented that our prisons are at capacity and, in many instances, are over-crowded. There is a risk that other jurisdictions will not extradite serious offenders here because we cannot guarantee appropriate prison conditions, as required by international law, when remanded in prison awaiting trial.

1.2 In recognition of the overcrowding problem, it is noted that the Government has been exploring ways to reduce the prison population, and this context is important when considering any desire to reduce the numbers of persons on bail. We note, for example, the following initiatives:

- A steering group has been established to progress the use of electronic monitoring. One consideration behind the impetus to use electronic monitoring is the objective of reducing numbers in prison to ease the capacity issues. This Office was invited to provide observations and in response expressed the view that the legislation, as currently drafted, will not reduce the numbers of persons on remand in custody. The legislation (section 6B of the Bail Act 1997) provides that any consideration of imposing electronic monitoring of a person in the context of bail, is to take place *after* the person has been admitted to bail.

- Under section 88(2A) of the draft Children (Amendment) Bill 2024, it is proposed that a District Court Judge could not refuse bail to a child in circumstances where there are no places available in any juvenile detention facility. This is to avoid children being detained in Garda stations where bail has been refused.

1.3 A connected issue is the lack of sufficient beds in residential drug treatment centres. Gardaí will rarely, if ever, object to an accused being granted bail if they have confirmation of a bed waiting for them in a drug treatment centre. A shortage of spaces in the Central Mental Hospital can also contribute to persons either being inappropriately detained in custody or released on bail.

2. Inefficiencies across the criminal justice system

2.1 It is incumbent on all actors in the criminal justice system to take steps to ensure that cases are dealt with as expeditiously as possible. There are currently a range of inefficiencies in the court system. A report¹ commissioned by the Department of Justice in 2024 identified a “last minutism culture in the criminal courts and identified a range of relevant factors which require thoughtful consideration. These factors include historical under resourcing of various criminal justice agencies and of legal aid, as well as a shortage of judges. Other issues which have been highlighted by this Office include the importance of disclosure issues being resolved at an early stage, the need for greater certainty in ensuring that trials that are listed are ready to go ahead, the need for greater certainty around the impact of a plea at various stages in the process and the need for payments (to criminal defence practitioners and prosecution counsel) to be structured in such a way as to incentivise early engagement with a file.

2.2 Tackling delays across our system is a major challenge that will require multiple actions to address. It is noted that the 2025 Programme for Government states that a comprehensive review of the criminal justice system will be completed within 12 months and an action plan published to improve efficiency, remove blockages and cut waiting times. Any improvement in the time taken to dispose of criminal cases should also reduce the number of persons on remand and the opportunity for crimes to be committed by persons on bail.

3. Support for An Garda Síochána

- If an individual fails to comply with any of their bail conditions, An Garda Síochána may apply to the court for a warrant to arrest the person and bring them back to court to answer all charges relating to the bail. The monitoring of all bail conditions is carried out manually by Gardai. In addition, it is our understanding that AGS rely on manual checking of previous records on PULSE in order to ascertain if a person has previously been convicted of an offence whilst on bail. The condition of an accused “signing on” in a local Garda Station is recorded on hard copy paper sign in books. There is no way for a Garda in court to check these books, other than phoning up the station and finding a member to assist. We would acknowledge that this is an onerous, time-consuming activity for An Garda Síochána, whose primary focus is on the investigation of offences. This Office relies on An Garda Síochána to monitor whether bail conditions are being complied with, and to inform us if they wish to bring a bail revocation

¹ Review of the Processing of Sexual Offences in Ireland: Stakeholder Experiences, Keenan, Healy, McLoughlin-Burke, Keenan K., October 2024: Chapter 4, Page 134 speaks about Last Minute-ism and Legal Culture

application. Investigating Gardaí also have a short time period to prepare for a High Court bail application; this Office receives 48 hours' notice of High Court bail applications.

4. The commission of further offences whilst on bail

- 4.1 It is important to note that if an accused is on bail, and is charged with another offence, the charging of this additional offence is not in itself a basis to ground a revocation of bail. There appears to be some misunderstanding in the public discourse on this issue. Counsel will be aware that the presumption of innocence applies to all accused persons, and in practice a Court will not automatically revoke bail of an accused if they are charged with another offence which they are pleading not guilty to.

5. Refusal of bail for summary only offences

- 5.1 It is the experience of this Office that where a custodial sentence is not applicable to a summary-only charge, or where a custodial sentence is highly unlikely, generally An Garda Síochána do not object to bail unless there were multiple offences charged. If an accused is charged with an offence pursuant to section 13 of the Criminal Justice Act 1984, the offence of failure to attend court in reply to bail on a previous occasion, an offence that does carry a potential 12 month sentence, there is more likely to be a Garda objection to bail.
- 5.2 If an accused is in custody on minor charges, the Courts Service endeavour to fix an early hearing date. The experience in the Criminal Courts of Justice in Dublin is that in contested summary-only domestic violence cases, a hearing date is often set within a few weeks of an accused being remanded in custody. It is our understanding that in Cloverhill District Court, an accused can be remanded in custody for months before a hearing date is available. However, the ODPP is not involved in the prosecution of the majority of summary offences and other stakeholders, such as the Courts Service and An Garda Síochána, may be better placed to advise how long persons are remanded in custody pending the hearing of summary charges.

6. Execution of a bench warrant in the District Court

- 6.1 This Office has observed differing approaches taken by both members of An Garda Síochána and District Court judges when an accused is brought before the court for failing to attend court i.e. on a bench warrant. When that warrant is executed, if the Garda member does not object to bail or ask the court to attach any conditions, then the accused is released on their own bond. This often happens in cases where there were onerous bail conditions attaching to the original bond, such as sign on conditions or a curfew. Once an accused is granted bail with no conditions attached, there are no grounds to seek to revoke this bail at a later stage.

7. Setting of recognisances following convictions in the District Court

- 7.1 There is an automatic right of appeal following a conviction in the District Court. Order 101 rule 4² of the District Court Rules states that when such a person wishes to lodge an appeal, "*a recognisance for the purpose of appeal shall be fixed by the Court*". If the person has received a sentence of imprisonment, the setting of this recognisance in essence operates as a form of bail. The District surety and release a person on their own bond, require a cash lodgement and/or an

² [Full Court Rule](#)

independent surety, and can fix any conditions it sees fit. A person may appeal the recognisance to the High Court.

- 7.2 District Court judges take different approaches as to what type of recognisance is fixed, and whether they decide to seek the views of either the Gardaí and/or the prosecutor (in cases where the prosecutor is not also the investigating Garda) before deciding the recognisance.

8. The High Court bails list

- 8.1 It is the Director's experience there that is a large rotation of Judges taking the High Court Bail list which can lead to inconsistencies in how the list is managed and how many cases are dealt with on a weekly basis. Different Judges take different approaches on how the list should be run.

9. Scheduled offences under the Bail Act 1997

- 9.1 The ODPP has previously written to the Department of Justice to highlight the operational issues arising for members of An Garda Síochána when they encounter an offence which is not on the Schedule to the Bail Act 1997. If an offence is not listed on the schedule, Gardaí cannot object to bail under Section 2 of the 1997 Act (whereby the Gardaí are of the view that if granted bail the accused will commit further serious offences) and can therefore only object to any bail application by the accused on the more limited O'Callaghan grounds.

- 9.2 Some offences which may warrant inclusion on the Schedule to the 1997 Act are:

- Section 33 of the Domestic Violence Act 2018 – breach of a domestic violence court order - although a purely summary offence, this is for breach of a court order and High Court Judges have said on numerous occasions that this offence should also be triable on indictment and added to the schedule.
- Section 38 of the Domestic Violence Act 2018 – forced marriage. This Office has highlighted this point previously to the Department of Justice and this legislative amendment is included in the published General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025.
- Section 39 of the Domestic Violence Act 2018 – coercive control. This Office has highlighted this point previously to the Department of Justice and this legislative amendment is included in the published General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025.
- Section 41 of the Criminal Justice Act 1999 – intimidation of witnesses, jurors and others which is an indictable offence.
- Section 53 of the Road Traffic Act 1961 – dangerous driving. This is only a scheduled offence if it causes death or serious bodily harm. There are occasions where it may be appropriate to object to bail where an accused person is alleged to have committed offences of dangerous driving which do not result in death or serious harm, where there is a real concern that the accused will continue to drive if they get bail giving rise to a risk of death or serious harm. At present we can only object under O'Callaghan as Section 53 is summary only, unless death or serious harm occurs.
- Breaches of obligations pursuant to the sex offenders register.

10. Appeals against the granting of bail

10.1 Section 28(3) Of the Criminal Procedure Act provides that the DPP may appeal against the granting of bail in the District Court. The ODPP relies on An Garda Síochána to notify us of situations where bail was granted by a District Court despite strenuous Garda objections. The number of such notifications is currently negligible.

11. Bail conditions

11.1 Consideration might be given to the practice of imposing a cash lodgement simpliciter condition, versus the imposition of a cash lodgement by an independent surety. It is the experience of this Office that the involvement of an independent surety increases the likelihood of compliance with bail conditions and is a stronger deterrent than a cash lodgement, where the source of funds is unclear.

11.2 Gardaí are not currently able to attach conditions when granting station bail. It may be worth ascertaining the views of An Garda Síochána as to the potential benefits of being able to impose limited conditions, such as a sign on condition, to station bail. It is submitted that this could assist with Garda objections to bail regarding new offences if evidence could be put before the court of breaches of station bail conditions.

12. Appeal against decision of Circuit Court granting bail

12.1 By way of final point, we note that section 28(3)(a)³ of the Criminal Procedure Act 1967 provides an express statutory basis for an appeal to the High Court against a District Court bail decision. There is no equivalent statutory basis for an appeal against a Circuit Court bail decision. Whereas *Roche v. Governor of Cloverhill Prison* [2014] IESC 53 confirms that the High Court has full de novo jurisdiction, which can be invoked in any bail matter by either the accused or the prosecution, consideration might be given to the current statutory lacuna in relation to the right of the prosecution to appeal against the granting of bail in the Circuit Court.

I trust the above points will be of assistance to you in your review of the efficacy of Irish bail laws.

Yours sincerely,

³ Section 28(3)(a) provides: "An applicant for bail or the prosecutor may appeal to the High Court if dissatisfied with a refusal or grant of the application for bail or, where bail is granted, with any matter relating to the bail." Section 28(3)(d) provides for an appeal against a decision of the Circuit Court following the transfer of jurisdiction from the High Court to the Circuit Court under section 28(3)(b). These latter provisions have yet to be commenced.



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1st August 2025

RE: Submission on the Efficacy of Irish Bail Laws

Dear Lorcan

I refer to your letter of 20th June, 2025.

The Council welcomes the opportunity to participate in the process and sets out its observations in relation to the specific terms of the report commissioned as requested.

The Council has been advised that the Terms of Reference to be addressed are as follows:

- (i) Address how our criminal justice system should respond to a recidivist offender who persistently breaks summary laws and whether a judge faced with such an offender would have the jurisdiction, through statutory power, to remand that person in custody;
- (ii) Undertake an assessment of the efficacy of our bail laws, having due regard to the presumption of innocence, the prima facie entitlement to bail, and the impossibility of refusing bail to every person accused of summary offences, and make recommendations for any changes to bail laws I believe are appropriate and workable.
- (iii) Pay particular attention to the adequacy and operation of those laws in respect of:
 - (i) breaches of the conditions attached to bail and return to Court;
 - (ii) powers of Gardaí in respect of breaches of bail conditions and the commission of offences while on bail;
 - (iii) notification to Courts of previous breaches of bail conditions and existence of suspended sentences;
- (iv) and decisions on the revocation of bail.

While the terms of reference indicate that the report is confined to summary prosecutions, the Council has been informed that the Government has extended the terms of reference to indictable offences at your request.

Discussion of Terms of Reference:

Refusal of Bail to prevent the commission of offences

1. Following the 16th amendment of the Constitution, Section 2 of the Bail Act, 1997 was enacted to provide a legislative basis for a Court to refuse an application for bail where such refusal is reasonably considered necessary to prevent the commission of a serious offence by the accused. The jurisdiction to refuse bail under section 2 of the Bail Act, 1997, is confined to an accused who is charged with a 'serious offence' i.e. an offence which is included on the schedule to the Bail Act, 1997, and which carries a maximum penalty of 5 years or more. Accordingly, a 'recidivist' offender who is alleged to have committed a serious offence while on bail for other offences; or who has a history of committing serious offences while on bail, will frequently be refused bail under s.2 of the Bail Act, 1997.
2. The jurisdiction under s.2 of the Bail Act, 1997, cannot ground a refusal of bail where an accused is charged with a summary offence (none of which will carry a penalty of 5 years), and, indeed where an accused is charged with a serious offence, bail could not be refused under s.2 of the Bail Act, 1997, on the basis that it was considered necessary to do so to prevent the commission of a summary offence (the requirement being that refusal is necessary to prevent the commission of a 'serious offence' within the meaning of the Act.) This restriction of the power to refuse under s.2 to serious offending is in keeping with the Constitutional imperative of vindicating the presumption of innocence. Further, in *DPP v Vickers [2009] IESC 58*, the Supreme Court endorsed the necessity to apply the principle of proportionality to the question of refusing bail on the basis of apprehended future offending. Where an apprehended offence is minor in character, the potential for a refusal of bail to be disproportionate is much greater; both in terms of the actual risk to the community were a summary offence to be committed and relative to the ultimate sentence which could be imposed if the accused in fact went on to commit the further, summary, offence. Put another way, where an individual is charged with a summary offence, a refusal of bail is more likely to be disproportionate as:- (i) the likely sentence is short or non-custodial and (ii) trial delays mean a risk of pre-trial detention exceeding the eventual sentence.

Legislative Power to remand in custody where the offender on bail has 'broken' summary laws

3. Where an accused person has been granted bail, and, during the period of that bail, commits and is convicted of a further summary offence, the second offence will have been committed in breach of bail. All accused persons on bail will have entered a recognisance which includes a standard term requiring that the accused 'keep the peace and be of good behaviour'.
4. Accordingly, there is provision in law enabling the criminal justice system to respond to such summary offenders, who continue to breach bail by committing further offences on

bail of a summary nature.

5. Section 9 (4) of the Bail Act 1997 provides that a Court, on the application of An Garda Siochana grounded on information being made in writing that a person has contravened a condition of a recognizance, may issue a warrant for the arrest the arrest of the person. Accordingly, if an accused person is convicted of a summary offence committed while on bail, the Court can entertain an application to revoke bail on grounds that a term of the recognizance i.e. to keep the peace and be of good behaviour, has been breached.
6. Further, where the accused person who is alleged to have committed further summary offences while on bail, has not yet had the later offences determined (i.e. no conviction has occurred and the hearing is pending), there is scope for the Court to issue a warrant on application of An Garda Siochana where a condition of the bail recognizance has been breached e.g. the accused was arrested during curfew hours or in a place where he was bound not to be present. In our members' experience, these powers are not as frequently used as they might be and it is the case that convictions for offences committed while on bail are frequently recorded without the court being asked to re-visit the issue of continuing bail in respect of separate offences.
7. Overall, the legal principles governing the bail system are sound and fundamentally effective in that the right to liberty is balanced with the need to protect the public and to ensure that the accused attends for his or her trial. The law reflects a proportionate system where bail is only to be refused when strictly necessary.
8. Unfortunately, it appears to be the case that bail conditions imposed by the courts are often not effectively monitored in practice. Current monitoring mechanisms appear largely reactive rather than proactive and preventative. This means that compliance with existing bail conditions is often only assessed when an accused is charged with a further offence, rather than being monitored on an ongoing basis so that an application to revoke bail can made an appropriate point prior to further alleged offending.

Potential Steps to address lack of enforcement

9. It appears to many barristers who practice in the area that the Garda PULSE system is outdated and inadequate for managing bail the policing of bail conditions. It appears that PULSE does not create a notification where an individual is:-
 - a) Currently on bail
 - b) Has breached bail conditions
 - c) Has committed offences while on bail
10. Where a member of an An Garda Siochana has cause to interact with an individual and is making an entry on PULSE in relation same, it seems that it would be of significant benefit if the system was in a position to flag that the individual is on bail and alert the member of An Garda Siochana to the conditions of the bail recognisance. If such a system was in place, it would be readily apparent that a curfew condition or condition to stay out of a particular area, for example, had been breached.

11. Furthermore, it appears that there is currently no effective mechanism to manage or coordinate multiple concurrent bail bonds. Individuals can be on bail for several different matters simultaneously, potentially across multiple districts. This can sometimes lead to conflicting bail conditions (e.g. different curfews, reporting stations, or geographical restrictions).
12. The Council suggests that it would be very beneficial if there were a mechanism within the PULSE system to:
 - a) Flag existing bail bonds
 - b) Prevent contradictory conditions from being imposed in respect of different bail bonds.
 - c) Alert Gardaí, who can then alert the courts, to existing obligations when new bail is considered.
13. Consideration could be given to imposing a legislative obligation such that where an accused is convicted of an offence, including a summary offence, the Court should be informed of any existing bail bonds which the accused was subject to at the time of the commission of the offence, in order that those matters be brought before the court for consideration of whether bail should be revoked on grounds of breach of the recognizance.

Conclusion:

The legislative and constitutional regime underpinning the bail laws is fundamentally sound, but oversight and enforcement is frequently inadequate. Better systems should be put into place to ensure that members of An Garda Síochána have adequate access to information in relation to existing bail bonds and compliance with conditions in order to ensure that an application is brought to enable the Court to determine whether bail should be revoked having regard to the circumstances of a particular case.

Yours sincerely



Ciara Murphy
CHIEF EXECUTIVE



Submission on Assessment of the Efficacy of Irish Bail Laws

to Lorcan Staines S.C.

18 July 2025

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Assessment of the Efficacy of Irish Bail Laws

About the Law Society

The Law Society of Ireland (the **Law Society**) is the educational, representative and professional body of the solicitors' profession in Ireland. The Law Society delivers high-quality legal education and training and places significant emphasis on civic engagement, supporting local community initiatives and driving diversity and inclusion. The Law Society is committed to participating in discussion and advocacy on the administration of justice and the effective implementation of public policy.

The Law Society appreciates the opportunity to provide this submission regarding the assessment of efficacy of the Irish bail laws.

Introduction

This submission will focus on specific issues arising from the experience of our members. While a brief summary of the legal and procedural context will be included it is not intended to serve as a detailed outline of the Irish bail laws landscape.

Irish bail laws are articulated around common law and also statutory provisions - Bail Act 1997 (as amended) (the **Act**). The bail laws seek to balance concurrent interests such as protection of the public interest (for example by holding an accused on remand) and the accused's constitutional right to liberty. The Irish bail framework is grounded on a presumption of bail. This presumption places Ireland, and common law systems, as an outlier in Europe where other states have no such entitlement to bail¹.

The burden of proof of the objection to granting bail on the basis of the risk that an accused will either abscond, interfere with witnesses or commit a serious offence while on bail, rests on the prosecution. The associated risks will be assessed by the court on a balance of probabilities. It has been reported that in practice the legal representation of the applicant for bail will have to put forward evidence or reassurance to rebut the risks alleged by the prosecution.

The Law Society reaffirms the importance of preserving the current legal paradigm centred around the *prima facie* entitlement to bail and the necessity to avoid preventive detention.

It is noted that while the terms of reference for the present assessment of the efficacy of Irish bail laws concern bail for summary offences only, we note that Mr Staines S.C. had signalled an intention to request them to be extended to indictable offences. The Law Society supports this extension of the terms of reference. The difference between bail in summary or indictable matters is merely artificial as both types of offences are governed by the same bail regime. Most of the instances of bail granted for indictable offences are granted by the District Court before being extended by a higher court. Therefore, it makes considerable sense to not limit the review to the bail regime for summary offences only.

This submission is divided into four parts as follows:

- I. Granting bail,
- II. Enforcement of bail,

¹ See [Fair Trials, "Assessing Flight Risk in pre-trial detention decision-making: a European Comparative study", June 2024](#), p. 36.

- III. Commission of offence while on bail, and
- IV. Conclusion and recommendations.

I. Granting bail

“A court’s jurisdiction to grant bail is as old as the common law itself”²

Where the presumption is to remand an accused person on bail, this presumption can be rebutted by the court when the prosecution discharges the standard of proof for objections either set out in *AG v. O’Callaghan*³ or listed in section 2(1) of the Act.

Bail can be granted by the District Court, the trial court or any of the superior courts. The High Court has the particularity of having various jurisdiction in matter of bail (appeal of District Court’s decision, residual jurisdiction for trial court, first instance etc.).

Bail granted by members of An Garda Síochána

The power of An Garda Síochána to release an accused person on bail (called **station bail**) is not expressly restricted. Station bail can be granted by a member of An Garda Síochána to a person in-custody at a garda station⁴ unless this person is charged with one or more of the offences listed in section 29 of the Criminal Procedure Act 1967.

When considering a request to grant station bail, there is no requirement on An Garda Síochána to take into consideration previous convictions (including conviction for an offence committed while on bail) or the fact that the accused person/applicant is already on bail in other matters. In practice, it has been observed that station bails are mainly granted in cases concerning summary offences and occasionally in indictable cases where the accused person has no previous convictions. The practice seems to be, in some parts of the country, to not grant station bail for domestic violence offences.

The option of station bail is a necessary relief valve to avoid overflowing of the court system with bail application. However, there might be some merit in introducing guidelines to constrict the granting of station bail for an accused person who has previously committed offences while on bail. In such a scenario the decision on the granting of bail would be at the discretion of the court.

Challenges encountered by a court in granting bail to an accused with previous conviction(s) for offence(s) committed while on bail

When an accused person brings an application for bail it is open to An Garda Síochána to object to bail. The prosecution can raise two types of objections: *O’Callaghan* rules (flight risk and interference with witnesses) or section 2 of the Act (risk of commission of a serious offence). It is for the prosecution to prove the likelihood of the risk(s) alleged. The court will assess independently, on the balance of probabilities, whether the alleged risk is proven.

In order to reach their decision, the court must be provided with concrete evidence, including information in relation to previous convictions or past breaches of bail conditions. In practice,

² See *Walsh on Criminal Procedure*, Dermot P.J. Walsh MRIA, 3rd edition, p.1827.

³ *A.G. v. O’Callaghan* [1966] IR 501.

⁴ Section 31(1) of the Criminal Procedure Act 1967.

the member of An Garda Síochána giving evidence will, where applicable, provide a list of the previous convictions to the judge. This list is based on data extracted from the PULSE records⁵. It is our understanding that PULSE does not include information such as whether the offence was committed on bail or whether that applicant had previously breached bail in another case. To obtain this information the Garda would need to check individual charges and bail to know if bail conditions have been breached.

Practitioners have indicated that, in practice, it is not uncommon for the list of previous convictions to be inaccurate. Further, we believe that unless the member giving evidence had an opportunity to contact colleagues directly involved in the other matter(s) being prosecuted against the applicant they would not necessarily know if an applicant who was already on bail in another case complies with the conditions imposed on them by the court.

More generally, practitioners' experience has been that there can be disparities in the approach adopted by members of the Gardaí regarding the issue of bail: bail packs (detailed written bail objections) are not always provided, or in some circumstances bail packs are provided without sufficient time for consideration. Practitioners have also noted that certain cases would give rise to objections to bail in one District but not in another. The absence of a consistent approach from the prosecution contributes to there being a lack of legal certainty and clarity.

In the context of the assessment of the efficacy of bail laws, the Law Society recommends that there be a formal requirement for an improvement in the quality of information provided to the court regarding previous convictions and compliance with bail conditions for accused already on bail in other matters or who have previously been granted bail prior to finalisation of a criminal matter. The need for the provision of full and precise information to the court is important in order for the court to be in a position to accurately assess the risk of the applicant to not comply with bail conditions. In parallel, the provision of guidelines or/and increased training to members of An Garda Síochána would likely assist in harmonising the approach of An Garda Síochána towards bail applications and would likely result in an improvement of the quality of the information that is provided to the court.

Once the objections to bail have been laid down by the prosecution, the applicant or their legal representative will normally make submissions to attempt to address and alleviate those concerns. There is a heavy burden on the legal representation to propose bail conditions or alternatives to detention. For example, it is not uncommon for solicitors to contact family members or friends to assess their willingness to consent to be a surety or to provide a bail address. This type of preparatory work that is carried out by the legal representative is particularly important in circumstances where the applicant has previously breached their bail. Upon committal, remand prisoners are granted a limited number of phone calls, this number should be increased to facilitate the making of calls that specifically relate to the securing a potential surety or a place of address and ultimately securing of bail.

Lastly in this section, we would like to re-state that systematic remand, even for accused persons with a history of committing offence while on bail, would be a breach of their entitlement to bail and their constitutional rights.

The use of electronic monitoring for bail

Section 6B of the Act (inserted by the Criminal Justice Act 2007 and subsequently amended) provides a legal framework for the electronic monitoring of accused admitted to bail and charged with a serious offence. The section has not yet been commenced.

⁵ Electronic system used by An Garda Síochána to for recording data.

Under section 6B (as amended), an application for electronic monitoring can only be made by the prosecutor. The Law Society understands that the scope for making an application for electronic monitoring was narrowed following the recommendation made by the Oireachtas Committee on Justice during the pre-legislative scrutiny stage of the Criminal Justice Act 2017. The revised section 6B restricts the court from granting bail with electronic monitoring in circumstances where the prosecution has not applied for that particular condition.

In addition, the Act precludes an applicant for bail from being able to request electronic monitoring. The legislation seems to separate the adjudication on an application for bail from the addition of electronic monitoring to strengthen bail condition. It is the Law Society's view that the option of applying for electronic monitoring should be open to the accused. We would also suggest that the use of electronic monitoring should be available for the court to order on its own initiative. A limitation of excessive electronic monitoring would be ensured by a requirement for systematic consultation, by the court, with the prosecution.

It is concerning that since its enactment in 2007 section 6B of the Act is yet to be commenced. It is not currently possible to avail the possibility of electronic monitoring on bail despite the existence of a legal framework for the last 18 years.

The Law Society calls for section 6B to be commenced, and that appropriate resources be allocated for its effective implementation.

In a context where there are delays between the moment a person is charged with an offence and the finalisation of the case at first instance⁶, and the overcrowding of remand prison facilities⁷, the use of electronic monitoring for accused person on bail would help alleviate pressure on prison capacity.

Improving the reach of bail supervision outside of the jurisdiction

The Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2020 (the **2020 Act**) transposes the Council Framework Decision 2009/829/JHA⁸ which allows for the recognition and execution in another European Union (**EU**) member state of a decision on supervision taken in Ireland. Commonly referred as the European Supervision Order (**ESO**), this instrument provides for the possibility for an accused on bail to reside outside the jurisdiction while remaining monitored on bail by the local authorities.

This procedure is scarcely used despite its advantage in cases where the risk of absconding is a concern to the court. The experience from practitioners strongly suggests that there is a lack of knowledge of the instrument and of the applicable procedures to be adhered to⁹. We are aware of one instance in which the High Court stated that the fact that the unknown delay for securing the recognition of the decision under the 2020 Act, and the lack of clarity around

⁶ The average disposition time of 1st instance criminal courts in Ireland in 2024 was 525 days. See [Courts Service Annual Report 2024](#).

⁷ Occupancy level of the Irish prison was of 101% in 2023, 109% in 2024 and 116% on 27.06.2025 according to figures provided by the Irish Prison Service. Remand prisoners represent between 18 to 20% of the prison population. See <https://www.prisonstudies.org/country/ireland-republic>.

⁸ [Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention](#).

⁹ [Improving judicial assessment of flight risk - domestic research report](#), Irish Council for Civil Liberties and Fair Trials International, April 2024, p.19 confirming the lack of awareness around ESO.

the process to be followed, led them to refuse the application for supervision abroad (bail was ultimately granted)¹⁰.

It has been noted that the nationality remains an important deciding factor in refusing bail on the basis of the flight risk¹¹ despite the clear recommendation by the EU Commission that:

“Member States should also ensure that pre-trial detention decisions are not discriminatory and are not automatically imposed on suspects and accused persons based on certain characteristics, such as foreign nationality”¹².

As an indication, foreign prisoners represented 14.6 % of the prison population in Ireland in 2023¹³.

Therefore, it is clear that it would be beneficial (at least in prison capacity terms) for the supervision on bail outside the jurisdiction to be availed of as an effective option. There is considerable scope to improve practitioner knowledge of the instrument and the associated practical procedures.

II. Enforcement of bail

A breach of a bail condition does not automatically lead to an arrest or the revocation of bail. The entitlement to bail and presumption of innocence remain key principles in our justice system. In the application of these principles, any revocation of bail or granting and enforcement of an arrest warrant must be ordered by a judge following a formal application by the prosecution. Proof must be established by the prosecution that one or more of the bail conditions have been or will be imminently breached.

Absconding is the only breach of a bail condition that can directly lead to a new charge. Section 13(1) of the Bail Act 1997 provides that failure to appear in court, without a reasonable excuse, is an offence. In practice, failure to appear without a reasonable excuse does not always lead to a charge under section 13(1).

The violation of other bail conditions such as abiding by a curfew, residing at a specific address, not entering in contact with a witness or not appearing in a specific area can be grounds for revocation of bail. The sanction for an accused person breaching their bail conditions is thus, not to be charged with a separate offence, but their remand in custody.

The violation of bail condition does not need to have already happened to lead to an arrest. The court has a power to issue an arrest warrant when there is evidence put before them by a member of An Garda Síochána or a surety that the accused is about to breach any of the bail conditions of the recognisance.

Taking in consideration the various possibilities to sanction a potential or actual breach of bail conditions and the experiences reported by our members, the Law Society believes that, from an enforcement perspective, the bail laws as currently framed are aligned to the objectives.

¹⁰ *Crespo v DPP* (April 2024) (*ex tempore*).

¹¹ *ibid* p.21.

¹² [Commission Recommendation \(EU\) 2023/681 of 8 December 2022 on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions](#), recital 23.

¹³ <https://www.prisonstudies.org/country/ireland-republic>.

III. Commission of offence while on bail

The current legislation penalises the commission of offence by an accused while on bail by considering it as being an aggravating factor, and provides for the imposition of a consecutive sentence.

Section 11(1) of the Criminal Justice Act 1984 (the **1984 Act**) provides that any sentence of imprisonment passed on a person for an offence committed while on bail should be consecutive to any sentence imposed on them for a previous offence. This provision departs from the situation where a second offence was not committed while bail, indeed, in this scenario, the custodial sentence can run concurrently.

Section 11(4) of the 1984 Act adds that where a court imposes a sentence for an offence committed while on bail the fact that the offence was committed while on bail should be treated as an aggravating factor. The sentence imposed for an offence committed while on bail will thus be higher than the sentence imposed in the absence of such factor.

The existence of this double mechanism seems appropriate in the view of the Law Society. The aggravation of the sentence and the fact that it be imposed concurrently provide a proportional punishment and deterrent.

The Law Society would urge caution if consideration were being given to the potential for proposing the introduction of a mandatory minimum sentence or a presumptive minimum term of imprisonment for offence committed while on bail. In respect of the constitutionality of mandatory or presumptive minimum sentences we would refer to the decisions of the Supreme Court in *Ellis v Minister for Justice*¹⁴ and the High Court in *McManus v Minister for Justice*¹⁵. As described in *Walsh on Criminal Procedure*¹⁶:

“While the legislature can determine the penalty to apply to all persons convicted of a particular offence, determining the appropriate sentence to apply to one (or a group) of those persons by reference to their circumstances (or the circumstances in which the offence was committed) is part of the administration of justice entrusted to the courts by the Constitution.”

IV. Conclusion and Recommendations

The Irish bail laws offer a unique entitlement to bail to an accused person which should be protected. While there is scope for certain aspects of the granting of bail to be improved, the enforcement procedures appear adequate to their aims.

In the context of the assessment being conducted by Mr. Staines S.C., the Law Society would like to suggest that the review consider the following Law Society recommendations:

1. Improve the quality of the information provided to the court concerning (a) any previous convictions of the accused applicant for any offence committed while on bail, and (b) compliance with current bail conditions imposed on the accused applicant for bail in other matters.

¹⁴ [2019] 3 IR 511 concerning mandatory minimum sentence.

¹⁵ [2021] IEHC 385 concerning presumptive minimum sentence.

¹⁶ *ibid*, p. 2457.

2. Promote the harmonisation of the approach to bail by members of An Garda Síochána to enhance legal certainty.
3. Consider reviewing the guidelines regarding the release of accused person on bail by members of An Garda Síochána where the accused had previously committed offences while on bail.
4. Consider providing extended access to controlled land-line telecommunication to the accused person to secure surety or bail person.
5. Commence section 6B of the Act (as inserted by Criminal Justice Act 2007 s.11) and secure the provision of adequate resources for its effective functioning.
6. Consider extending to the applicant the possibility to request electronic monitoring on bail, and consider empowering the court to order electronic monitoring of its own volition after consultation with the prosecution.
7. Encourage the greater use of the Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2020, and provide clear information on the procedure to be followed by the practitioners and the court.

The Law Society appreciates the opportunity to provide this submission. The Law Society, in particular through its Criminal Law Committee and its Policy Department, remains available to assist Mr Staines S.C. in relation to any matter relating to his review of the efficacy of bail laws.

For further information on any aspect of this submission, please contact the Policy Department of the Law Society of Ireland at: PolicyTeam@LawSociety.ie

1. Context

Mr. Lorcan Staines, SC requested a contribution from the Director General of the Irish Prison Service in relation to consideration of existing bail laws for reform and the probable impacts on prison capacity.

2. Questions

Mr. Staines, SC asks for information regarding the following specific areas but also welcomes any suggestions from experience in individual cases.

a. Prison capacity & overcrowding;

The Irish Prison Service must accept into custody all people committed to prison by the Courts. Where the number of prisoners exceeds the maximum capacity in any prison, the Prison Service make every effort to address the issue through a combination of inter-prison transfers and Temporary Release in accordance with the Criminal Justice Act 1960, as amended by the Criminal Justice (Temporary Release of Prisoners) Act 2003. Decisions in relation to temporary release are considered on a case-by-case basis and the safety of the public is paramount when those decisions are made.

The Prison Service has two supervised early release schemes, the Community Return Scheme for prisoners in the one to eight-year sentence category, and the Community Support Scheme for prisoners with sentences of less than 18 months.

A Prison Overcrowding Response Group (PORO) was established in 2023 to develop proposed actions to address the problem of Irish prisons operating above capacity. The Group comprised of representatives from the Department of Justice, An Garda Síochána, the Irish Prison Service, the Probation Service, and the Courts Service. On foot of a report of this Group, in June 2024, a range of actions was approved and work to implement these actions is ongoing.

Two of the actions identified, concerning a new structured temporary release programme for women and the establishment of a specialised Probation Service response for scaling, have been combined, and a pilot scheme has been established targeting women serving custodial sentences of 18 months or less in Limerick's Women's Prison.

The Future Prison Capacity Working Group was established in the second half of 2024 to consider future prison capacity needs and to make recommendations on the numbers and types of prison capacity needed out to 2035. The Working Group has projected future prison population numbers and based on those it has made a number of proposals to create increased capacity across the prison estate. These will be used to inform capital developments across the prison estate both in the short and longer term.

On 13th August 2025, the Irish Prison Service was operating at 120% of capacity with unprecedented numbers in prison custody. There were 5,581 people in prison custody with a prison bed capacity of 4,672. 1,032 of the people in prison custody on 13th August were held on remand warrants only, with further sentenced prisoners in custody also having remand warrants. There were 496 people in prison custody required to sleep on a mattress due to lack of suitable accommodation across the prison estate and 560 people on temporary release. This level of overcrowding, experienced throughout 2025, is occurring during a period of court vacation.

On 30th July 2025, before conclusion of the court term, there were 5,581 people in prison custody, with a prison bed capacity of 4,672. 959 of the people in prison custody were held on remand

warrants only, with further sentenced prisoners in custody also having remand warrants. There were 471 people in prison custody required to sleep on a mattress due to lack of suitable accommodation across the prison estate.

The levels of overcrowding at present are such that some prisons are operating at the maximum capacity possible for sanitation and kitchen facilities. In Cork Prison, for example, there are only two divisions and all available space including space ordinarily held back for acute needs is being used to house prisoners. Bunk beds have been installed wherever possible infringing on rights to basic areas of personal living space. The only space left in some prisons is to consider bringing common areas into use for space to place mattresses which is unconscionable given the obvious security and safety risks.

The level of tension and risk of violent disruption is high across the prison estate, increasing the risk of harm to prisoners and staff alike.

The levels of temporary release being approved to manage the prison population safely is unprecedented. On 13th August, there were 560 people on temporary release from prison custody. The Irish Prison Service takes all steps to balance the risk to the wider public and the risk within the prison environment when taking decisions to approve temporary release, but the levels of remands are driving decisions to increase the number of people on temporary release to include people who are convicted and sentenced to make space for people detained on remand for minor offences such as public order and minor road traffic offences, who are often released without subsequent sentence.

The Director General established the Prisoner Overcrowding Risk Assessment Taskforce Group to develop a risk assessment for final review and adoption by the Directors Leadership Team (DLT).

The Taskforce consisted of representation from the key Directorates of the IPS, the Criminal Justice Governance Division of the Department of Justice, Home Affairs and Migration, the Prison Officers Association and the SCA (which also provided the Chair).

This Taskforce has identified that Governors and management are now required to accept a higher level of risk appetite than they would when operating a prison that is at or below defined safe prisoner occupancy levels. Thus, there are decisions that are being made that are not in keeping with good prison management but must be made to address the immediate needs to accommodate new committals, such as:

- Overloading cells contrary to IPS normal established capacity.
- Accommodating prisoners on mattresses on floors.

As such some of the impacts of overcrowding have materialised or significantly increased, for example:

- Breaches of human rights standards.
- Early release for prisoners who would not be eligible in other circumstances.

Research on prisoner-on-prisoner assaults indicates that prison overcrowding can exacerbate the risk of violence, as can the presence of drugs and the lack of adequate mental health support. In 2024, prisoner-on-prisoner direct physical assaults increased 31% on the previous year and are up 130% when compared with 2022 figures.

Accommodating a prisoner in a cell, either in a bed, bunkbed or on a mattress on the floor (as available), itself requires a risk assessment, but is only one element of a much bigger challenge. Increased numbers mean that the whole regime of the prison and its ability to provide appropriate services are impacted. In addition, the IPS cannot effectively implement programmes to support the rehabilitation and reintegration of prisoners into society. This situation will potentially lead to higher levels of reoffending, which are already relatively high in Ireland. It also puts additional pressure on the criminal justice system and hampers efforts to improve the safety of communities.

This Taskforce further identified that : The management of prisoner numbers requires broader action than just seeking to accommodate prisoners in an already overcrowded prison system. Fundamental to an effective and long-term solution will include reform of the criminal justice system to increase the use of alternatives to prison, where appropriate, by minimising the number of committals that do not need to be made to prison, providing for the management of low-risk prisoners in alternative settings, and allowing for appropriate release mechanisms that are adequately supported in the community. The number of prisoners held on remand also requires further analysis given the level of growth in this cohort.

b. The knock-on consequences of more suspects being refused bail and remanded in custody pending trial;

The Programme for Government 2025 commits to a range of measures to explore alternatives to prison to provide a more meaningful response to address recidivism. A long-standing principle of penal policy, in the EU and Ireland, has been “detention as a last resort” and a knock-on effect of increasing detention over bail opportunities will be to contradict this government commitment to penal reform.

The most immediate knock-on consequence of increased numbers remanded to prison will be that the Irish Prison Service will experience even higher levels of overcrowding and more prisoners will be denied their basic human rights.

The direct knock-on consequence will be that more convicted prisoners for more serious offences will have to be released on temporary release to make space for unconvicted remands.

On one Friday in early August when Cork was experiencing their highest numbers in prison custody ever recorded there were 12 people remanded to Cork Prison for minor offences, some of whom had no previous offending history. This necessitated the release of prisoners coming to the end of long sentences for serious offences to make space.

There are significant risks of increased violence in prisons where there are high levels of overcrowding, and the rights of prison officers to have safe systems and work spaces will also be compromised if the prison population continues to grow without sufficient capacity or staffing levels. The Irish Prison Service aims to recruit up to 300 prison officers in 2025, in addition to the 271 prison officers recruited in 2024 to mitigate some of this risk but infrastructure development is essential.

There are several implications to consider when looking at the potential impact of higher frequency of refusals to bail. There is a need to address and resource the bottlenecks and inefficiencies already occurring in the system before introducing additional pressures. I attach a recent study of the impact of managing the cash bail process in prisons for information. [Irish Prison Service Innovation Bail Reform Project Presentation November 2023]

At present the remand population is climbing steadily and driving overcrowding in prisons. More females are being remanded in prison custody for minor offences and more people are spending longer periods of time on remand before sentencing, or before being released without sentence with credit for time served. A recent study of the impact of higher rates of remand and longer periods of time spent on remand is attached for information. [Irish Prison Service Data Analysis of Increased Courts Activity August 2025].

There is an increasing trend within the female prisoner population of ‘remands for welfare purposes’ where the person is being remanded more for the level of destitution occurring for that person in the community than the nature or level of offending behaviour.

c. Prison conditions generally:

Given the levels of overcrowding currently experienced a number of people are required to sleep on a mattress on the floor in a cell that may also hold three other adult males. On 13th August 2025, there were 496 people in prison custody required to sleep on a mattress.

The increasingly high number of people required to sleep on a prison mattress leads to difficult decisions where people with medical conditions have to be triaged to determine if, notwithstanding their medical condition, no other alternative bed placement might be available. There are a high number of prisoners with acute mental health illness in prison who have difficulty navigating the crowded and noisy environment which is exacerbated when the cell is also overcrowded.

Every effort is made to support and encourage prisoners to use their out-of-cell time to engage in exercise, constructive activities and fresh air exercise, however the increase in population also results in the necessary redeployment of staff into landings, for safety reasons, diverting staff away from facilitating education, rehabilitative services Court and hospital escorts. Prison overcrowding leads to an increased risk of violence for prisoners, threatens the health and safety of prison officers, and undermines the rehabilitation and reintegration of offenders, ultimately resulting in an increased threat to public safety.

d. What plans (if any) have been put in place to increase prison capacity and when prison capacity is expected to be increased:

The Programme for Government 2025 commits to a range of measures to explore alternatives to prison, enhance prison infrastructure and increase prison capacity.

The bed capacity of the Irish Prison Service currently stands at 4,672. Government has made significant capital funding available to the Irish Prison Service to enhance the existing prison infrastructure and provide additional capacity. Since 2022, capacity across the prison estate has been increased by 377 new spaces, with 126 delivered in 2024, 40 delivered to date in 2025 with plans to deliver a further 101 additional spaces this year.

In line with Programme for Government commitments to deliver 1500 additional prison spaces, there are capital projects planned at Castlerea, Cloverhill, Mountjoy, Portlaoise, Wheatfield, Midlands, Dóchas and the Old Cork prison site. It is expected that the capital allocation will also provide for work to commence on the development of a new prison at Thornton Hall in North County Dublin. The most significant additions to capacity will come on stream from the year 2028 and the capital plan is being reviewed in light of the recent NDP process.

Future Prison Capacity Working Group

Report to the

Minister for Justice



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1. Executive Summary

The Future Prison Capacity Working Group was established in July 2024 by the then Minister for Justice, Helen McEntee, T.D., to examine Ireland’s prison capital requirements out to 2035.

The report highlights that like other prison systems in Europe, the Irish prison system is facing significant capacity challenges, with record-high prisoner numbers placing increasing strain on the whole system. There are some common trends across the EU and UK including increases in remand populations, longer sentences, policy shifts and demographic changes. In addition, various sources suggest that crime trends and rates are influenced by age shifts in the population as well as social and economic conditions and those conditions applying to different birth cohorts.

The analysis shows that while the nature of crime is evolving traditional types of offending continue to drive pressure on the prison system. The increase in violent and drug-related crimes means more prisoners require addiction and mental health support and highlights the need for cross-departmental approaches to some of the challenges.

The prison estate combines very historical Victorian Prisons that have, to greater and lesser degrees, been modernised or upgraded over time, along with prisons built over the more recent past. While over 300 prison spaces have been added in recent years, prisons were operating at around 112% of capacity throughout December 2024 and January 2025. The highest number of people ever in prisons to-date was reached on 15th April 2025, when there were, 5,394 people in prison, including 276 women. The female prisons are among the most overcrowded with Mountjoy (Dóchas Centre) at 132% and Limerick at 148%. This level of overcrowding impacts the delivery of services to prisoners and significantly increases operational risk.

Overall, the current IPS Capital Plan has the potential to deliver over 1,100 new spaces between 2024 and 2030, if fully funded. Around 230 of these are on course for delivery by end 2025, 308 between 2026 and 2028 and around 620 between 2029 and 2030/2031. Plans are also being developed to implement the Programme for Government commitment to create 1,500 new prison spaces in the next five years.

This section has been redacted as it contains commercially sensitive information

[REDACTED]

The annual running costs of a prison space in 2024 was just over €99,000; each additional 100 spaces will cost approximately €10m a year to run at current rates.

The cost of delivering new prison infrastructure in Ireland by 2035 will be significantly influenced by construction cost inflation, market volatility, and sectoral capacity constraints. As with any capital programme, final costs and timelines will only be fully determined following project appraisals and the tendering process. Without detailed designs completed for specific projects, costs can only be

estimated at a high level and based on today's prices. The overall cost would also depend on whether these spaces are to be located within the current prison estate or in a green field location, and any inflation in the coming years will further drive up costs.

In terms of current and future prison population, the Group examined a number of issues in detail that are influencing prison populations: sentence length, the remand population, reoffending, the female prison population, age profiles, prisoners with mental health challenges and sex offenders.

To inform the group's work two forecast models were developed using available data and a number of assumptions. As both models had limitations, it was decided to develop a range based on both, arriving at a projected prison population of between 5,600 and 6,450 by 2035. These figures are based on the numbers in custody and do not include those on temporary release. The numbers on temporary release grew to over 500 a month in 2024 and any curtailment in the use of temporary release would increase the demand for prison spaces. It is proposed that a demand model and population projections should be run every 1-2 years and the model updated as better data sources become available, in line with other jurisdictions.

The existing capital plan is expected to increase capacity to 5,614 by 2030/2031 (with the addition of 1,100 spaces). Taking a 90% occupancy rate across the whole estate that would provide spaces for approximately 5,052 people. Increasing the build to 1,500 places increases capacity to 6,014 spaces at 100% occupancy, 5,713 at 95% occupancy and at 90% occupancy creates space for 5,412 people. This assumes that all existing prisons remain in use.

The group acknowledges that building on existing prison campuses offers a number of benefits and has identified scope for development in a number of existing prisons. Two further sites are also identified for further consideration: the old Cork Prison site and Thornton Hall. The following is recommended:

- Further consideration is needed to the potential requirement for an additional remand facility given the increases in remand prisoners and this should be considered in the context of further development of Wheatfield and Cloverhill.
- While the group recognises the unique profile of female prisoners and the need for services outside prison, given the serious overcrowding in female prisons, the group recommends that consideration is given to increasing capacity along side tailored initiatives to support women in the community.
- The group recommends that Arbour Hill is prioritised for decommissioning in the coming decade which would require a decant of approximately 135 prisoners to other prisons. The group also recommends that priority is given to returning Mountjoy to single cell occupancy (reducing numbers by circa 210) along with further consideration of the overall development of the Mountjoy campus.

- A dedicated medical unit is included in the future plans for Mountjoy and is being developed in conjunction with the HSE. The planning should ensure that such a unit can provide high support facilities also.
- The group highlights the potential to pilot a day prison model, potentially in Mountjoy.
- The group recommends that consideration is given to prioritising further development of Portlaoise Prison as well as the proposed expansion of the Midlands Prison.
- Opportunities to accelerate existing plans for large-scale capital projects should be urgently explored. Given the limited options for new prison developments, consideration could be given to seeking exemptions from the initial approval gate of the Infrastructure Guidelines, which typically requires a broad options appraisal. Where appropriate, bypassing this stage could reduce delivery timelines by 12 to 18 months.
- Over the next decade there will be a requirement to modernise the existing stock of prisons and a proportion of the budget should be allocated to this on an ongoing basis.
- There is already work underway to create additional facilities for elderly prisoners and those with additional medical care needs. In the absence of appropriate facilities in the community for these types of prisoners, a plan should be developed to provide for additional specialist facilities either in existing prisons, where space allows, or as part of new developments. However, the group is strongly of the view that some prisoners should not be kept in a prison environment and should be moved to appropriate facilities in the community.
- It is recommended that as part of all business cases, allowance is made for provision of additional / new facilities for prisoners and staff. This would include educational, recreational and healthcare facilities that support rehabilitation, and the resourcing (funding and staffing) to deliver these related services. More generally, increases to prison capacity need to be matched with increased funding for staff and services in the Prison Service and Probations Service.
- On prison visits, members of the Group saw how minor works and relatively small investments in individual prisons can be very effective in making meaningful improvements to facilities for prisoners, particularly some of the most vulnerable prisoners. An enhanced fund for minor works would allow prison management to further prioritise and progress small improvements with these works being managed locally.
- Transitional housing built on existing prison lands, or purchased in close proximity to the prisons should be further explored given the very significant challenges identified in securing accommodation for prisoners on release, and the impacts this has on recidivism. This could potentially be run as an innovative pilot project, with the Department of Rural and Community Development and making use of EU funding. There is also potential to train people in prison in modular construction methods, and have them involved in the construction of modular, step-down or transitional housing.

- In order to provide oversight and ensure the prison estate is developed strategically, an Estates Programme Board should be established with key representatives from IPS, the Department of Justice and with external expertise. This is inline with how capital projects are overseen in other parts of the justice sector and wider public sector.
- Future policy, legislative or significant operational changes in the justice sector should involve an impact assessment to determine the potential impacts on prison capacity to aid planning.
- The existing Prison Design Guide Manual should be updated to define current prison cell and accommodation standards, and associated capacity and resourcing, to inform new prison capital projects. It can also be used as a guide for refurbishments, taking into account the build constraints that exist in modernising older parts of the estate.
- **Data modelling and prison population projections should be carried out at regular intervals to inform future decision-making on capital projects and related services.**

2. Introduction & Context

2.1. Introduction

Like other prison systems in Europe, the Irish prison system is facing significant capacity challenges, with record-high prisoner numbers placing increasing strain on the whole system. While efforts to develop alternative sanctions and diversionary measures continue, the demand for custodial sentences remains high, leading to persistent overcrowding in most facilities. The current situation, in which occupancy levels far exceed the Council of Europe's recommended 90% threshold, underscores the urgent need for strategic planning to ensure the sustainability and effectiveness of Ireland's prison system in the coming decade and beyond.

In response to these challenges, the Minister for Justice established a high-level working group on Future Prison Capacity to examine Ireland's prison capital requirements out to 2035. The group has been tasked with assessing current and projected capacity needs and developing a costed, phased plan for the expansion and modernisation of the prison estate. This report provides an initial roadmap for delivering sufficient and humane prison accommodation while aligning with broader criminal justice reforms and societal trends.

The group took as its starting point the evolution of penal policy in recent years, and a central consideration has been the need for a prison system that not only meets capacity requirements but also supports rehabilitation, security, and safety. The recommendations in this report aim to balance the imperative of adequate capacity with the broader goal of fostering a penal system conducive to rehabilitation and reintegration.

To inform its findings, the group has conducted consultations with key stakeholders, including senior members of the judiciary, the Prison Officers Association, the Inspector of Prisons, and representatives from penal reform advocacy groups. It has also relied on the members of the group, who are subject matter experts from across the justice sector. Site visits to key prison facilities have provided valuable insights into the current conditions and operational realities of the system. The group has also taken into account the current context, including the Review of Policy Options for Prison and Penal Reform 2022-2024 and the Irish Prison Service Capital Plan 2024-2030.

It is notoriously difficult to predict prison population, even in cases where high quality data is available. A range of factors affecting prison numbers have been considered and are used to provide an estimate of the size of the prison population by 2035. This report also explores the types of works required across the existing estate and provides initial cost estimates for capital investment and operational expenditure.

As the first phase of a longer-term strategic process, this report lays the foundation for further work to be undertaken to develop a strategic roadmap for the prison estate. Future phases will refine and expand on these initial findings, ensuring that Ireland's prison system is equipped to meet the demands of a changing demographic and criminal landscape while upholding principles of justice, security, and rehabilitation.

2.2. Irish Policy Context

A number of efforts have taken place to examine and advance elements of the State's penal policy, the first most holistic example being the Report of the Committee of Inquiry into the Penal System, Chaired by T.K. Whitaker and published in 1985. The past 15 years have been particularly productive in relation to structured examination of penal policy. Following stalled construction plans, on 5 April 2011 then Minister for Justice and Equality Alan Shatter T.D. set up a Review Group to examine the need to construct a prison at Thornton Hall, particularly considering the increase in prisoner population, but the group considered this matter in the context of penal policy more generally and the potential impact of alternative sanctions to prison. This Review Group completed the Report of the Thornton Hall Project Review Group in July 2011. The Report made a number of recommendations, including that:

"...an all-encompassing strategic review of penal policy should be carried out which will incorporate an examination and analysis of all aspects of penal policy including prevention, sentencing policies, alternatives to custody, accommodation and regimes, support for reintegration and rehabilitation [and] the issue of female offenders..."

To meet this recommendation, a strategic working group was established in 2012. The Minister for Justice, Frances Fitzgerald TD, published the group's Strategic Review of Penal Policy: Final Report in July 2014. This report took a much more substantive, extensive examination of the various facets of the existing penal system and made 63 recommendations. To drive and coordinate progress on implementing these recommendations, an Implementation Oversight Group was established chaired by Professor Mary Rogan. Between 2014 and 2022 eight progress reports were prepared and published. While it was not possible to achieve all parts of all recommendations, these reports provide insight into the efforts made and decisions reached over this period.

In 2020, a new Working Group was established to develop a follow on to this 2014 report and its recommendations. The work of this group was delayed by the impact of the Covid health crisis. In August 2022, the Government approved the Review of Policy Options for Prison and Penal Reform 2022-2024. This review identified 6 priority actions and 15 complementary actions to be progressed over its lifetime. A number of these actions and sub-actions have been completed to date, and work remains ongoing on all other actions.

This Review, which currently guides the State's penal policy recognises that rehabilitation and reintegration of offenders is a key goal of our penal system, that community-based sanctions are effective in this regard, and that imprisonment should only be used in the most serious cases or where the sentencing judge considers the offender cannot be safely managed in the community.

The principle that imprisonment should be a sanction of last resort is an internationally accepted position reiterated most recently in the Council of Europe's European Prison Rules (2020) and in the European Union's Council conclusions on alternative measures to detention: the use of non-custodial sanctions and measures in the field of criminal justice (2019), the latter stating:

“Serious offences require appropriate responses, and detention is a necessary instrument in criminal sanctions systems. There is, however, a broad consensus that detention should be used only as a last resort (ultima ratio). Applying non-custodial sanctions and measures — instead of detention — where appropriate and taking into consideration the individual circumstances of the case, can have several advantages, as supported by a long-standing tradition of research.”

In the Irish context, this principle guides in part, current penal policy, and it has been a consistent principle evident in the 1985 Whitaker Report, the 2014 Strategic Review of Penal Policy, and the 2022 Review of Policy Options for Prison and Penal Reform, which includes an action to examine placing this principle on a legislative footing.

While this principle guides policy, legislative changes have expanded the range of offences that carry custodial sentences, and have increased sentence lengths. These legislative changes reflect an increasing recognition of existing and emerging threats, particularly in areas such as cybercrime, harassment, hate offences, and violent crime. The Harassment, Harmful Communications and Related Offences Act 2020 (Coco’s Law), for example, criminalises the non-consensual sharing of intimate images, with penalties ranging from fines to imprisonment of up to seven years. Similarly, the Criminal Justice (Offences Relating to Information Systems) Act 2017 introduced a suite of cybercrime offences, reflecting the growing importance of digital security in modern justice policy.

Recent legislative developments have continued this trend. The Criminal Justice (Miscellaneous Provisions) Act 2023 established new standalone offences for stalking and non-fatal strangulation while also broadening the definition of harassment and increasing sentences for various crimes. The Criminal Law (Sexual Offences and Human Trafficking) Act 2024 strengthened protections against sexual offences and human trafficking, introducing new offences and enhanced penalties. These changes signal a growing recognition of the need for stronger deterrents and victim protections, even as they contribute to the expansion of offences that may lead to imprisonment.

Similarly, the Criminal Justice (Hate Offences) Act 2024 has introduced new penalties for crimes aggravated by hate, ensuring that factors such as racism, homophobia, or other forms of prejudice are considered in sentencing. This legislative shift aligns with broader European trends in addressing hate-motivated crime but also increases the range of cases where custodial sentences may be imposed.

Beyond new offence categories, concerns over violent crime have also prompted legislative responses. The 2024 amendments to knife crime legislation, introduced in response to rising incidents, have led to increased penalties for carrying and using knives unlawfully. Such measures are intended to enhance public safety and contribute to the continued expansion of potentially imprisonable offences.

2.3. European & UK Context and Trends

Research indicates that penal systems are complex, multifaceted, and vary significantly across countries and regions. However, some general trends can be observed across comparable jurisdictions within the EU:

Trends in Prison Populations: European prison populations have generally decreased in recent years, though data from 2022 to 2023 suggest that this trend may be reversing.

Key Indicators of Prison Population Changes:

- The number of individuals on remand and the duration of remand periods
- The length of prison sentences
- The number of foreign nationals in custody awaiting deportation
- The number of individuals receiving early or conditional release
- Increased access to in-prison rehabilitation programs
- Decriminalisation or diversion of minor offences
- Expanded eligibility for early and conditional release programs

Drivers of Prison Population Changes: Various factors influence shifts in prison populations, including historical and cultural influences, crime rates, socio-economic conditions, political decisions, sentencing policies, as well as supranational factors and unexpected disruptions like the COVID-19 pandemic.

Measures to Reduce Overcrowding: Several strategies have been implemented across Europe to reduce prison populations and overcrowding, with varying degrees of success. These include:

- Expanded use of community sanctions as alternatives to prison sentences;
- Alternatives to pre-trial detention, such as electronic monitoring.

Overall, EU prison populations have decreased, mainly due to a reduction in prison populations in countries that have adopted more community sanctions, diversion programs, early release schemes, and decriminalisation of minor offences.

Crime rates, as measured by homicide rates, have also slightly declined from 2015 to 2022. Homicide rates are commonly used as a proxy for overall crime, given their reliability across the EU.

Despite this overall decrease, certain groups have seen an increase in numbers from 2022 to 2023, such as those serving sentences of 12 months or less (up 9.9%). Additionally, the use of pre-trial detention is on the rise, which is straining prison capacity. In 2023, the median percentage of prisoners not serving a final sentence in the prison population (pre-trial detention) was 24.7% across Europe. ¹

The graph below shows the overall decline in prison population rates from 2014 to 2023, but it also highlights the possibility that this trend is reversing, with rising populations in 2022 and 2023. Covid-19 had an impact on prison populations, increasing the downward trend, although this has largely reversed from 2022 onwards.

¹ [SPACE I 2023 Report](#)

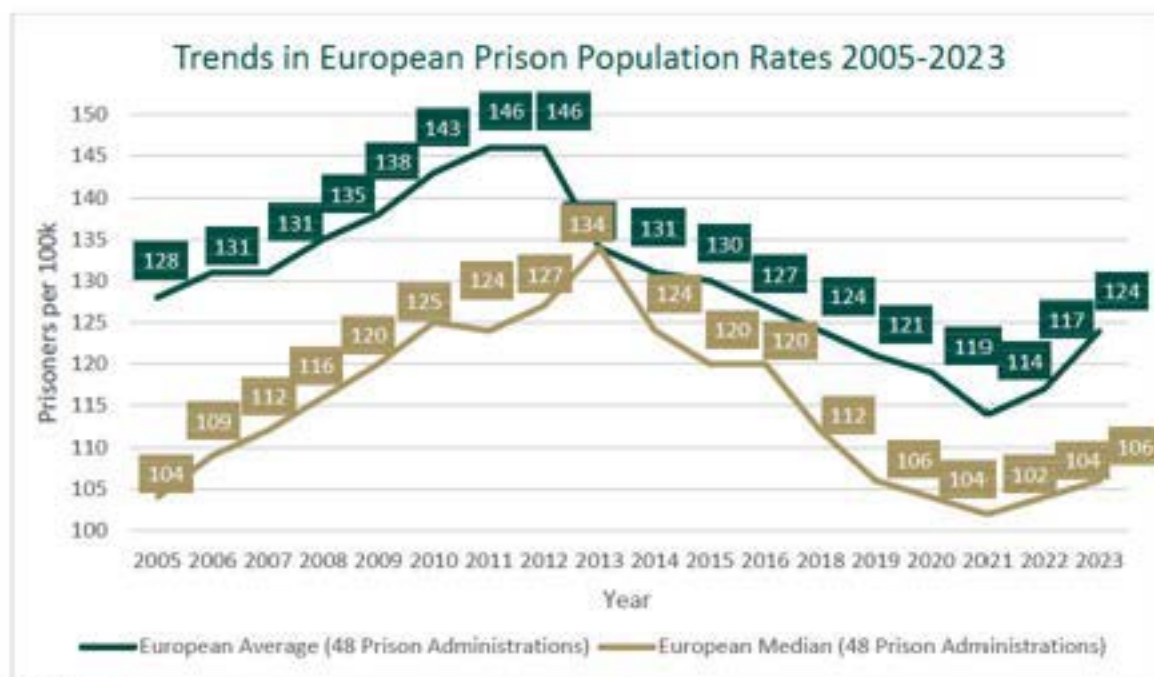


Figure 1

SPACE I figures relate to a snapshot census on a given day in January of 2023.

In contrast to the declining prison populations, an analysis of prison density by country revealed that eight countries (Cyprus, Romania, France, San Marino, Belgium, Hungary, Italy, Slovenia) were severely overcrowded in 2023. The number of prison administrations experiencing overcrowding increased by 22.2% between 2022 and 2023.

It is clear that the situation regarding overcrowding has significantly worsened in a number of jurisdictions, and it is expected that subsequent SPACE I reports will confirm that a larger number of prison administrations, including Ireland, are experiencing acute and growing overcrowding throughout 2023 and 2024.

An examination of the characteristics of EU prisoners shows that:

- 95% of prisoners are men, and 30% of prisoners are on remand;
- Drugs and violence account for approximately 50% of all crimes, with inmates involved in these offences having an average age of 28;
- 25% of prisoners were serving sentences of 1-3 years, 20% were serving sentences of 5-10 years, and 17% were serving sentences of 3-5 years, with smaller proportions serving shorter sentences;
- In Ireland, 95% of prisoners are men, and 19% are on remand.

Significant variation was observed across the EU in probation rates, with the median probation population rate standing at 164 probationers per 100,000 people. Additional findings include:

- 7.6% of probationers were on conditional release;
- 10.7% of probationers were female.

Overall, the probation population exceeded the prison population in 23 out of the 30 countries studied. Further analysis of trends across the EU highlighted the following key drivers, with a focus on Denmark, Greece, and Norway, which experienced notable changes in population trends:

Drivers in increasing prison population numbers in Denmark included:

- the number of foreign nationals in the prison population awaiting deportation²;
- the average time spent on remand, which has doubled since 1995, with alternative options to imprisonment rarely used³.

Drivers in increasing prison population numbers in Greece included:

- legislation was introduced to limit the amount of time foreign nationals facing deportation spent in custody with the prison population initially declining as a result. However, judges then increased the use of remand and extended sentence lengths⁴;
- during this time, the use of pre-trial detention rose by one third and lengthy sentences rose to 90% of the total prison population⁵.

The following measures were taken in Norway, to provide alternatives to imprisonment with a resulting decrease in population numbers⁶:

- the increased use of alternative measures to imprisonment, such as electronic monitoring as an alternative to pre-trial detention;
- those serving sentences of 12 months or less had the ability to apply for community service;
- longer-serving prisoners who have secured work or education were able to carry out the rest of their sentence in the community.

Recent developments in the UK's criminal justice system offer important insights for Ireland's approach to prison capacity. The Independent Sentencing Review⁷, published in February 2025, outlines the drivers behind the rising prison population in England and Wales, including tougher sentencing policies, increased use of custodial remand, and the growing reliance on longer sentences. Similar to Ireland, the UK faces overcrowding, with the adult male population operating at over 99%

² Abellan-Almenara, 2024

³ Aebi and Cocco, 2024

⁴ Karydis and Koulouris, 2024

⁵ Cheliotis and Xenakis, 2021

⁶ Crewe et. al., 2023

⁷ <https://www.gov.uk/government/publications/independent-sentencing-review-history-and-trends-in-sentencing>

capacity. As the review emphasises, without significant reform, this trend will continue, placing even more strain on prison systems. The review also highlights the importance of exploring alternatives to custody and prioritising rehabilitation, themes that resonate with ongoing efforts to address capacity and reform the penal system in Ireland.

2.4. Crime Trends in Ireland

In considering changes and increases to the prison population, it is important to review the trends in crime rates and offences committed to reach an understanding of the overall ecosystem and potential changes in behaviours.

A steady state was observed for reported crime incidents from 2014 to 2023 despite overall growth in the population. More detailed examination would be needed to look at the age and gender breakdown of population growth to assess its impact on prison population, e.g. a significant growth in the number of children would not have any impact on the prison population in the short-term but would be relevant to considering future prison populations, particularly taking into account the social and economic conditions that would impact behaviour. During the period, data shows an increase in general population between 2014 and 2023 from 4.69 million to 5.28 million (12.6%), along with a decrease in crime rates of 4.3%. This indicates that overall crime offences alone cannot be directly linked to an increase in prison populations. Notable outliers in this period include a drop in 2016, for an unknown reason, and a drop in 2020 and 2021 attributed to Covid-19 restrictions on movement.

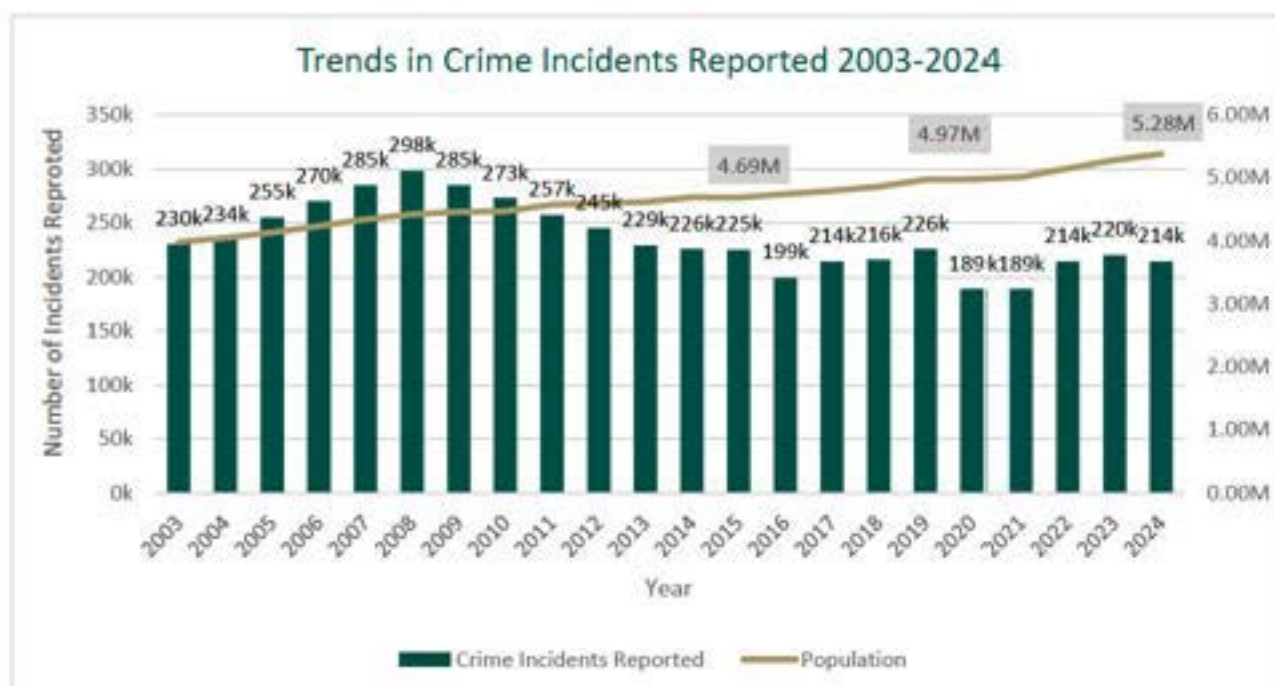


Figure 2

2.5. Types of Crime

Further analysis has been conducted to establish whether there was a correlation between population growth, demographics and individual crime types.

There has been an increase in severity of crimes committed in recent years, with an increase in sexual offences, kidnapping and related offences and other serious crimes. Such offences can be linked to rising prison populations, in that prisoners are serving longer sentences on average given the severity of the crimes committed.

The analysis found that the top ten categories of crime accounted for over 95% of total crimes committed in 2019 and 2023 with the longest sentence among these categories in 2023 being Sexual Offences (4.5 years) and all others being ≤ 2 years. The ten categories are included in Figure 3 below.

Since 2019, the two largest increases in crimes reported were Fraud, Deception and Related Offences (+50%), which have an average sentence length of 1 year and Attempts/Threats to Murder (+11%), which have an average sentence length of 2 years, shown in Figure 3.

Since 2019, the two largest decreases in crimes reported, with both having an average sentence length of 2 years, were Burglary and Related Offences (-42%) and Controlled Drug Offences (-19%).

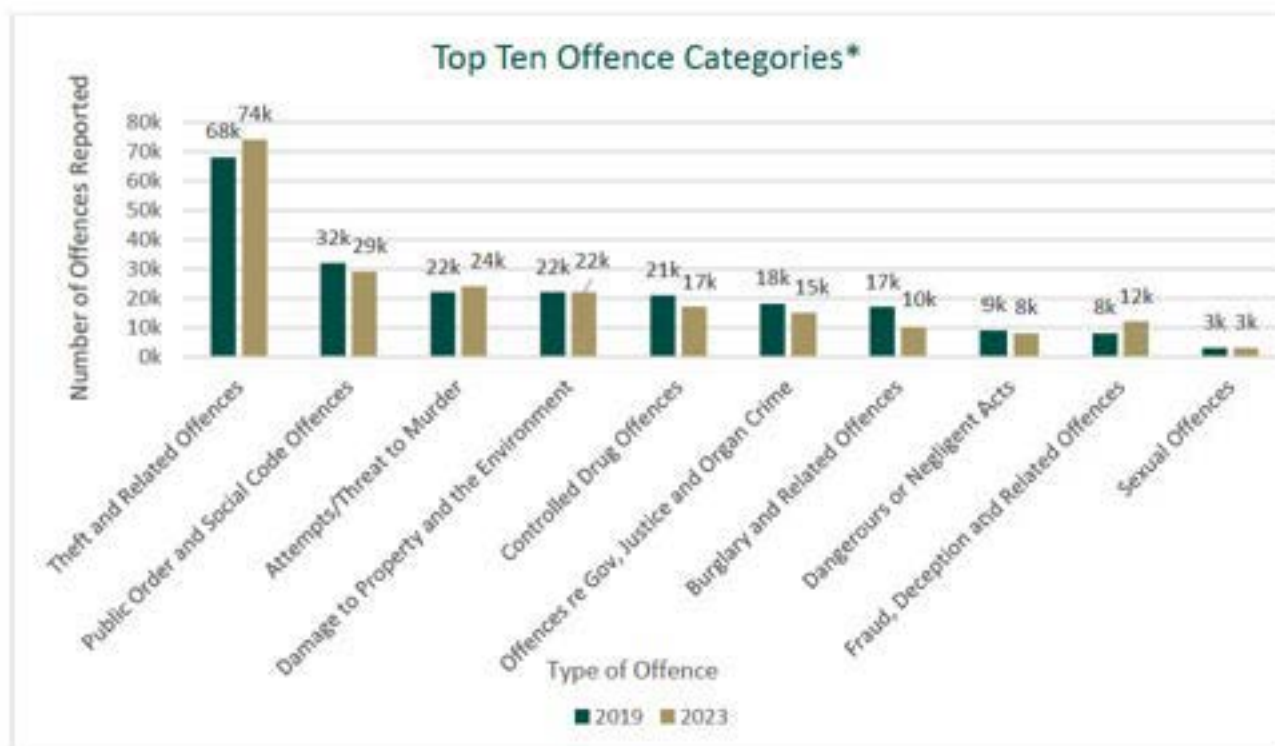


Figure 3

*This data is sourced from the CSO, and uses the [Irish Crime Classification System](#).

Offence Description	10-year average growth
Homicide Offences	1%
Sexual Offences	6%
Attempts/Threat to Murder, Assaults, Harassments and Related Offences	8%
Dangerous or Negligent Acts	4%
Kidnapping and Related Offences	-2%
Robbery, Extortion and Hijacking Offences	2%
Burglary and Related Offences	3%
Theft and Related Offences	1%
Fraud, Deception and Related Offences	11%
Controlled Drug Offences	-1%
Weapons and Explosives Offences	-2%
Damage to Property and the Environment	5%
Public Order and Social Code Offences	3%
Road and Traffic Offences	8%
Offences against Government, Justice Procedures and Organisation of Crime	5%
Offences Not Elsewhere Classified	1%

Table 1 Crime growth rates

2.6. Changing nature of crime

Ireland's crime landscape is evolving, and while traditional offences such as theft and public order violations remain common, there has been a growing complexity in criminal activity, particularly in areas such as cybercrime and organised crime. Europol's Internet Organised Crime Assessment (IOCTA) highlights the increasingly transnational nature of cyber-enabled offences, including payment fraud, online exploitation, and money muling. Given that many perpetrators of these crimes operate outside Ireland, their impact on Irish prison numbers may be limited in the short term but will need to be monitored for any future impact as it evolves. Additionally, those convicted of cybercrimes may be more suited to lower security prisons.

CSO statistics show significant variability year-on-year in crime trends. Looking at the 10-year growth rate (Table 1), shows an 11% increase in Fraud, Deception and Related Offences, 8% increase in Attempts/Threat to Murder and 6% increase in Sexual Offences. Many of the other categories saw small increases or small decreases. These trends suggest that despite the current rise of digital crime, traditional forms of offending continue to drive pressure on the prison system.

Sentencing trends further reinforce this outlook. A recent analysis of IPS data showed that average sentence length (across all offence types) has increased by almost 13% between 2013 and 2023, with all but 4 offence types being up. Of note within that, the sentence length for the Sexual Offence category was up 6% on 2022, Kidnapping up 42% on 2022, and Damage to Property up 8%.

There has been a particular focus on raising awareness of and tackling domestic and sexual violence in recent years, crimes which have been traditionally under reported. There were 65,000 domestic violence incidents reported to An Garda Síochána in 2024, an increase of 20% in 2 years. The full impact of these increases in reporting on numbers in prison is yet to be seen but will need to be closely monitored.

Beyond capacity concerns, the evolving nature of crime poses challenges for rehabilitation and prison management. The increase in violent and drug-related crimes means more prisoners require addiction and mental health support, while the rise of cybercrime may necessitate new approaches to offender rehabilitation. Addressing these shifts will require a combination of investment in prison infrastructure, alternative sentencing strategies, and a continued focus on rehabilitation to reduce reoffending. Cross-departmental approaches are required to address some of the challenges also, in particular in relation to mental health and addiction and housing needs, which have a role in reducing re-offending.

2.7. Conclusion

The evolution of Ireland's penal policy reflects a broader international trend towards prioritising rehabilitation, community sanctions, and reducing reliance on imprisonment. Reports, including the 1985 Whitaker Report and the 2022 Penal Policy Review, have guided policy reforms in line with international standards.

While Ireland has made significant strides through strategic reviews and ongoing reform efforts, challenges remain, particularly regarding overcrowding and the growing complexity of crime.

The comparative analysis of EU, UK and Irish contexts in this section highlights the shared and unique factors influencing prison population growth, including remand populations, sentencing practices, policy shifts, and demographic changes. Various sources suggest that crime trends and rates are influenced by age shifts in the population as well as social and economic conditions and those conditions applying to different birth cohorts, although it can be difficult to measure the strength of the relationship.

3. The Prison Estate – Current capacity and condition

3.1. Introduction

The prison estate combines very historical Victorian Prisons that have, to greater and lesser degrees, been modernised or upgraded over time, along with prisons built over the more recent past.

Progress has been made in recent times to eliminate the most severe and urgent historical shortcomings of the estate with a focus on additional bed spaces to help alleviate overcrowding in the last year in particular.

Prisons have undergone modernisation through a combination of the improvement of existing facilities and the construction of new facilities on, or adjacent to, existing facilities. The primary drivers of this have been the need to upgrade facilities to provide humane accommodation, provide additional accommodation and to eliminate slopping out.

Many of the historic prisons still in operation today, date from a mid-19th Century phase of prison construction in Ireland and adopted many of the design and penal philosophy principles of that era. These include Mountjoy, Arbour Hill, Limerick, Portlaoise and the former St Patrick's Institution (now the Mountjoy Prison Progression Unit).

3.2. Current condition

Ireland's prison estate has undergone significant improvements over the past three decades, transitioning from an aging and underfunded system to one that better meets modern standards and operational demands. Investment in new facilities and upgrades to historic sites has led to a more geographically balanced and compliant estate and has provided in-cell sanitation to the vast majority of cells. However, despite these advances, challenges remain.

Some older facilities continue to fall short of modern requirements, with critical elements still in need of significant upgrades. The evolving needs of a diverse prison population, coupled with increasing standards in areas such as human rights, humane prison conditions, security, rehabilitation, and environmental sustainability, place ongoing demands on infrastructure.

There is an ongoing programme of works across the prison service to upgrade and modernise facilities, from the small scale, such as replacing floors and windows and fixing damage to nets, to medium and large scale including improving security equipment, providing in-cell telephony, replacing lifts and energy upgrades. There is general wear-and-tear across the estate which needs to be continually dealt with, as well as replacement of end-of-life equipment and technology. IPS estimate there is an ongoing need for between €15 million and €20 million per annum on these types of works. Additionally, there are larger scale projects required to refurbish and improve kitchen and laundry facilities in some prisons.

Ensuring the entire prison estate is fit for purpose will require sustained long-term planning and investment to support rehabilitation efforts and meet international standards of a humane, effective penal system.

3.3. Increases to capacity

Since the early 1990s additional new prison facilities have been built at Castlerea, Dóchas (the female prison on the Mountjoy complex), Cloverhill (adjacent to Wheatfield), and the Midlands (adjacent to Portlaoise Prison). New accommodation blocks have been added to both Midlands Prison (2012) and Wheatfield Prison (2010) and a new prison in Cork opened in 2016. In recent years, in excess of 300 additional spaces have been added across our prisons, with over 100 of these added in the last 12 months and over 100 more to come into use during 2025. These spaces were added through the reopening of the Training Unit in Mountjoy as well as the opening of new male accommodation in Limerick and the new standalone female prison in Limerick, and a range of other projects across the prison estate.

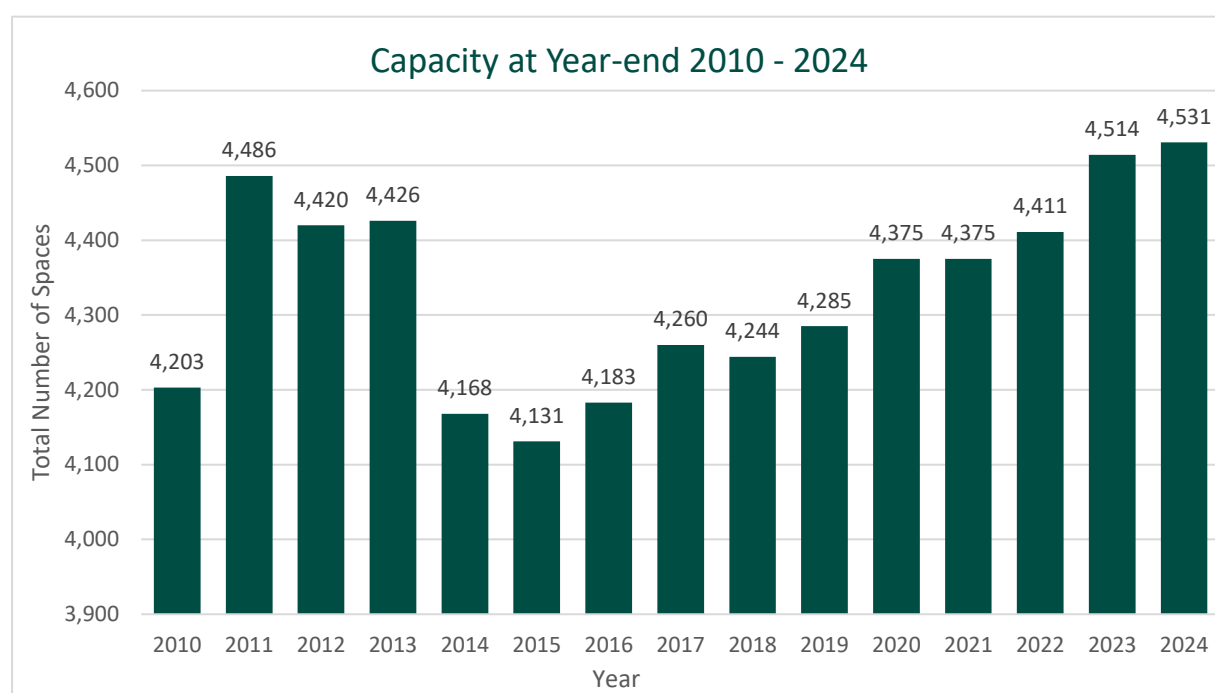


Figure 4 Prison capacity by year

3.4. Occupancy Rates

Prisons were operating at around 112% of capacity throughout December 2024 and January 2025. This highest number of people ever in prisons was reached on 15th April 2025, when there were, 5,394 people in prison, including 276 women. The female prisons are among the most overcrowded with Mountjoy (Dóchas Centre) at 132% and Limerick at 148%.

Operating above capacity not only impacts the day-to-day management of prisons but also has significant consequences for rehabilitation, security, and overall prison conditions. High occupancy rates can lead to increased tensions among prisoners, higher incidents of violence, increased risks to staff and reduced access to rehabilitation programs, undermining efforts to reduce reoffending. There

is evidence to suggest that housing prisoners in overcrowded facilities has a negative impact on recidivism, with one study showing that it increased the odds of recidivism by 13%.⁸

The operational capacity of the prisons was established prior to the current overcrowding issue, based on prison rules, international standards and requirements at particular points in time. The necessary staffing and ancillary resources (kitchens, laundry, workshops, yards etc.) were put in place based on that capacity.

Operating at occupancy rates far above the established capacity introduces significant risk and at a certain point of occupancy, systems in the prison are likely to reach a breaking point (ability to feed people, to allow visits, ability to separate prisoners for security reasons).

While there is a Prison Design Guide Manual which sets out cell and prison standards, this requires updating and should inform future capital projects from the outset. The guidelines should take into account and update requirements for cell size, heating, lighting, ventilation, the requirements of health and hygiene, etc, and update guidelines on associated capacity and resourcing. Guidelines could inform approaches to refurbishment recognising the limitations of adapting older parts of the estate.

3.5. International Standards

The *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (CPT) developed in the 1990s minimum standards regarding the living space that a prisoner should be afforded in a cell, namely 6m² of living space for a single-occupancy cell and 4m² of living space per prisoner in a multiple-occupancy cell. This minimum standard of living space should exclude the sanitary facilities within a cell.

Consequently, a single-occupancy cell should measure 6m² plus the space required for a sanitary annexe (usually 1m² to 2m²). Equally, the space taken up by the sanitary annexe should be excluded from the calculation of 4m² per person in multiple occupancy cells. In any cell accommodating more than one prisoner, the sanitary annexe should be fully partitioned.

Additionally, the CPT considers that any cell used for prisoner accommodation should measure at least 2m between the walls of the cell and 2.5m between the floor and the ceiling.

Overall, the CPT recommends a 90% occupancy rate, with no Irish prison currently operating at this level and a number far exceed this.

The CPT undertook their eighth periodic visit to Ireland in May 2024 and a full report on its findings were provided in December 2024 with a Government response required within six months of receipt of the report.

⁸ [The Rehabilitative Ideal versus the Criminogenic Reality: The Consequences of Warehousing Prisoners: Corrections: Vol 2, No 1](#)

3.6. Installation of Bunk Beds

The use of bunk beds can only be considered to be a short term, emergency response. The IPS has provided an additional 411 beds in the Midlands, Portlaoise, Mountjoy, Castlereagh, Wheatfield and Limerick prisons through the installation of bunk beds in 2023-2025, however, this does not equate to additional capacity as there has been no increase in the provision of additional ancillary services to support the prisoners. Where a cell is of sufficient size to accommodate two people per the CPT guidelines, the installation of a bunk bed may result in official capacity being increased, although in practice this happens infrequently

3.7. Prison Overcrowding

The Irish Prison Service is carrying increased operational risk due to overcrowding in most prisons, severely impacting on the ability to provide both safe and secure custody and rehabilitative/healthcare services. The Irish prison estate currently has no space to safely accommodate any sudden surge in its population that may be brought about by large-scale incidents, such as widespread public disorder. A risk assessment on overcrowding, led by the State Claims Agency, is currently being finalised.

In addition to increased prisoner numbers, the Prison Service is faced with a range of other challenges, including the needs of an ageing prisoner population, while also working to provide essential mental health services to prisoners. The complexity of the prison population is growing, with an increase in female offenders, sex offenders (including historical offenders), detention period lengths for remand prisoners and the issue of harmful drugs in prisons.

In addition to ongoing concerns raised by the Director General of the IPS, persistent concerns regarding the impact of overcrowding have been raised by the Office of the Inspector of Prisons (IoP), the Council of Europe's Committee on the Prevention of Torture (CPT), the Prison Officers' Association (POA), the Irish Penal Reform Trust and other stakeholders.

Prison overcrowding, as outlined in the final report of the Prison Overcrowding Response Group, leads to unsafe conditions, increased violence, and diminished rehabilitative opportunities. Overcrowding forces prisoners to sleep on cell floors, strains staff resources, and heightens tensions, resulting in more assaults on both prisoners and officers. In 2024, prisoner-on-prisoner direct physical assaults increased 31% on the previous year and are up 130% against 2022 figures.⁹

Key risks to the Irish Prison Service include:

- Compromised safety and security due to chronic overcrowding.
- Increased violence and assaults on staff.
- Unstructured early releases undermining public safety and justice.
- Infection control challenges, raising the risk of disease outbreaks.
- Higher levels of contraband, leading to drug-related illness and overdoses.
- Staff retention issues, absenteeism, and industrial relations challenges.
- Deterioration of prison infrastructure due to capacity pressures.

⁹ [Table of assaults on prison staff and prisoners 2012-2023 \(IPS\); Table-of-assaults-on-prison-staff-and-prisoners-2023-2024 \(IPS\)](#)

- Increased financial risk from rising service costs and potential litigation.

3.8. Limerick women's prison

The new facility for women in Limerick opened in October 2023, providing a modern trauma-informed facility. It has an operating capacity of 56, double the 28 spaces that had previously been available. In 2024, there were 266 committals to the prison, compared to 197 in 2023 and 187 in 2022. The monthly average in custody rose from 29 in January 2022, to 40 in January 2023 and 83 in January 2025. The highest numbers in custody in this facility were reached on 24th February 2025 - 91 in custody, 163% of capacity. The figure sits at 87 on 14th April 2025. This is by far the most overcrowded prison in the country. While this facility has been designed to provide trauma-informed care, operating at such high occupancy levels seriously limits the ability to deliver this.

Between 2023 and 2024, total annual committals to Limerick women's prison rose by 35%, compared to a 9% increase across all other prisons. This trend supports the concerns that have been raised by the IPRT and others that if prison spaces are built then they can create their own demand. In the absence of further community-based supports for women with complex social needs, there is a concern that a prison setting remains the only available option.

4. Prisons Capital Programme

4.1. Introduction

As referenced earlier, in recent years investment has been made to enhance the existing prison infrastructure and to provide some additional capacity. This investment has all-but ended slopping out across the estate, has seen a state-of-the-art facility for women opened in Limerick and a number of disused facilities refurbished and brought back into use including facilities at the Training Unit specifically refurbished to cater for those with mobility issues.

4.2. Capital Projects Completed in 2022 and 2023

From 2022 to 2023 additional capacity in excess of 200 new spaces has been added to the prison estate in the following locations:

- The Training Unit in Mountjoy was reopened in July 2022 providing an additional 96 bed spaces.
- The new male accommodation in Limerick Prison, which provides 90 additional bed spaces was occupied on a phased basis from December 2022 to May 2023.
- Women were transferred to the new standalone female prison in Limerick in July 2023, this accommodation provides an additional 28 female bed spaces bringing the total to 56 spaces, an increase of 100%.

4.3. Current Capital Plan – 2024 – 2030

Current plans being progressed by the IPS have the potential to deliver over 670 spaces across 4 locations (Castlerea, Cloverhill, Mountjoy and Midlands prisons) on a phased basis over the period 2027 to 2030.

Additionally, the IPS has also taken an extensive look at the existing estate to identify what buildings can be quickly brought into use as accommodation. Through this they have identified around 155 spaces that they are refurbishing to bring into use by early 2025. In March 2025, the majority of these had been completed, 126 are in full operational usage with over 100 spaces being added by end of 2025.

While the additional spaces being progressed are urgently needed, a longer-term proactive strategy is essential to ensure that additional prison spaces are provided alongside appropriate facilities (workshops, recreational, kitchens, educational, etc).

Overall, the current IPS Capital Plan has the potential to deliver over 1,100 new spaces between 2024 and 2030, if fully funded. Around 230 of these are on course for delivery by end 2025, 308 between 2026 and 2028 and around 620 between 2029 and 2030/2031.

The Programme for Government 2025 makes a commitment to expand prison capacity by 1,500, and to construct a new prison at Thornton Hall. It also commits to considering the need for a new Women's open prison.

In addition, a report outlining a range of options for the future development of the old Cork prison site has been received and is being considered. The old prison is in poor condition and the best use of the location will likely involve demolition of the existing buildings, and construction of a new prison on the site.

The possibility of bringing the Curragh Military prison back into use was examined in 2024. It was initially expected that this could be a quick and cost-effective way to bring additional spaces into use. However, examination of the site revealed extensive issues, including dry rot, and this is no longer deemed a viable option. Accommodation for older prisoners in Portlaoise is now being considered as an alternative to this.

The Irish Prison Service has received a revised Capital Allocation of €159 million for the years 2024 to 2026.

IPS Capital Budget 2024-2026		
2024	2025	2026
€39.5M ¹⁰	€53M	€68M

Table 2 Capital Budget '24 - '26

A significant increase in capital funding from 2027 to 2030 is required in order to deliver the current capital plans.

4.4. Capital & Current Costs

Construction costs generally in Ireland have increased in recent years. Internationally, there are examples of prison construction costs far exceeding original estimates. There can be many reasons for increases in costs (site issues, changes in requirements, cost inflation etc).

This section has been redacted as it contains commercially sensitive information

¹⁰ This figure is based on the original budget allocation 2024 plus the 2024 NDP allocation (€8m) and the supplementary capital budget (€1.5m)

[REDACTED]

The cost of delivering new prison infrastructure in Ireland by 2035 will be significantly influenced by construction cost inflation, market volatility, and sectoral capacity constraints. While inflation in the construction sector has moderated, it remains a concern. The SCSi Tender Price Index indicates a 3% inflation rate for 2024¹¹, with a similar forecast for 2025. Since the first half of 2019, the index has increased by 42%, highlighting the cumulative impact of rising costs.

The National Development Plan (NDP) 2021-2030 acknowledges that public capital projects face cost pressures due to labour shortages, supply chain disruptions, and increasing material prices. While inflation has moderated recently, overall inflation by 2035 could result in cost increases of 50-80% compared to 2025 estimates. Given the open nature of Ireland's economy and ongoing global volatility, predicting long-term trends remains challenging.

As with any capital programme, final costs and timelines will only be fully determined following project appraisals and the tendering process. The Government's 4% test discount rate¹², used for project appraisals, will be critical in assessing the long-term value-for-money. Without detailed designs completed for specific projects, costs can only be estimated at a high level and based on today's prices.

This section has been redacted as it contains commercially sensitive information

[REDACTED]

In 2024, the average running cost of an "available, staffed prison space" was €99,074¹³ an 11.9% increase from the year before and a 34% increase since 2018 when the cost was €73,802. This figure includes a range of costs including rehabilitation, healthcare, facilities management, fleet, food etc. which would all have increased significantly over the period. This cost has been increasing for a number of reasons – staffing costs have risen due to pay increases from public sector pay agreements, operating costs (food, laundry, electricity, heating etc) have been increasing significantly due to inflation, increases in escort requirements to courts and hospitals due to increased numbers in prison, and prisoners with increasingly complex needs.

To service an additional 400 places per annum is estimated to cost at least €40 million per annum, excluding any capital costs relating to fleet, ICT, or building works. While the €40 million estimate is

¹¹ [Society of Chartered Surveyors Ireland - Tender Price Index, February 2025 press release](#)

¹² The test discount rate is the rate used to convert future costs and benefits into present values, reflecting the time value of money and opportunity cost of capital. It accounts for inflation, risk, and societal preferences, ensuring long-term projects are assessed on a comparable present-day basis.

¹³ Figure provided by IPS in advance of publication of their Annual Report 2024.

based on 2024 figures, it does not account for future inflation or any other increased levels of service by the time these spaces become operational.

5. Current & Future Prison Population

5.1. Introduction

Ireland's prison population has grown from 3,755 in 2015 to 5,087 in 2024¹⁴. This growth reflects various underlying factors, including changes in government policy, legislation (new offences and increasing maximum sentences), crime rates, judicial practices, and sentencing policies. Increasing Garda numbers leads to better crime prevention but also higher detection rates, which impacts prison population. Since 2019, the two largest increases in crime reported were in Fraud, Deception and Related Offences (50%) and in Attempts/Threats to Murder (11%). Furthermore, in 2019, prison reoffending statistics showed that the percentage of those who reoffended within a year of release was 45% and within three years was 61%.

In seeking to understand the overall potential demand for prison places over the next decade, the Group focused on a number of key issues and cohorts that contribute to the make-up of the current prison population and are central to providing any forecasts of the future prison population. These are:

1. Sentence length;
2. Remand population;
3. Reoffending;
4. Female prison population;
5. Aging population;
6. Prisoners with Mental Health challenges;
7. Sex Offenders.

5.2. Sentence Length

Prison sentence length plays a major role in prison population rates. Committals for sentences 10 years or more remained relatively stable between 2015 and 2022, except for the years impacted by Covid-19. The Parole Act 2019 came into effect in 2021 and increased the minimum term to be served before life-sentenced prisoners became eligible for consideration for parole from 7 to 12 years. However, the length of time served by those on life sentences has long been on an upward trend, standing at 12 years in 1998, and at 24 years for those granted parole in 2023¹⁵. There are plans to set minimum tariffs on life sentence prisoners which is likely to increase the length of time these prisoners spend in detention.

Alternatives to prison are particularly relevant in considering the capacity needs for those who receive short sentences, with this cohort accounting for 8.8% of the prison population in 2023 or an average of 419 people at any one time (95% of whom were males). 790 people were committed on sentences of less than 3 months in 2023. Such sentences are typically imposed for less serious offences, and so the risk to community safety is relatively low if these are replaced with non-custodial sanctions.

¹⁴ This is a snapshot figure, as reported in IPS Annual Reports, recorded on the 30th November annually.

¹⁵ [Parole Board Annual Report, 2023](#)

The Community Service (Amendment) Act 2011 and The Fines Act 2014, amongst other things, led to a steady decline in short sentences between 2011 and 2016. However, their impact has gradually diminished since 2016, with 2019 figures nearing 2011 levels, and by 2022, committals for short sentences had risen to 3,046. While Covid-19 and emergency release measures in 2020 temporarily affected trends, the long-term reduction achieved by the legislation has been eroding. Community Service orders can be more cost effective and lead to lower rates of recidivism, when used for appropriate cohorts. Additional details are provided in Appendix 3.

Figure 5 highlights the growing prevalence of prisoners committed annually to prisons for short sentences. It should be noted this table does not include prisoners committed annually for sentences relating to non-payment of fines.



Figure 5

Figure 6 estimates the total number of prisoners serving short sentences at any one time by capturing a snapshot of this population cohort each year. Both analyses show a persistence or increase in short sentence committals and populations over the period.



Figure 6

Fines are imposed under the *Fines (Payment and Recovery) Act 2014* ('the Fines Act') and are most frequently used in less serious ("summary") offences. The Act was designed to help address the high level of short-term prison sentences for the non-payment of court-imposed fines. The number of committals to prison for the non-payment of court-ordered fines has declined since the introduction of the Fines Act. In 2014, over 55% of the total committals to prison that year were for fines default - [8,979 committals out of a total 16,155 committals](#). In the 2023 annual report of the Irish Prison Service, this number is now 552 out of 7,938 overall committals.

The Department's Review of Policy Options for Prison & Penal Reform 2022-2024 highlights that both admission to and release from prison are resource-intensive processes, which impact both short-sentence prisoners, and those with longer sentences. Additionally, frequent changes in the prison population, such as shifts in cell assignments and landing arrangements, can disrupt the stability and order for those serving longer sentences, affecting their access to rehabilitative programs.

Short-term custodial sentences are linked to higher reoffending rates compared to community-based alternatives¹⁶. CSO data shows that 52% of individuals released after serving 3 to 6 months in custody reoffended within a year, compared to 35% of those who served more than 12 months. These findings suggest that short-term sentences contribute to a cycle of reoffending, reinforcing the need for more effective sentencing alternatives.

In December 2024, 723 male prisoners were serving sentences of 10 years or more, including 378 serving life sentences, making up 19% of the sentenced male prison population. In contrast, only 15 women were serving sentences of this length. While committals for sentences of 10 years or longer have remained relatively stable in recent years, with 57 such committals and 18 life sentences

¹⁶ [The impact of short custodial sentences, community orders and suspended sentence orders on reoffending, 2019](#)

recorded in 2023, these prisoners account for a substantial portion of the prison population due to the long durations of their sentences.

As described in section 0, sentence lengths have been increasing, on average rising by 13% in the 10 years between 2013 and 2023, and this is also contributing to the current occupancy levels.

5.3. Remand Population

The numbers on remand have increased at a faster rate than the overall prison population increase and are a significant driver of the current increased prison population. The reasons underlying this increase are many and complex, but it is a trend that is reflected in several other jurisdictions since the pandemic.

The number of individuals on remand has steadily increased between 2019 and 2024, with a 29% rise in persons remanded in custody. As of June 2024, 79% of individuals on remand were detained for 1 to 6 months, 19% were detained for 6 months to 2 years and 2% were detained for over 2 years.

To support the work of the group, the Department's data analytics' team have provided an analysis of the number of offences that resulted in remand on bail or in remand in custody, over the years 2021, 2022 and 2023. The activity during this period would have been impacted by Covid public health restrictions and other related changes. However, the following key trends were identified:

- Overall, the number of offences before the Courts has risen significantly from 76,209 in 2021 to 104,518 in 2023.
- The proportion of offences resulting in remand in custody has increased slightly, from 24% in 2021 to 27% in 2023.
- As a result of the growth in the number of offences presented before the Courts, as well as the slightly increased proportion going on remand in custody, we see that the number of offences where remand in custody was given increased from 18,779 in 2021 to 29,563 in 2023.
- The categories of theft, public order, road traffic and drugs offences, which are primarily non-violent offences, make up a majority (62% in 2021 increasing to 66% in 2023) of the offences resulting in custodial remand. In 2023, 19,384 of the total 29,563 were of these categories, which is almost 66%. This compared to 2021, where these categories made up 11,601 of the total 18,779 offences, at 62%. If short prison sentences for non-violent offences were reduced, then remand to custody would no longer be an option for many within this cohort

Reducing the numbers on remand currently could have a significant impact on the overcrowding situation. If the number on remand continues at the current levels or continues to increase, then this needs to be considered as part of the overall prison estate requirements in the period to 2035 and beyond. There is only one dedicated remand facility in the country (Cloverhill), which is experiencing significant overcrowding with adverse consequences for staff, custodial prisoners at that facility and those on remand.

The Group is aware that some individuals are on remand for significant periods of time, particularly considering the length of sentence / suspended sentence they subsequently receive. Cases of individuals who turn down bail and remain in prison have also been highlighted. In some cases, this decision is taken due to homelessness. While the number of these cases may not be that high, every individual in the prison system is contributing to overcrowding.

The behaviours and drivers of the numbers needs to be understood more fully. Further analysis is urgently required to understand the remand population, any regional variations, and to develop appropriate responses including a decision to develop a business case for a new remand facility.

5.4. Reoffending

CSO data shows that the rate of reoffending for people who have spent time in prison stands at around 50%. In 2020, 61% of those released in 2017 had reoffended in 3 years. There are a range of policies in place to tackle recidivism, and these need to be fully implemented. Without tackling the rates of recidivism, our prisons will continue to experience recurring overcrowding and our communities are no safer in the long run. While it is beyond the scope of this working group to fully look at this area, a number of issues have been identified which are relevant.

For many people who leave prison, the sudden lack of support can lead to them easily turning back to their previous lifestyles. Transitional housing and step-down facilities can play an important role in reintegrating people back into society and helping them to build structures which aid in desistance. Access to employment is another factor, which the recently published Building Pathways Together employment strategy aims to enhance.¹⁷

5.5. Female Prisoners

The proportion of women in the total prison population has increased from 3.7% in 2014 (141 women) to 5.2% (260 women) in December 2024. The female sentenced population has increased by 47% since 2021 (50% in 2022 and 2% in 2023). The number of female prisoners on remand have been gradually increasing year on year with the exception of 2020. The remand population has increased by 96% since 2021 (21% in 2022 and 62% in 2023).

Two offence types (Attempts / Threat to Murder, Assaults, harassment and related offences (44) and Burglary and Related Offences (79)) account for 53% of the female prison population in 2023. The majority of women are in prison for crimes that would be classified as “non-violent”.

Many women in Irish prisons have come from violent backgrounds, suffered physical, domestic, and sexual abuse, and often have addiction issues. These experiences lead to different needs compared to male prisoners, with a significant number of women facing complex mental health challenges and substance abuse problems. These factors frequently contribute to their offending behaviour. There is also a growing recognition that, for many women, imprisonment is not always the most appropriate response, particularly given the challenges in accessing adequate, gender-specific services outside of

¹⁷ [Building Pathways Together: Criminal Justice Reintegration Through Employment Strategy 2025-2027](#)

the prison system. As a result, prison may be seen as the only option for addressing their immediate needs, or as a safer and more structured environment for women who face risks in the community.

The Outlook programme was established in 2019 as a joint initiative between the IPS and the Probation Service. It offers a housing-led, step down facility for women, supporting their gradual reintegration into the community through short-term, supported accommodation. The programme adopts a gender-informed, rehabilitative approach, combining case management, access to education and employment, and support for family re-engagement. 54 women have successfully completed the programme since 2019, and it is a model that warrants further consideration for female offenders.

The new Female Prison in Limerick is one of the most overcrowded prisons in the country, however, women make up just 5% of the overall prison population with 260 females and, 4,758 male prisoners in December 2024. There is no open centre for female prisoners, and they have not been incorporated into the existing open centres which only currently accommodate men.

Given the consistent overpopulation in women's prisons, targeted strategies are being considered to support the unique needs of female inmates, including increased access to gender-specific rehabilitation programmes.

5.6. Changing age profiles in prison

An Anonymised Prisoner Data snapshot from IPS shows that the number of prisoners aged 70 or over has increased to 113 in 2023 compared to just 50 in 2017. Further data indicates an increasing prevalence of an ageing prison population:

- Those aged 55 and above accounted for approximately 11% of the population in 2023, up from 6% in 2014;
- Those aged 45-54 accounted for approximately 15% of the population in 2023, up from 12% in 2014;
- Those aged 35-44 accounted for approximately 30% of the population in 2023, up from 24% in 2014;

In contrast, the younger age categories saw a decrease in proportion to the total population over the period studied:

- Those aged 25-34 accounted for 33% of the population in 2023, down from 38% in 2014;
- Those aged 18-24 accounted for 11% of the population in 2023, down from 21% in 2014;

While there are many factors at play in this reduction in younger people, one significant contributor is the continued success of diversionary programs like the Youth Diversion Projects (YDPs). These programs, which focus on diverting young people away from the criminal justice system and offering them support and guidance, have proven effective in improving long-term outcomes.

By providing education, training, mentoring, and social enterprise initiatives, YDPs help vulnerable young people avoid criminal behaviour and lead better lives. This approach has been shown to reduce

reoffending, particularly when young people engage in early intervention programs. In 2023, the Department published an external evaluation of the YDPs which concluded that YDPs are performing well in many areas that are known to impact positively on reducing crime and reoffending, although it is difficult to conclusively prove that the projects achieve their overall aim of reducing the incidence or severity of crime.

The broader ageing demographics in Ireland as a whole, combined with the trends showing an ageing prison population, underscore the growing burden on the prison system for health-related services. CSO data show that in 2023 15% of Ireland's population is aged over 65 ¹⁸, with this expected to grow to 20% by 2037. Within the prison system, the number of people over 70 has grown from 25 in 2010 to 113 in 2023. As the number of older people¹⁹ in prison increases, the demand for specialised healthcare, including chronic disease management, mental health support, and age-appropriate facilities, becomes more pressing. This however needs to be balanced with the evidence that older people are less likely overall to commit crimes, and with our overall ageing population in Ireland.

Prisons are, in some cases, seeking to provide hospice and end-of-life type care for older prisoners and managing their deaths. As well as those requiring palliative care, there will be more prisoners with challenging conditions such as dementia and mobility issues that make prison accommodation very difficult to navigate, which means prisoners may not be able to leave their cells. The Group considers that the changing age profile of the prison population warrants further analysis and potentially a dedicated strategy for older prisoners in the longer term. It may warrant consideration of an "older prisoner" unit or dedicated facility. Indeed, house arrest or care in the community, may be more suitable where the risk to the public is low, rather than in the mainstream prison estate. This would also potentially free up accommodation for other prisoners.

The Training Unit in Mountjoy, which acts as a facility for older people, is proving very successful, especially given its close links to the Mater Hospital. It has a bed capacity of 96 and as of January 2025 was at 100% of capacity. An accessible, end-of-life suite has also been developed in the Midlands. With the observed trend of an ageing prison population, more of these types of facilities are likely needed if community-based alternatives are not provided.

5.7. Prisoners with significant mental health challenges

The needs of many people who interact with the criminal justice system are complex and are often influenced by trauma, mental health and addiction challenges. Providing proper care to these and ensuring rehabilitation, both in terms of health needs but also in order to prevent future reoffending and contact with the criminal justice system, means these issues cannot be addressed in isolation or by the criminal justice system alone.

There is evidence of an increase in the number of people committed to prison with severe and enduring mental illnesses, which presents challenges in providing appropriate access to mental health

¹⁸ [Society Measuring Ireland's Progress 2022 - Central Statistics Office](#)

¹⁹ There are varying definitions of who constitutes an "older person" in a prison environment. The IPRT consider 50 and above as an older person in a prison environment, as they are likely to have additional health needs compared to someone of the same age in the community.

services and facilities. Currently there are approximately 350 prisoners on the clinical caseload of National Forensic Mental Health Service (NFMHS) clinicians across the prison estate.

The Central Mental Hospital (CMH) provides psychiatrist consultant-led in-reach sessions to all Dublin prisons and Portlaoise and Midlands Prisons. Psychiatry services are provided to other prisons by visiting psychiatrists. The Irish Prison Service has access to a limited number of places in the Central Mental Hospital for prisoners who require residential mental health treatment. There are currently 24 male prisoners on the waiting list for admission to CMH.

The final report of the “High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector” highlights that it is increasingly recognised that the criminal justice system and in particular prison are not suitable to address the specific needs and challenges of those with mental health and drug addictions. The report makes a number of recommendations in this regard, which are being tracked through the Task Force Implementation plan and in the Annual Progress reports, the first of which was published in February 2024.

The IPS are currently working with the HSE in relation to a large-scale mental health needs analysis. While this is still at the early stages it is hoped that, amongst other things, it will provide better data on the challenges and needs of people in the prison system in relation to mental health so that appropriate recovery-oriented supports can be provided. In addition, there is extremely limited data on the numbers in the system who have intellectual disabilities, and this has been highlighted as a barrier to providing the right services.

As part of the existing plans for new facilities in Mountjoy in the IPS Capital Plan 2024 - 2030, a new medical unit is to be developed, which will include specialist units for prisoners with mental illness.

5.8. Increases in sex offenders in prisons

There has been a notable increase in the number of people imprisoned for sexual offences. In 2010, there were 310 people in prison for such offences (8% of the prison population), rising to 605 people (16% of the prison population) by 2023²⁰, a 95% increase.

Several factors have contributed to this rise. Over the past decade, shifting societal attitudes towards sexual offences have been accompanied by significant changes in legislation, policy, and operational practices. Increased awareness and reporting, driven in more recent years by the *Zero Tolerance Strategy* on domestic, sexual, and gender-based violence (DSGBV), have resulted in more cases being prosecuted. Public campaigns, such as *We Consent* and *Still Here*, along with strengthened victim supports across the criminal justice sector have encouraged more survivors to come forward, including for historical offences.

The establishment of Garda Protective Services Units in every division has ensured that sexual offence cases are investigated by specially trained officers, improving victim confidence in the justice system. These efforts are reflected in crime data, with the CSO reporting a sustained increase in sexual offence

²⁰ Numbers based on the IPS [snapshot statistics](#)

reporting, including a 6% rise over the past decade. In 2023, 21% of reported sexual offences related to incidents that had occurred more than ten years earlier, demonstrating the impact of these changes.

The DPP's focus on prosecuting sexual offences, particularly historical cases, has resulted in higher conviction rates. Legislative reforms have further strengthened the legal framework, leading to longer sentences keeping offenders in prison for extended periods. The Criminal Law (Sexual Offences) Act 2017 introduced tougher penalties for sexual exploitation and grooming, while the Sex Offenders (Amendment) Act 2023 enhanced post-release monitoring and management of offenders. Additionally, the Criminal Justice (Victims of Crime) Act 2017 has improved protections for victims, ensuring they are better supported throughout the legal process.

Advances in investigative techniques, such as digital forensics, improved evidence collection, and the increased use of specialist victim liaison officers, have further strengthened prosecutions. Collectively, these positive changes have led to a significant rise in the number of sex offenders entering and remaining in the prison system. This is a trend that is likely to continue into the future and to continue to impact on prison capacity. It also demonstrates the importance of understanding, assessing and planning for the impact legislative and policy changes are likely to have on all areas of the justice system.

5.9. Future Prison Population

Accurately forecasting prison population trends is essential for effective resource allocation, policy development, and long-term planning for Ireland's Criminal Justice System. This report examines current and projected prison population figures alongside broader societal and demographic trends. It explores key factors influencing these projections, such as remand rates, sentencing practices, and alternatives to custodial sentences.

Data from the Courts Service, Irish Prison Service and An Garda Síochána (AGS) was gathered to inform the work of the Group and to prepare forecasts for the prison population over the next decade. However, data available from both the Courts and AGS was of limited value. The goal of the group was to develop a demand model based on data from these three areas, including factors which raise and lower demand. Ideally the model would have taken data right from when a crime is reported, through the courts, and through to the probation and prison service. However, due to there being no centralised system, or unique identifier to track people across systems, it was not possible to accurately model in this way.

All data modelling includes assumptions that need to be made at any given time to address uncertainties or, as in this case, to address data deficiencies. Additionally, the scale and timeline of the impact of new policy and legislative changes which could impact on the demand for prison places can be difficult to get exactly right especially if these changes are at an early stage of development with certainty increasing closer to implementation. That is why ongoing analysis of available data, work to increase data quality over time and the testing of assumptions at regular intervals is so important.

This report has already outlined that there is not a particularly strong correlation between reported crime numbers and increases in general population, and an examination of the correlation between total population and rate of imprisonment per 100k population reveals that other factors are more important in determining prison population growth (see Figure 7).

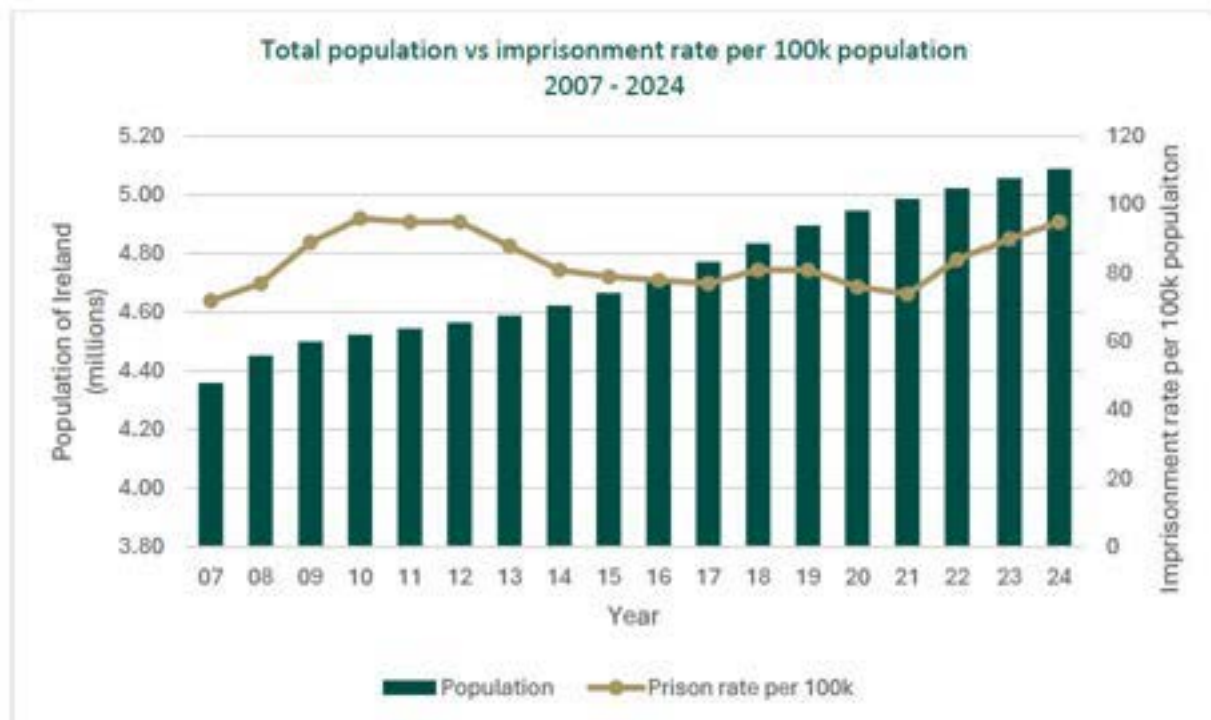


Figure 7 Population and imprisonment rates 2007 - 2024

In order to bridge gaps in the data, and to account for a variety of in-built assumptions when considering trends, two approaches to projections have been progressed in order to provide a projected range for the prison population.

The first approach was to consider prison population growth in line with the average growth in the imprisonment rate per 100k over 2023 and 2024 and apply that rate to the CSO's population projections. We refer to this approach as the baseline approach. The second approach was to examine the previous 10-year growth of numbers in prison for the different offence categories and project this forward. We refer to this approach as the growth by offence type approach.

Ireland has long had a rate of imprisonment which has been lower than the EU average (see Figure 8). The group therefore decided that in order to reflect the reality of the Irish penal system, a cap was to be applied to these models i.e. that neither model would push the imprisonment rate above that of the EU average from 2023 of 124 per 100k population²¹.

²¹ The CSO provides total population projections for Ireland from 2023 to 2057 using three different models: M1, M2, and M3. Each model employs a different approach to estimate net migration in the country. For the purposes of this cap, we have chosen the "middle" moderate approach, represented by the M2 model, to determine the imprisonment rate per 100k population in 2035. Source: CSO, Population and Labour Force Projections 2023-2057.

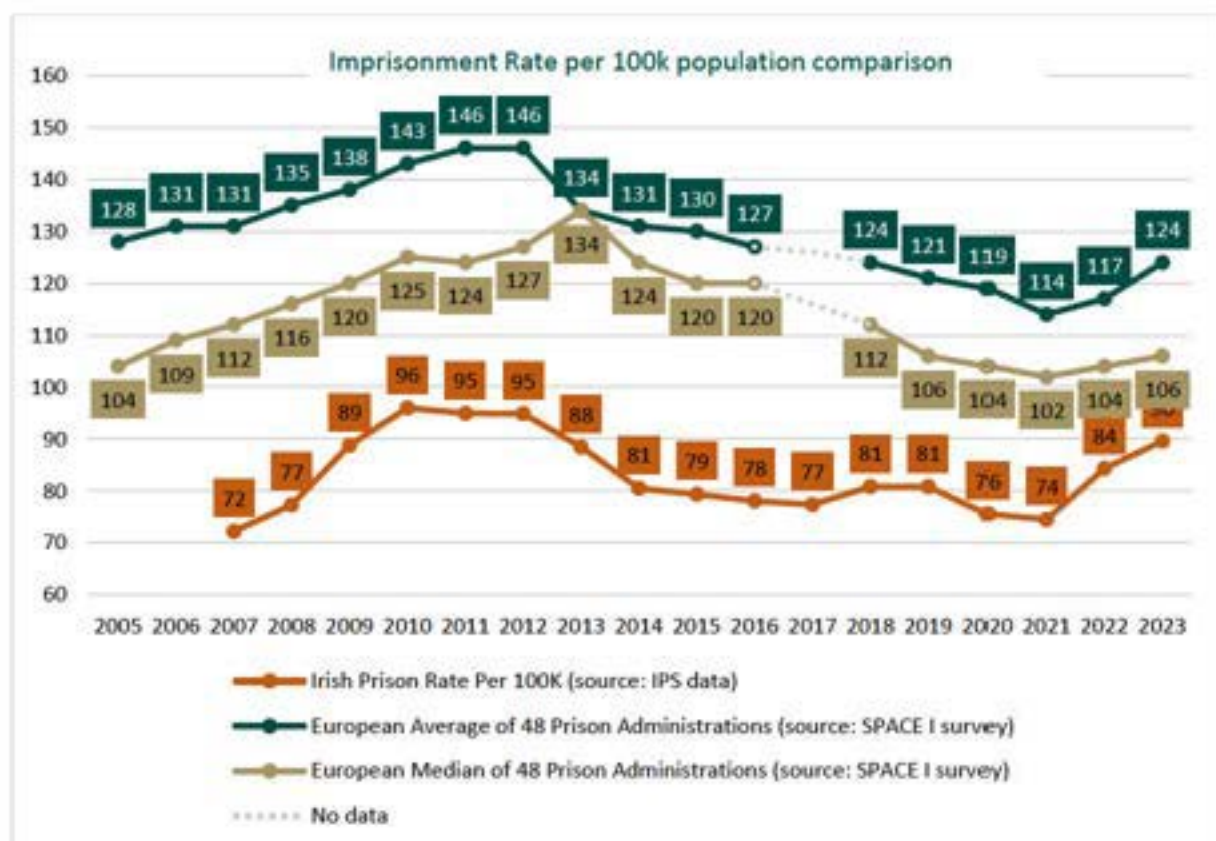


Figure 8 Imprisonment rate²²

Both of the models created assume there are no specific limits on the supply side in the next decade, such as limits on committals, that would create a significant change in how demand is managed.

5.10. Baseline Model

The baseline model makes projections based on total population growth and on the growth in the imprisonment rate per 100k population. The growth rate in the imprisonment rate was examined from the pre and post-Covid period. The average annual growth in the imprisonment rate from the four years pre-covid is 0.1049%, while the average annual growth rate in the 2 post-Covid years is 0.1162%, shown in Table 4 below.

²² European averages sourced from https://wp.unil.ch/space/files/2024/12/SPACE_I_2023_Key_Findings.pdf. Irish prison rate per 100k sourced from the IPS.

	General Population	Average Daily Prison Population	Prison Population per 100k General Population	Prison Population/General Population (18yrs+) Ratio	Average Rate
2016	4,739,597	3701	78.1	0.1042%	0.1049%
2017	4,803,510	3686	76.7	0.1022%	
2018	4,865,573	3898	80.1	0.1064%	
2019	4,926,992	3976	80.7	0.1069%	
2020	4,987,719	3826	76.7	0.1013%	
2021	5,047,468	3796	75.2	0.0990%	
2022	5,183,966	4100	79.1	0.1034%	
2023	5,281,429	4590	86.9	0.1131%	0.1162%
2024	5,370,388	4946	92.1	0.1193%	

Table 4 Pre and post-covid growth rates

The CSO produces population projections following every Census. Following Census 2022, three different scenarios were developed. All three share the same fertility and mortality assumptions. This will see fertility rates remain constant and then reduce in the near future. Mortality rates will remain constant. The CSO assume that the main driver for population change will be net migration. There are high, medium and low migration assumptions to differentiate the three scenarios:

- M1: Net migration starting at +75,000 in 2022 and decreasing incrementally to +45,000 per annum by 2027 and remaining at this level to 2057.
- M2: Net migration starting at +75,000 in 2022 and decreasing incrementally to +30,000 per annum by 2032 and remaining at this level to 2057.
- M3: Net migration starting at +75,000 in 2022 and decreasing incrementally to +10,000 per annum by 2032 and remaining at this level to 2057.

Applying the pre-covid and post-covid growth in the imprisonment rate to the CSO's population projections gives the following projections for the numbers in prison in 2025 and 2035:

	Population Model	2025	2035
Pre-Covid growth rate	M1	4,444	5,206
	M2	4,418	5,068
	M3	4,401	4,911
Post-Covid growth rate	M1	4,918	5,762
	M2	4,889	5,609
	M3	4,870	5,436

Table 5 Baseline model projections

The numbers in prison in February 2025 reached 5,200 for the first time ever. It is therefore clear that applying the pre-Covid growth rate falls significantly short of accurately projecting the February 2025 figure. Applying the post-Covid growth rate also falls short but is closer to today's figures.

Applying the post-covid growth rate to the 3 CSO models, gives the following figures per year:

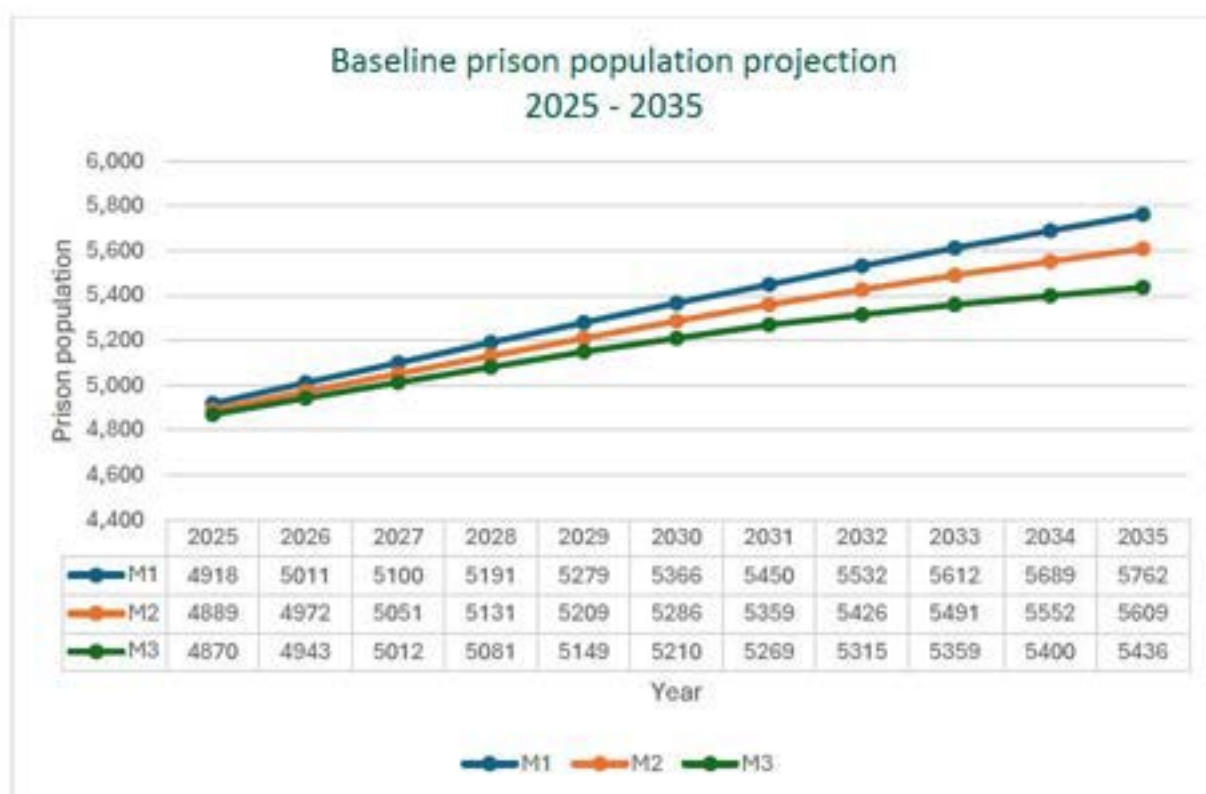


Figure 9 Baseline prison population projection

This approach was expanded to consider the effects of the gender and age profile of the overall population on the prison population. International research shows that in the past older people are less likely to commit crimes, and so as the overall population ages, a decrease in numbers in prison may be expected. Factoring this in gives a range of 5,095 to 5,528 by 2035. It should be noted that this model predicts that prison populations will start to drop sometime after 2040.

The baseline model described here, while useful, clearly does not adequately reflect the factors influencing prison population currently, even looking at the post-Covid growth rates. Against the backdrop of a policy of prison as a last resort and a focus on alternatives to prison as a policy objective, the reality is that a range of new offences have been added to the statute books in order to tackle emerging criminal behaviors, mandatory minimum sentences have been introduced and average sentence lengths have been increasing. Additionally, numbers being held on remand have been on an overall upward trend for around eight years (excluding the Covid period).

It has been suggested that the recent sharp increases in numbers are a temporary phenomenon, related to the effects of the Covid period. While there was a Covid backlog in the courts, cases in the criminal court system which were postponed in 2020 and 2021 have all now had an opportunity to be heard²³. New cases in the Central Criminal Court in 2023 were 56% higher than before Covid. By end 2023, disposal rates in the Courts had increased by 73% over 2019 levels and the waiting time for a hearing date is now on a par with pre-pandemic waiting times and close to minimum time required to prepare a case for trial. Essentially, Covid backlogs have been cleared but there are more cases in the system overall

The projections outlined above do not adequately capture any of these issues which will continue to impact the prison population in the medium term. However if there is still some Covid effect, or other short term effect contributing to the current spike, it may be a better predictor of the longer term numbers (2035+) as these move through the system.

5.9 Growth by Offence Type Approach

The second approach was to develop a model based on the observed growth rate of each offence type in the 10 years up to 2023, and to project this forward to 2035. The projections assume continued trends with no significant shifts in crime rates for all types of crime, crime reporting rates, judicial processes and sentencing practices with regard to duration and frequency. However, changes could be built into future modelling to assess the impact of different policy and legislative measures. This model initially predicted an imprisonment rate above the 2023 EU average, therefore the cap is applied.

To assess the extent to which changes in practices over time may impact the prison population, we sought to explore how certain factors influence this projection. Given the time and data available, it was decided to focus on two key drivers in the analysis of the current prison population: the analysis tests the impact of a reduction in the number of people serving short sentences (less than 12 months) and changes in the percentage of those on remand, and the impact of these changes on the overall prison population.

This approach estimates that the overall prison population will be in the range of 6,001 and 7,142 by 2035, taking into account potential reductions in remand and short sentence prisoners.

²³ Some may be live in the system for other reasons (unavailability of a witness etc.) but all have had an opportunity to be concluded.

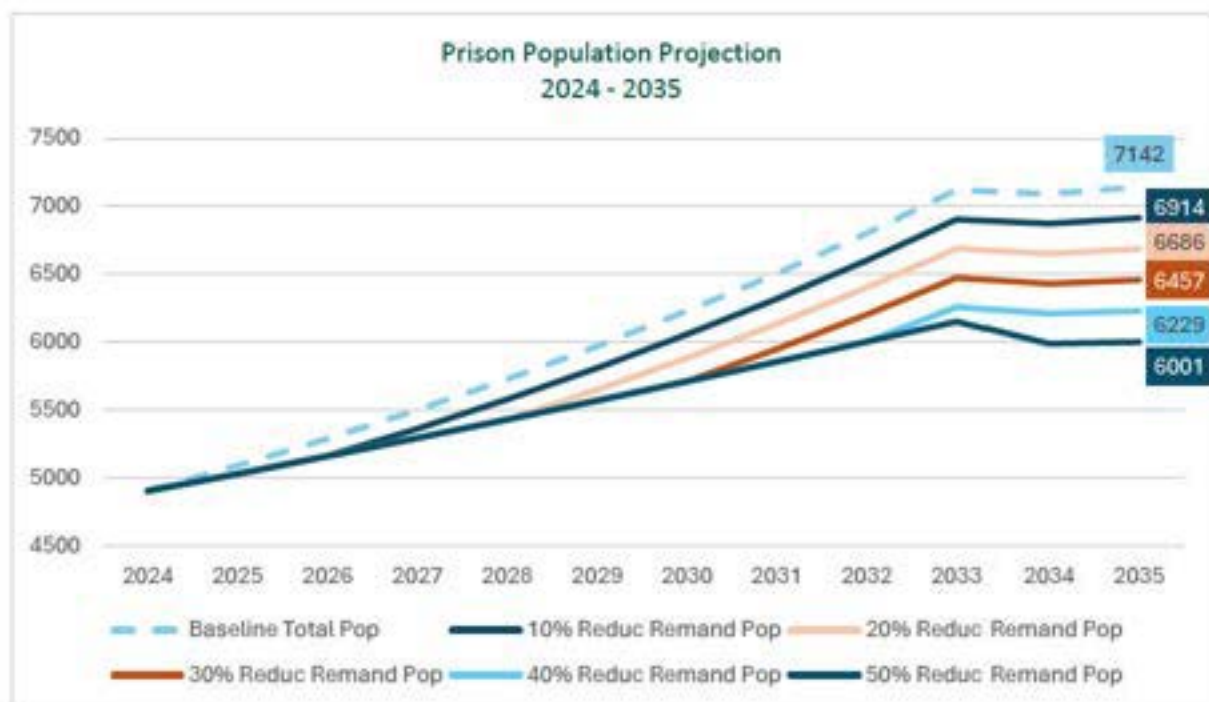


Figure 10 Growth by offence type projection

This approach assumes that growth trends from the last 10 years will continue and assumes that there is no lingering Covid effect in the system. The model is based on numbers in custody only, not those on temporary release (TR) from prison. Numbers on TR have substantially increased, and any future changes in approach to this could push these numbers up or down.

This model more closely predicts where numbers sit as of today than the previous model. If further analysis is undertaken in the next number of years, it is suggested that it could be focused on taking a deeper dive into the numbers and type of cases in the Courts and what trends can be identified, particularly in relation to the temporary nature, or otherwise, of the current higher numbers.

The following sections expand this model to look separately at the male and female prison population.

5.10.1. Male Prison Population

The below graph extracts just the male population from the overall population described in section 5.9. It illustrates the possible scenarios prepared which take account of potential reductions in the remand population and those serving short sentences. Reducing the remand population has the bigger impact on overall numbers. The overall population ranges between 5,725 and 6,813 by 2035, with the number on remand ranging from 1,088 to 2,177.

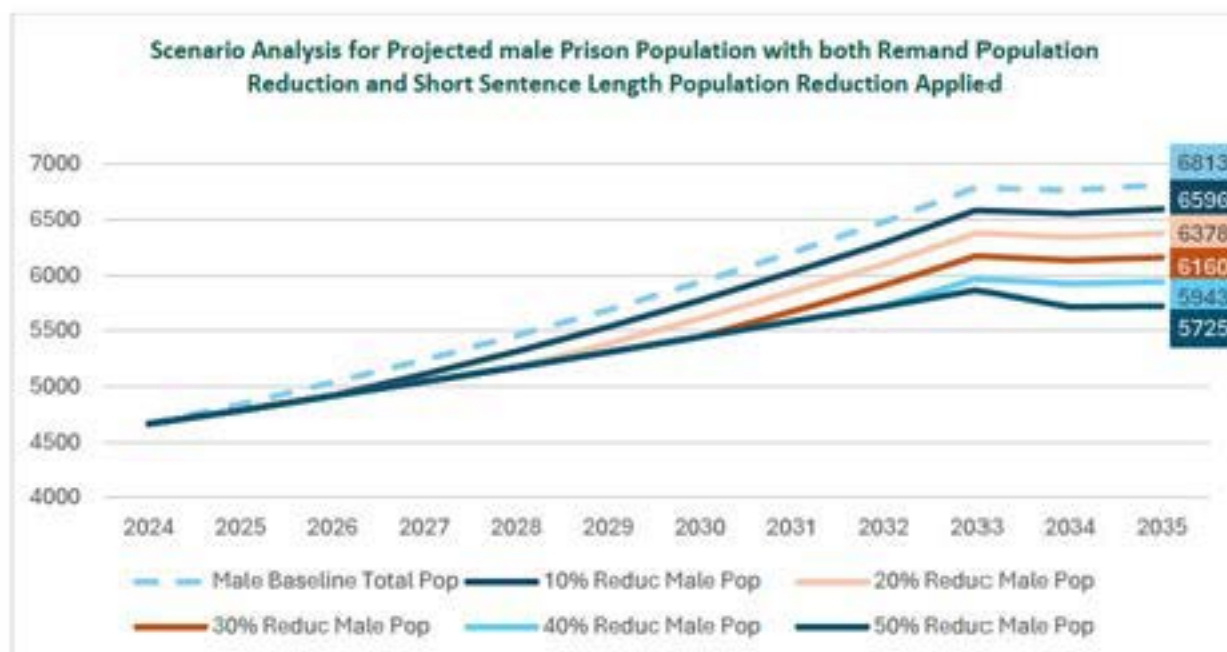


Figure 11

5.10.2. Female Prison Population

The below graph extracts just the female population from the model described in section 5.9. It illustrates the possible scenarios prepared which take account of potential reductions in the remand population and those serving short sentences. As with the males, reducing the remand population has the bigger impact on overall numbers. The overall population ranges between 276 and 329 by 2035, with the number on remand ranging from 54 to 107 and the sentenced population between 169 and 275.

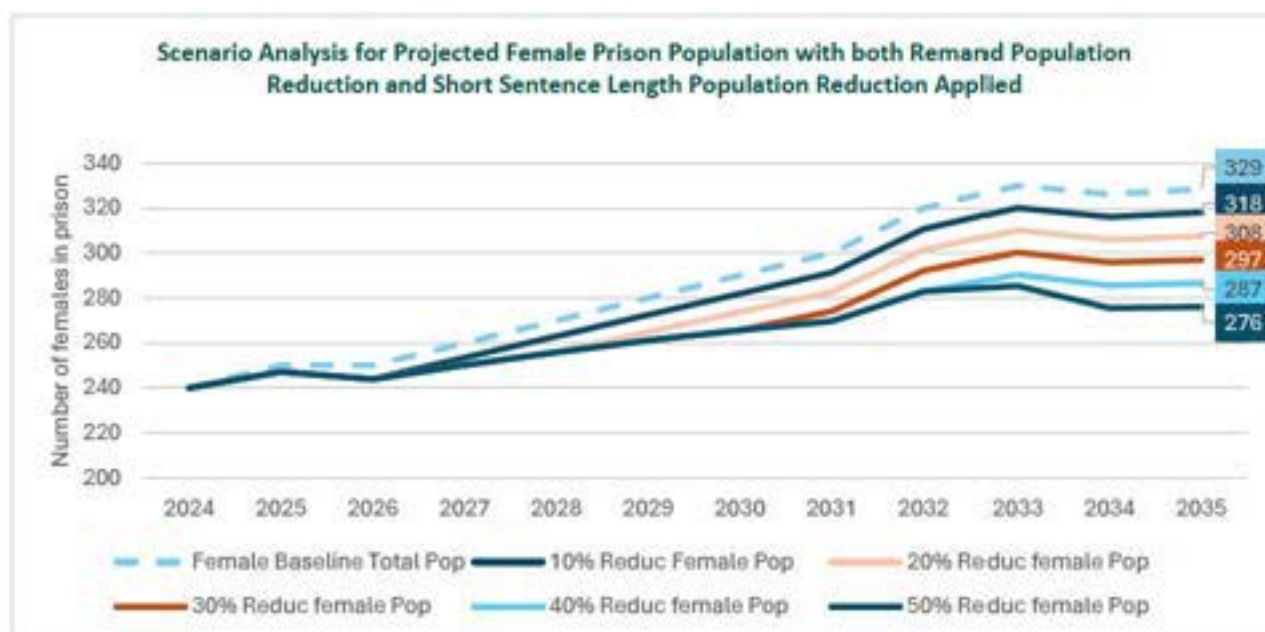


Figure 12

5.11. Combining the models

Both the baseline model and the Growth By Offence Type approach have limitations. They are not perfect models and are based on a number of assumptions and data limitations which the Group were not in a position to address. While it is clear that prison numbers are not dependent on population alone, estimating the impact of the range of factors that do contribute to the prison population is an ongoing challenge.

It is likely that the baseline approach underestimates future numbers as it does not adequately capture more recent changes in factors affecting prison numbers. It is also likely that the growth by offence type overestimates future numbers. Neither approach can suggest when a turning point or levelling-off might occur.

However, planning for the prison estate cannot take place without some level of projection which can then be developed further over time. In order to make use of both models and to try to account for their limitations, it was decided to develop a range based on them both. For the baseline model, the group determined that the CSO's M2 population was the most likely for 2035. Therefore the M2, post-Covid growth rate figure of 5,609 is taken as the lower limit of the range.

Looking at the growth by offence type model, the 2035 figure depends on the impact of measures to reduce short sentences and numbers on remand. The mid-range scenario (a 30% reduction) is therefore deemed to be the most likely, giving an upper limit of the range of 6,457.

The projected range for the prison population is therefore 5,600-6,450.

5.12. Temporary Release

Both models described above are based on numbers actually in custody. However overall numbers within the prison system are higher, due to people being on Temporary Release (TR). Temporary Release may be granted to prisoners in accordance with the relevant provisions of the Criminal Justice Act 1960, as amended. One of the main purposes of temporary release is to assist in re-integrating prisoners into the community. It has also been used as a mechanism to deal with overcrowding in a managed, risk assessed way, through the appropriate use of structured temporary release.

Another form of Temporary Release is the Community Return Scheme, which is an incentivised scheme for the supervised release of qualifying prisoners who complete unpaid community work as a condition of their early release. It gives suitable prisoners, who meet the necessary conditions, the opportunity of early and renewable temporary release with resettlement support.

At present, applications for temporary release in respect of some categories of prisoners (typically those with short sentences) may be approved by the Irish Prison Service. Applications in respect of others, including life-sentence prisoners and those sentenced to eight years or more of imprisonment, are submitted by the Irish Prison Service for Ministerial consideration.

There was a monthly average of 507 prisoners on Temporary Release in 2024. By comparison in 2023, there was a monthly average of 385 prisoners on Temporary Release, an increase of 32%. Throughout 2019 – 2022, approximately 7% of the people within the prison system were on TR. By the last quarter of 2024, this had risen to approximately 9.5%, reflecting its increased use as a measure to tackle overcrowding. There is likely limited scope for further increased use of TR under the current criteria to alleviate overcrowding and if the use of TR was to be curtailed then this would further increase the demand for prison spaces.

5.13. Alternatives to Prison and Future Developments

Other developments that may impact on the demand for prison spaces in the future include:

- **Introduction of Parole Regulations:** Work of the Parole Regulations Working Group is progressing and, once introduced, these regulations will provide for eligibility criteria for those serving longer determinate sentences to apply for parole. While this should not be considered that all those who apply will receive parole, it will provide further structured engagement and a pathway towards rehabilitation and conditional release into the community.
- **Increase use of CSOs over short sentences:** While work is ongoing to increase the maximum limit of hours for CSOs, work is also required to promote its use amongst the judiciary. A recent research report examined judicial perspectives of this matter to find that there are a number of opportunities to address concerns with the judiciary and increase the use of CSOs. The Probation Service has prepared an action plan to take this forward, and it may have significant positive impact in this regard.
- **Increase use of Restorative Justice:** In 2023 the Department published its strategy to promote an increase in use of restorative justice across the State, and the Probation Service has prepared a plan to achieve this goal. Increased use of restorative justice should lead to better outcomes in terms of rehabilitation of offenders and may assist in increasing community-based sanctions.
- **Community Access Support Teams:** A pilot was launched in October 2024 in Limerick as a joint project between AGS and the HSE. It aims to assist people experiencing situational trauma or a mental health crisis to access the right supports, to be diverted from prison to the healthcare system and to reduce future presentations with Gardaí. The pilot will be evaluated in order to inform a possible wider rollout.
- **Youth diversion projects:** Youth Diversion Projects (YDPs) support young people at risk of crime by providing education, training, employment support, and mentoring. They work with those under Juvenile Liaison Officer supervision or referred by agencies like Tusla. With 100 YDPs in operation, the Government aims for full nationwide coverage under the Youth Justice Strategy 2021-2027. The Department is also exploring diversion options for young adults (18-24) as an alternative to prosecution.
- **The introduction of electronic monitoring (EM):** This may include targeted EM for those who would otherwise be held on remand, or to facilitate greater increases in temporary release for

those who pose risks above current acceptable standards that may be mitigated by the presence of a form of EM. Under the current legislation, EM is unlikely to have significant impact on overcrowding. It could also be considered for use as an alternative to custody.

Within the timeframes available for this report, it has not been possible to develop detailed, quantifiable scenarios based on these alternatives and future developments. Further analysis, including access to data on these to indicate the potential impact they would have on the future prison population is recommended.

5.14. Conclusion

This analysis has been conducted using the available datasets and insights. It is the view of the Group that improved and continuous data collection could enhance data-driven decision-making and assist in assessing the effectiveness of measures implemented to manage prison capacity.

Access to more comprehensive data would help to clarify several factors influencing prison populations, which remain relatively unclear due to current data limitations. These include:

- Data on conviction rates to allow for more predictive analysis on trends in crime types;
- Insights into the drivers behind the increase in remand populations to support more accurate remand modelling;
- Data on the extent of use of alternatives to custodial sentencing by judges;
- Data on the impact new measures or interventions are having on rates of recidivism;

To develop a more accurate demand model in the future, it would be beneficial to establish a standardised method for obtaining and integrating comparable data across all organisations involved in the judicial and penal process. By harmonising data collection and reporting practices, discrepancies could be minimised, allowing for a more cohesive and comprehensive analysis. The demand model and population projections should be run every 1 – 2 years, and the underlying model updated as better data sources become available. This is in line with other similar jurisdictions. The UK and Australia publish annual prison population projections, and while some EU countries don't publish projections, there are periodic publications on projections from Spain and the Netherlands.

One of the challenges in seeking to analyse the prison population, is that there is no unique identifier to track individuals across the criminal justice system at this time, although, a consultation on the use of such an identifier is planned.

A demand model could be developed and iterated periodically, incorporating additional data when available and staying current with new developments. This continuous refinement would allow for more rigorous challenge and testing, ensuring that the model remains accurate and relevant. Regular updates will enable the model to reflect the latest trends and policy changes, providing more reliable projections, and measuring the 'real world' effect of measures put in place. It could support the assessment of policies and legislative changes as part of the development phase rather than post-implementation.

It is the strong view of the Group that this iterative process will enhance long-term planning strategies by offering a robust tool for decision-makers to anticipate future needs, allocate resources more effectively, and implement proactive measures to manage prison capacity.

6. Conclusion and Recommendations

6.1. Requirements for Phase 1 Report

As part of our terms of reference, the Group was asked to submit a report to the Minister which dealt with the following topics:

1. An estimate of the size of the Irish prison population by 2030 and 2035;
2. A high level plan to provide prison spaces sufficient to ensure that occupancy is no higher than 90% on average;
3. The mix of prison types (open, high/medium/low security, etc.);
4. The location of any new prison(s);
5. The proposed role that the Thornton Hall site should play in providing additional prison spaces and in the modernisation of the prison estate;
6. The extent to which alternatives to imprisonment could reduce the requirements identified;
7. High level costings, capital and current, to deliver on the plan;
8. Staffing and operating cost projections.

Items 1, 6, 7 and 8 have already been dealt with in sections 5.10, 5.12 and 4.4. Items 2, 3, 4 and 5 are dealt with below.

6.2. Future Prison Capacity Requirements

The analysis shows that putting people in prison is an expensive option and there are alternatives to prison that are both more cost effective and provide better and more sustainable outcomes. While recognising that for public safety and other reasons, it is necessary to commit some people to prison, wherever possible and feasible, alternatives to prison should be further developed and used.

The Group considered the current mix of prison types and the number of spaces in each and how this might need to change over the next decade, taking into account the analysis undertaken on future prison population. The analysis suggests that, based on current trends continuing, the prison population is likely to grow to in excess of 6,000 or more by 2035.

The existing capital plan is expected to increase capacity to 5,614 by 2030/2031 (with the addition of 1,100 spaces), if it is fully funded. Taking a 90% occupancy rate across the whole estate that would provide spaces for approximately 5,052 people. Increasing the build to 1,500 places increases capacity to 6,014 spaces at 100% occupancy, 5,713 at 95% occupancy and at 90% occupancy creates space for 5,412 people. This assumes that all existing prisons remain in use.

Scope for development in existing prisons and on new sites was considered. For a number of reasons, building within the footprint of an existing prison is generally more cost effective and is significantly less challenging to bring into operation than any building on a new site or outside existing walls.

Since the original plan for a large prison at Thornton Hall, international research has established that smaller prisons, within reach of support communities, are by far the best option to support

rehabilitation. Other considerations include access to the courts, access to health facilities, access for visitors and ability to recruit and retain staff.

It is recommended that if any new business cases are being developed for additional large-scale prison accommodation that Thornton Hall should be assessed as a potential option. The site has the potential to be developed in phases and there could be facilities for both male and female prisoners accommodated on the site. However the specific type and suitability of prison accommodation to be provided would need to be assessed in more detail at the planning and design stage. The site around the Old Cork Prison also warrants further consideration for redevelopment and the IPS are already looking at possible options for this site.

The planning and analysis for future prison capacity must align with both the annual Estimates process and operate within the agreed National Development Plan (NDP) ceilings for the sector. Additional funding is generally not committed to outside of these processes. Proposals for individual projects must adhere to the Public Spending Code and the Infrastructure Guidelines, which require comprehensive strategic assessments, options appraisals and business cases to justify investment decisions.

6.2.1. Remand Facilities

Further analysis is required to underpin a decision to develop a business case for additional remand spaces. However, the increase in remand in recent years and the fact that only one dedicated remand facility exists, and is severely overcrowded, suggests that unless action is taken to reduce the numbers on remand that a new facility for remand should be prioritised. A business case should include a location analysis to assess the best location for a new facility. There is limited capacity to increase capacity at Cloverhill and this has already been assessed. The current plans would deliver 190 places.

6.2.2. Female prisons

There is no scope to expand the Limerick Female Prison or Dóchas and both are significantly overcrowded despite significant increase in capacity in Limerick. There is a project planned for Dóchas which would provide 70 new spaces but this involves converting existing office space and impacting yard space.

Projections indicate that there will be an increase in the female prisoner population of approximately 50. Therefore, consideration of additional accommodation needs to be prioritised. The Dóchas also needs to be considered in the context of the overall longer-term plan for the Mountjoy campus.

6.2.3. Arbour Hill

Arbour Hill provides spaces for 137 prisoners, through a mix of single and double occupancy cells. It was originally constructed in the mid-1840s, and its design and layout reflects that period. While in-cell toilet facilities have been provided, these are not partitioned. There are a number of outdoor spaces and adjoining areas, however given the overall age and the fact that the majority of buildings are protected structures, possibilities for future development are extremely limited.

It is notable that the environment in Arbour Hill is fully drug free, there were no prisoner-on-staff physical assaults in 2022 or 2023, and just 3 prisoner-on-prisoner direct assaults in the same period. The prison provides a therapeutic environment, with a strong focus on education, training and work.

While this type of environment is worth preserving, it is recommended that the decant and decommissioning of Arbour Hill should be prioritised in any future operational and capital plans. This would however require a suitable replacement facility, aligned to modern construction standards.

6.2.4. Castlerea, Cork, Wheatfield

Two hundred and thirty four prison spaces could be constructed at Castlerea and scope for a further 100 bed spaces exists in Wheatfield. This highlights the need for a location analysis and prioritisation of potential projects to deliver the best combination of new accommodation in the next 5 to 10 years. There is no scope for further development on the site of the new Cork prison.

6.2.5. Loughan House

There is significant space available in Loughan House to provide further low security prison spaces. This should be considered as part of any business case for this type of prison spaces, along with Thornton Hall to assess the most suitable location.

6.2.6. Limerick Prison (Male)

There is no further scope for expansion on the existing footprint at Limerick Prison but 49 spaces will be created with the refurbishment of Block A and E.

6.2.7. Midlands & Portlaoise

In the Midlands Prison, there are existing proposals for an additional 103 cells / 180 prison spaces. This would bring the capacity of the Midlands prison to more than 1,000 prisoners. There is significant potential for development of Portlaoise Prison, which would involve demolition of E Block, and making use of the site of the demolished D Block. There is also potential to use the former military compound at Portlaoise for very elderly offenders. Consideration should be given to prioritising development of Portlaoise as well as the further expansion of the Midlands Prison.

6.2.8. Mountjoy

In light of the decision in 2012 not to proceed with Thornton Hall, significant capital investment has been made at the Mountjoy campus over recent years to upgrade accommodation and eliminate the practice of slopping out. 50 new spaces in B Block have also recently been completed, and there is scope for 150 new spaces on the footprint of the former Separation Unit. It is recommended that Mountjoy Prison is retained in service for at least the next two decades, with further assessment of its utility once the capital programme has advanced further and progress on decommissioning Arbour Hill is assessed.

In the short to medium term, priority should be given to further refurbishment and improvement of the facilities, with the objective of returning it to single cell occupancy as part of future operational and capital plans, which would require a reduction in the numbers held in Mountjoy of the order of

210 based on current occupancy. A dedicated medical unit is included in the future plans for Mountjoy and is being developed in conjunction with the HSE. The planning should ensure that such a unit can provide high support facilities also.

In addition, Day Prisons exist in other jurisdictions whereby prisoners attend the prison during the day only. Mountjoy could provide an opportunity to pilot such an initiative. This would allow individuals to serve their sentences while returning to their communities in the evenings, and enable them to access programmes and supports. While space within existing prisons would be required in order to do this, including consideration of meal provision, it should be easier and more cost effective to provide than additional cell spaces.

6.3. Other recommendations

- **Accelerating delivery of capital plans:** Opportunities to accelerate existing plans for large-scale capital projects should be urgently explored. Given the limited options for new prison developments, consideration could be given to seeking exemptions from the initial approval gate of the Infrastructure Guidelines, which typically requires a broad options appraisal. Where appropriate, bypassing this stage could reduce delivery timelines by 12 to 18 months.
- **Modernisation:** Over the next decade there will be a requirement to modernise the existing stock of prisons and a proportion of the budget should be allocated to this on an ongoing basis.
- **Specialist Facilities:** There is already work underway to create additional facilities for elderly prisoners and those with additional medical care needs. In the absence of appropriate facilities in the community for these types of prisoners, a plan should be developed to provide for additional specialist facilities either in existing prisons, where space allows, or as part of new developments. However, the group is strongly of the view that some prisoners should not be kept in a prison environment and should be moved to appropriate facilities in the community.
- **Ancillary Facilities and Services:** It is recommended that as part of all business cases, allowance is made for provision of additional / new facilities for prisoners and staff. This would include educational, recreational and healthcare facilities that support rehabilitation, and the resourcing (funding and staffing) to deliver these related services. More generally, increases to prison capacity need to be matched with increased funding for staff and services in the Prison Service and Probations Service.
- **Minor Works:** On prison visits, members of the Group saw how minor works and relatively small investments in individual prisons can be very effective in making meaningful improvements to facilities for prisoners, particularly some of the most vulnerable prisoners. An enhanced fund for minor works would allow prison management to further prioritise and progress small improvements with these works being managed locally.
- **Transitional housing:** Transitional housing built on existing prison lands, or purchased in close proximity to the prisons should be further explored given the very significant challenges identified in securing accommodation for prisoners on release, and the impacts this has on recidivism. This

could potentially be run as an innovative pilot project, with the Department of Rural and Community Development and making use of EU funding. There is also potential to train people in prison in modular construction methods, and have them involved in the construction of modular, step-down or transitional housing.

- **Estates Programme Board:** In order to provide oversight and ensure the prison estate is developed strategically, an Estates Programme Board should be established with key representatives from IPS, the Department of Justice and with external expertise. This is in line with how capital projects are overseen in other parts of the justice sector and wider public sector.
- **Data modelling:** The demand model and population projections developed in this report should be re-run every 1 – 2 years, and the underlying model updated as better data sources become available. These projections should be used to support decisions around funding and development of the prison estate, and policy options.
- **Impact Assessments:** Future policy, legislative or significant operational changes in the justice sector should involve an impact assessment to determine the potential impacts on prison capacity to aid planning.
- **Cell & Facilities Guidelines:** The existing Prison Design Guide Manual should be updated to define current prison cell and accommodation standards, and associated capacity and resourcing, to inform new prison capital projects. It can also be used as a guide for refurbishments, taking into account the build constraints that exist in modernising older parts of the estate.

Appendix 1: Terms of Reference and Membership of the Group

Terms of Reference for Working Group on Future Prison Capacity

Purpose of the Working Group

The Working Group on Future Prison Capacity is being established to prepare a report for the Minister on the prison capital programme out to 2035 and any associated recommendations.

It is essential that our prison estate has adequate capacity to deal with the number of prisoners who are being given custodial sentences. It is anticipated that there will be a continuing need for humane and fit for purpose prison accommodation over the coming years. Despite the considerable efforts made to develop alternative sanctions and divert offenders away from prison, the number of people in prison has risen dramatically since the end of the Covid pandemic, with record numbers of prisoners now detained in increasingly difficult overcrowded conditions in many of our prisons. These numbers far exceed the Council of Europe standard of 90% occupancy.

Forward planning to create a pipeline of prioritised projects is essential for the next 5-10 years and beyond. The purpose of this working group is to assess the future needs and develop a costed prison building programme that delivers adequate capacity, while also ensuring that we have a modern and fit for purpose prison estate that is humane, safe and secure and which provides the most effective supports for the rehabilitation of offenders, and ensuring alignment with evolving legislative, demographic and societal trends.

In line with government design principles, the group will aim to consider how the design of prisons can contribute to rehabilitation, reducing recidivism and ultimately safer communities.

In developing its report, the group will have regard to the national & international context:

- Review of Policy Options for Prison and Penal Reform 2022-2024;
- IPS Capital Plan 2024 – 2030;
- The need to deliver adequate prison capacity for a country of our size and demographics;
- The desirability of having a prison estate that is modern, secure, and capable of providing the full range of services to support the well-being and rehabilitation of offenders;
- The changing nature of crime, including the increasing prevalence of cybercrime; increasing numbers of female prisoners; and increasing numbers of sex offenders in prison;
- The extent to which alternatives to imprisonment could reduce the requirements identified;
- The different risk profiles and needs of cohorts of prisoners and the associated estate and regime requirements;
- Technological developments;
- Forecast changes in the size and composition of the population of Ireland;
- On-going reform of the criminal justice system;
- The Government Design Principles;
- Reports on Irish prison conditions including those of the Council of Europe's Commission on the Prevention of Torture and Degrading Treatment (CPT); the Inspector of Prisons; and other bodies with an interest in penal policy;
- International best practice and developments in penal policy, effective sanctions and rehabilitative practice;
- Internationally recognised best practice of having available sufficient capacity in our prisons, so that average occupancy rates are no higher than 90%;
- The need for impact assessments on prisons of increases in capacity other areas of the justice system, of new legislation or of other policy initiatives

The Group will prepare a phase 1 report for submission to the Minister for Justice by 30 November 2024 addressing the following:

- An estimate of the size of the Irish prison population by 2030 and 2035;
- A high level plan to provide prison spaces sufficient to ensure that occupancy is no higher than 90% on average;
- The mix of prison types (open, high/medium/low security, etc.);
- The location of any new prison(s);
- The proposed role that the Thornton Hall site should play in providing additional prison spaces and in the modernisation of the prison estate;
- The extent to which alternatives to imprisonment could reduce the requirements identified;
- High level costings, capital and current, to deliver on the plan;
- Staffing and operating cost projections.

Further phases of work will be developed by the working group once the initial phase 1 report is completed.

Membership of the Working Group

Name	Organisation/Role
John Murphy (Chair)	Independent Chair
Deirdre McDonnell	Assistant Secretary General, Criminal Justice Governance (DOJ)
Derek Caldbeck	Director of Finance and Estates (IPS)
Sean Holly	Director of Human Resources (IPS)
Don Culliton	Director of Operations (IPS)
Mary O'Regan	Head of Penal Policy (DOJ)
Aonghus O'Connor	Formerly Head of Justice Sector Vote Group (DOJ)
Damien Quinn	Founder of Spéire Nua
Fiona Ní Chinnéide	Director of Operations (Probation Service)
John Garry	Principal Officer, Civil Governance (DOJ)
Dave Conroy	Governor, Midlands Prison

Emer Darcy	Assistant Secretary General, Head of Strategy and Reform (Courts Service)
Sarah Kennelly	Head of Finance and Capital Resources, Criminal Governance (DOJ)
Emma-Jane Morrissey	Finance and Capital Resources (DOJ) (secretariat)
Ciara McCahey Kavanagh	Finance and Capital Resources (DOJ) (secretariat)
Dylan Curran	Finance and Capital Resources (DOJ) (secretariat)

Appendix 2: Consultations Undertaken by the Group

List of External Bodies/parties who attended Consultation Meetings with the Working Group:

- President of the High Court, Mr. Justice David Barniville
- Mr. Justice Paul McDermott, Judge in Charge of the Criminal, Bail and Extradition lists
- President of the Circuit Court, Ms. Justice Patricia Ryan
- President of the Dublin District Court, Judge Paul Kelly
- Prison Officers Association
- Inspector of Prisons
- Irish Penal Reform Trust
- Mr. Joe Arvidson, Criminologist

Site Visits to the Prison Estate:

- Limerick Prison (Male)
- Limerick Prison (Female)
- Portlaoise Prison
- Cloverhill Prison
- Mountjoy Prison
- Arbour Hill

Appendix 3: Cost of non-custodial options

Irish and international studies have shown that a reduction in reoffending and “desistence” can be achieved, over time, through supervision in the community with appropriate support and access to services. Committal is disruptive, removes people from their family support and can close off access to work and accommodation – all key factors in reducing the risk of recidivism.

In the context of the work of this group, alternatives are relevant in terms of reducing demand for prison spaces. When compared to custodial sentences, they can be more cost effective and more effective at reducing reoffending.

The costs of the different types of supervision orders vary by type:

Order Type	2019 cost	2023 numbers
Probation Order	€5,700	1,580
Supervision during deferment of penalty	€5,400	2,348
Community Service Orders	€1,200	1,614
PSSO	€5,700	851
PRSO	€6,600	69

Community Service Orders

In 2023, the Probation Service managed 1,614 Community Service Orders. The Community Service Orders represented 209,311 hours of work carried out in lieu of 778 years in prison (savings of €69m)²⁴, providing unpaid work to the value of €2.365m to communities.

Analysis by the Probation Service in 2019 put the cost of 1 community service order at €1,200. 1,614 community service orders therefore cost approximately €1.94m in 2023. This cost is significantly less than imprisonment. In 2019, people subject to Community Service Orders had a 21% 1-year re-offending rate, while those released from prison had a 45% 1-year re-offending rate²⁵.

While community service orders will not be appropriate for all types of offenders, there is considerable scope for further expansion. The Probation Service developed the New Directions – Community Service Implementation Plan for 2025-2027, which aims to expand the use of community service.

²⁴ Assuming the cost of providing one staffed prison space of €88,523 in 2023, times the number of years.

²⁵ Source: CSO.



Mr Lorcan Staines, SC.
Law Library
Four Courts
Dublin 7

Via email: lorcanstaines@lawlibrary.ie

Re: An assessment of the efficacy of Irish bail laws

Dear Mr. Staines,

I refer to your letter dated 24th June 2025, in relation to the assessment of the efficacy of Irish bail laws that you have been appointed to undertake, inviting the Probation Service to make representations on the matter as part of your stakeholder engagement.

The Probation Service is an executive agency of the Department of Justice, committed to working to reduce offending, create safer communities and fewer victims through the rehabilitation of offenders.

In fulfilling this mission, the Probation Service contributes by:

- Ensuring court ordered supervision is implemented
- Reducing the likelihood of reoffending and risk of harm to the public
- Making good the harm done by crime through reparation and restorative justice.

Rehabilitating offenders to achieve and maintain positive change is central to the Probation Service's work. The Probation Service believes that offenders can change their behaviours, and through rigorous assessment and effective supervision, probation staff can help make positive changes to avoid further offending. Probation practice is evidence informed by what is internationally recognised to be effective and is underpinned by social work practice and aligned with international standards of good practice, including for example the Council of Europe Probation Rules (2010).

Our staff possess specialised expertise in working with offenders and in assessing and managing risk of reoffending and / or harm. The Service works in close collaboration with the Courts Service, the Irish Prison Service (IPS), An Garda Síochána (AGS), the Parole Board, and many organisations in the community. At a national level, the Service engages with approximately 21,000 individuals each year, including around 17,000 in the community (both adults and young persons) and a further 3,500 persons in custody. Of those with whom we work with in the



community, approximately 2,500 are subject to a supervision arrangement that is a direct alternative to imprisonment.

The individuals we work with have committed a wide range of offences, including theft, assault, drug related offences, sexual offences, intimate partner violence, and murder.

The Probation Service becomes involved in the criminal justice system following a guilty plea or a finding of guilt, which may or may not proceed to an ultimate conviction for an offence. This contact can take the form of a Probation Officers Report (Pre-Sentence Report) and /or 'probation supervision'.

Traditionally, probation supervision took the form of a *Probation Bond*, *Probation of Offenders Act 1907, Section 1(1)(ii) or 1(2)*. However, in recent years, there has been increasing involvement in alternatives to custody and post custody supervision arrangements. These include the *supervision of suspended sentences*, *Post Release Supervision Orders under Section 29 of the Sex Offenders Act 2001 (as amended)* and *Part Suspended Sentence Supervision Orders under Section 99 of the Criminal Justice Act 2006 (as amended)*. Additionally, the Service plays a key role in supervising individuals on temporary release, including life sentenced prisoners and with the establishment of the Parole Board on a statutory footing, will see the Service increasingly involved in the supervision of *Parole Orders* going forward.

The Service also supervises those placed on what is referred to as *adjourned supervision* – supervision during deferment of penalty whereby the Court wishes to assess progress before deciding how best to dispose of a matter. In such cases, a plea or finding of guilt has been established, but sentencing is deferred. Nationally *adjourned supervision* equates to 2,000-2,500 cases per year for the Probation Service. All individuals subject to this arrangement are remanded on continuing bail, the conditions of which are monitored by An Garda Síochána.

While some individuals we assess and / or supervise maybe subject to bail conditions, whether in relation to matters involving the Service or other proceedings before the Court, the Probation Service currently has no function in matters relating to bail or pre-trial supervision. At the request of the Department of Justice, the Probation Service has agreed, in principle, to assume responsibility for the governance and oversight of the Bail Supervision Scheme (BSS) for children under 18 years of age. This development is part of an effort to ensure the ongoing, effective management of children subject to bail conditions, an integral part of youth justice services and the Department of Justice *Youth Justice Strategy 2021-2027*. In doing so, the Probation Service recognises the unique needs of this vulnerable cohort within the criminal justice system. This development is expected to progress in 2026.



I appreciate the complexity of the task at hand, as the efficacy of Irish bail laws is a multifaceted issue. Nonetheless, I would like to offer some suggestions and points for consideration from the perspective of the Probation Service.

1. Probation Service Role and Function:

The Probation Service plays a distinct and vital role in the criminal justice system through the supervision and rehabilitation of individuals referred by the courts or released from custody. Our work supports positive behavioural change and contributes to enhanced public safety. We fulfil this mandate by implementing court ordered supervision in a manner that protects the public, promotes accountability, and encourages rehabilitation.

A core element of our work is to challenge and motivate those referred to us, ultimately supporting and encouraging them in changing their behaviour to reduce the risk of reoffending. Intervening at the pre-trial stage prior to a possible plea or finding of guilt can shift the focus of the Service away from its core function as a *change agent* and toward a role that is inconsistent with its rehabilitative ethos.

While it is imperative, the Probation Service remains agile and open to further development, its impact is best maximised through the expanded use of community sanctions and measures. These should be targeted at both recidivist offending and more serious harmful offending behaviours, ensuring that interventions are proportionate, evidence-based, and focused on long-term public safety.

2. Serious Offences and Multiple Matters:

From the perspective of the Probation Service, which works closely with individuals and communities, the most significant impact of offending is often felt through high-volume, relatively low-level crime. While bail legislation rightly focuses on serious offences, there is also considerable harm caused by persistent, low-level offending and repeated disregard for the law. Therefore, there may be merit in considering the inclusion of serious and/or multiple offences within the relevant sections of the legislation. This would reflect the need for the criminal justice system to respond more effectively to recidivist offenders who consistently commit summary offences and cause ongoing disruption to community life.

3. Electronic Monitoring:

Legislative provision exists (though not yet commenced) for the use of electronic monitoring in bail matters, specifically in cases involving serious offences likely to attract



a custodial sentence of five years or more. As currently understood, a defendant must first be granted bail before an application for electronic monitoring can be considered.

There may be merit in exploring the potential for electronic monitoring as a bail condition in cases involving multiple offences whether current or historical. Such an approach could provide the judiciary with a more graduated set of options:

- 1) bail with conditions (current situation)
- 2) bail with a condition of electronic monitoring, or
- 3) refusal of bail

This incremental model has the potential to enhance the robustness of bail decisions, preserve the rights of the defendant, and promote community safety.

The introduction of electronic monitoring is a commitment under the Programme for Government for use with appropriate categories of offenders. Work is currently underway to assess the practical and operational considerations to inform the next steps.

Finally, thanking you for the opportunity to contribute, should you require any further assistance from the Probation Service, please do not hesitate to contact me.

Wishing you all the very best with your work.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark Wilson', is written over a thin horizontal line.

Mark Wilson
Director

22nd July 2025



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27 August 2025

Re: Submission to the assessment of the efficacy of Irish bail laws

Dear Mr. Staines,

Many thanks for your invitation to make a written representation on the efficacy of Irish bail laws. This brief addresses issues arising from the questions set out in your letter.

(i) Rates of remand detention

The rates of people being held in remand detention, and the duration of their stay, have been continuously increasing. As of 21 August 2025, nearly 1 in 5 people in the Irish prison system are in pre-trial detention.¹ The number of people in pre-trial detention had increased by 15 per cent since the CPT last conducted a visit in 2020. There has been a steady rise in the proportion of the prison population being held in pre-trial detention, and an increase in the length of time they are spending in custody awaiting trial. There are instances where people are spending more time in remand custody than the length of the sentence handed down to them should they be found guilty.²

Research carried out by IPRT in 2016 demonstrated that the majority of people charged with an offence are released on 'station bail' and do not come before the courts to make a bail application.³ For those who are brought before the court, the standards and tests set out in *People (Attorney General) v O'Callaghan*⁴ and the Bail Act 1997 apply. The fact that bail applications are dealt with on a case-by-case basis

¹ Irish Prison Service, [Prisoner Population on Thursday 21 August 2025](#).

² Future Prison Capacity Working Group, [Report to the Minister for Justice](#) (2024) p. 31.

³ Irish Penal Reform Trust, [The practice of pre-trial detention in Ireland](#) (2016) p. 9.

⁴ [1966] 1 IR 50.

Patron of IPRT

Michael D. Higgins

IPRT Board of Directors

Derval McDonagh (*Chair*)

Juracy Antunes Dantas Junyor

Dr Lisa Cuthbert

Ashling Golden

Amy McArdle

Noel Moloney

Dr Róisín Mulgrew

David O'Riordan

Dr Liam Thornton

is fundamental in ensuring that someone is placed in pre-trial detention where only strictly necessary however this approach also leaves scope for inconsistencies on the application of the rules from day-to-day, circuit-to-circuit.

In 2023, 38 per cent of committals to Irish prisons were on remand, compared with 24 per cent in 2018.⁵ At the end of 2023 the proportion of remand trial prisoners in custody for one year or more was nine per cent compared with six per cent at the start of 2020.⁶ In 2021 the number of persons held on remand grew significantly throughout the year increasing from 615 in January 2021 to 867 in November. The average number held on remand in 2021 was 712 and while this decrease (-3.5 per cent) on the 2020 figure reflects the reduced committals it is higher than the 2019 figure. There is also evidence of a longer duration of remand on average. The proportion of remand prisoners in custody for a period of one year or more increased from five per cent of all remand prisoners in March 2020 to 12.7 per cent of all remand prisoners in December 2021.⁷

(ii) Remand prisons in the State

Cloverhill Prison is a purpose-built remand prison in Dublin which holds the majority of the men who are remanded into custody. While Cloverhill is the only purpose-built remand prison in the State, the majority of prisons in the State accommodate remand prisoners, including: Mountjoy, Wheatfield, Midlands, Portlaoise, Cork, Limerick and Castlerea.

For women in remand custody, both Limerick Women's Prison and the Dóchas Centre (Mountjoy Women's Prison) are used to accommodate remand prisoners. It is important to note that there are disproportionate numbers of women in remand custody. The remand female population has increased by 96 per cent since 2021 (21 per cent in 2022 and 62 per cent in 2023).⁸

The 2023 *Irish Prison Service Annual Report* outlines that 38 per cent of the overall prison population were being held in pre-trial detention.⁹ The rate of committals to prison for women for pre-trial detention in 2023 was almost 60 per cent, a nine per cent increase since 2017. In June 2024, an average of 25 per cent of women in prison were on remand, compared to 18.5 per cent of the male prison population. IPRT is concerned by this trend and believes pre-trial detention should be a measure of last resort, particularly in light of the right to the presumption of bail under the O'Callaghan principles.

⁵ Irish Prison Service, [Annual Report 2023](#) (2024).

⁶ Ibid.

⁷ Irish Prison Service, [Annual Report 2021](#) (2022).

⁸ Future Prison Capacity Working Group, [Report to the Minister for Justice](#) (2024), p. 31.

⁹ Ibid (n. 3) p. 51.

(iii) Prison capacity and overcrowding

In July 2024, the Council of Europe Committee on the Prevention of Torture and Inhuman or Degrading Treatment ('the CPT') published its most recent report on places of detention in Ireland.¹⁰ The Committee highlighted several entrenched areas of concern, including overcrowding and deteriorating safety standards in prisons. The report details harrowing accounts of squalid conditions created by overcrowding, with up to four prisoners sharing a cell built for single occupancy, sharing an unpartitioned toilet.

Overcrowding exacerbated the situation for prisoners held in restricted segregation for protection reasons, who often spend up to 22 or even 23 hours a day locked in their cells. The Committee also highlighted the 'degrading and counterproductive' use of 'closed supervision cells' (CSCs) and Safety Observation Cells (SOCs) in Cloverhill. The most recent figures on restricted regime prisoners ([July 2024](#)) show that Cloverhill prison has a disproportionate number of prisoners on restricted regimes.

Since 2023 we have continued to break new prison overcrowding records. The number of people in Irish prisons has led to three and sometimes even four people being held in cells designed for one person, with record numbers sleeping on rubber-lined mattresses on the floor.¹¹ IPRT is concerned that the conditions experienced by people in Irish prisons due to overcrowding amount to degrading and inhuman treatment. In its 2020 report, the CPT noted concern that at the time of visiting Cloverhill prison there were 3 people sleeping on mattresses on the floor. As of 27 August 2025, there are 44 people sleeping on mattresses on the floor, with the issue becoming so prevalent that the Irish Prison Service has now had to include it as a category in its daily prisoner population reports.¹²

Overcrowding affects every aspect of prison life. As well as creating confined and squalid conditions for prisoners, overcrowding has led to staff shortages and the closure of prison schools and workshops and on occasion the cancellation of family visits. This significantly reduces opportunities for rehabilitation and for people to spend time out of their cells. People being left in overcrowded cells for longer periods is contributing to increased tensions and violence, making prisons less safe for both prisoners and staff.

(iv) Prison conditions

Prison conditions across the general prison estate are inadequate and unacceptable. The recently published CPT report on places of detention in Ireland, including prisons.

¹⁰ The Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, [Report to the Irish Government on the visit to Ireland](#) CPT/Inf (2025) 22.

¹¹ Irish Prison Service, [Prisoner Population on Wednesday 27 August 2025](#).

¹² Ibid.

In May 2024, the Committee visited five prisons including both female prisons. In all prisons visited, it observed that “three or four prisoners were held in cramped, squalid spaces with insufficient ventilation”.¹³

In its 2023 annual report, the Office of the Inspector of Prisons noted that the situation found by the Inspectorate during its May 2023 inspection of Cloverhill Prison was particularly grave.¹⁴ At the outset of the inspection, 152 people (one third of the prison’s population) were being held four to a cell measuring less than 12 square metres, with one occupant sleeping on a mattress on the floor in each of these 38 cells. The in-cell toilets were not partitioned, and prisoners were eating breakfast, lunch and dinner in these highly-confined, stuffy and malodorous spaces. People in prison were provided with only one set of clothes and between one to three pairs of socks and underwear over a seven-day period. When people were allowed to wear their own clothing, they washed these clothes in sinks and dried them in their cells.¹⁵ The Inspector also noted with grave concern that people on remand and those sentenced were accommodated together, contrary to international human rights standards.

In its report, the CPT noted that there was an increase in allegations of ill-treatment, excessive use of force and inter-prisoner violence, with Cloverhill being singled out as particularly problematic. These included slaps, kicks and punches to the face, head and torso. These allegedly happened either in prisoners’ cells, in areas not covered by CCTV in the reception centre and/or in escort prison vans. The Committee details one of the most serious incidents that it encountered, which involved ‘Prisoner 1’ held at Cloverhill Prison.¹⁶ The prisoner was beaten by ‘Officer A’ while in transit from the Criminal Courts of Justice to Cloverhill Prison. Footage of the incident was captured by recently-installed CCTV, which the officer was unaware has been installed. The prisoner suffered from significant disabilities commensurate with a head and brain injury. This incident is an important example of the conditions and how the overcrowding crisis has fueled tensions in prisons, not just in the general prison population but in Cloverhill Prison specifically. While remand prisoners have not been convicted of an offence, being held in pre-trial detention does not afford ‘special treatment’. Time spent in remand custody subjects a person not only to the deprivation of their liberty, but to the conditions in prison which are now being flagged as reaching the threshold of inhuman and degrading.¹⁷ The denial of bail does not exist in a vacuum, and the IPRT’s position is that when considering whether bail should be granted, the Court should consider prison conditions as a factor.¹⁸ This

¹³ Ibid (n. 8) p. 5.

¹⁴ Office of the Inspector of Prisons, [Annual Report 2023](#) (2024) p. 5.

¹⁵ Ibid (n. 7) p. 21.

¹⁶ For a full account of the incident, see paras. 38 – 40.

¹⁷ Ibid.

¹⁸ For further discussion, see: Thomas O’Malley, *Sentencing: A Modern Introduction* (Calrus Press, 2025) 182 – 184.

aligns with the position of the CPT, whose 2025 report recommends that ‘whenever a prison in the Irish prison estate has reached that limit, no further persons should be admitted to that establishment’.¹⁹ Alternatives to custody are set out in section (vi) below.

(v) Rates of mental illness among the remand population

The rates of people with mental illness and psychiatric needs in Irish prisons has continued to rise, with reports from oversight bodies continuously recommending reforms in the area.²⁰ An even higher rate of people are committed to remand custody, however, often for minor offences which otherwise would not result in time spent in prison.²¹ A 2024 report from the Irish Prison Service outlined that the rate of self-harm was two times higher among prisoners on remand than those sentenced in 2020 (3.0. versus 1.5 per 100) and 2021 (3.1 versus 1.5 per 100).²²

When a prisoner is in remand custody and has been charged with a minor offence, a referral may be made to a local civil psychiatric hospital, with a view to the prisoner being diverted there, including being bailed to the hospital with the condition that they reside/receive treatment there (their ultimate diversion from custody then sometimes being successfully achieved, subject to a voluntary or statutory report being supplied to the court and the court’s agreement). Despite this system being in place in theory, the Office of the Inspector of Prisons in its thematic report on mental health in prisons noted that in practice psychiatrists have suggested that low secure beds in civil psychiatric facilities are pretty much absent, describing “getting agreement for transfer to hospital is like horse trading”, suggesting that obtaining treatment in a civil psychiatric hospital depended upon contacts and favours.²³

As a result of these difficulties mentally ill people in remand custody charged with minor offences are frequently not accepted for psychiatric hospital admission at the time of arrest or during the trial process, remaining in prison without the benefit of in-patient psychiatric hospital treatment. These people are then released into the community, often with no reliable psychiatric follow-up, only to find themselves back in the same vulnerable position that led to their low-level offending such as poverty, homelessness and substance use, before re-offending and re-entering the criminal justice system. In the Office of the Inspector of Prisons thematic report on mental

¹⁹ Ibid, para. 32.

²⁰ Office of the Inspector of Prisons, [Thematic Inspection: An Evaluation of the Provision of Psychiatric Care in the Irish Prison System](#) (2023); High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector, [Final Report](#) (2022).

²¹ The most recent data on this issue is nearly 20 years old, with the rise in prison population it is estimated this figure has increased. HG Kennedy et al, *Mental Illness in Irish Prisoners: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners* (National Forensic Mental Health Service 2006).

²² Irish Prison Service, [Self-Harm in Irish Prisons](#) (2024).

²³ Ibid, para 3.76.

health in prisons, an example was given of a person who had been convicted of 100 minor offences.²⁴ From the perspective of a bail application before the Court, applying the relevant principles, it is clear why a person who has 100 prior convictions would not receive bail. This is demonstrative of a broken system, which leaves someone repeatedly going through the revolving door of the criminal justice system without addressing the underlying causes of their offending behaviour.

(vi) Prison expansion and alternatives to prison

Increasing prison capacity and building new prisons is often raised as a solution to the prison overcrowding crisis, despite it being well-documented that no State has built its way out of a prison overcrowding crisis. If Government plans to build two new prisons at the Thornton Hall site in Dublin and in Cork come to fruition, there will be a prison population nearly three times that judged a sensible maximum by the Whitaker Committee in 1985, when the fear was that the prison population would rise above 4,000.²⁵ Each new-build prison in the State has had to operate beyond its capacity, the most recent example being Limerick Women's Prison surpassing its capacity within weeks of opening. It continuously remains one of the most overcrowded in the State. While general population growth may be cited as a justification for expanding the prison estate, lessons can be learned from the female prison estate.

The numbers on remand have increased at a faster rate than the overall prison population increase and are a significant driver of the current increased prison population.²⁶ Between 2019 and 2024, the number of individuals on remand have steadily increased, with a 29 per cent rise during that period. The number of individuals on remand has steadily increased. As of June 2024, 79 per cent of individuals on remand were detained for one to six months, 19 per cent were detained for six months to two years and two per cent were detained for over two years.²⁷

Even where bail has been granted, challenges remain on the affordability of the bail bond or recognisance which results in the person being held in remand custody despite having been granted bail. The Office of the Inspector of Prisons has noted that at its most recent inspection, a number of people in Cloverhill Prison had low bail amounts set by the courts. For example, on 18 May 2023, the Inspector observed that 11 people in the prison had bail set at 100 euros or less, while another 26 persons had their bail set at less than 500 euros.²⁸ The Inspectorate observed that

²⁴ Office of the Inspector of Prisons, [Thematic Inspection: An Evaluation of the Provision of Psychiatric Care in the Irish Prison System](#) (2023) para 3.81.

²⁵ T.K. Whitaker, *Report of the Committee of Inquiry into the penal system* (Stationary Office, 1985).

²⁶ Future Prison Capacity Working Group, [Report to the Minister for Justice](#) (2024).

²⁷ Ibid.

²⁸ Office of the Inspector of Prisons, [Annual Report 2023](#) (2024).

Cloverhill Prison was acting as a “social safety net” as a result of wider systemic failures to address causes of offending, such as drug addiction and homelessness. Without engaging with these root issues, the issue of over-reliance on prison detention will not be fully addressed.

In 2019, the CPT recommended that the Irish authorities take steps to tackle the phenomenon of local overcrowding in prisons through promoting greater use of alternatives to imprisonment and remand detention, notably as regards short sentences.²⁹ In its 2024 report, the Committee was not convinced that sufficient steps have been taken in this regard. The general position of penal reform experts is that to properly address the prison overcrowding crisis, the prison population must be reduced. This aligns with nationally representative public polling, conducted by Red-C and commissioned by IPRT in October 2024, which found that most people believe that crime prevention would be better achieved by tackling crime at its roots and investing in person-centred approaches.³⁰ A significant 68 per cent of respondents felt that expanding prison capacity will not reduce crime with 71 per cent indicating that offenders with mental health conditions should receive treatment in a dedicated facility instead of being sent to prison.³¹

On the issue of reducing rates of remand custody, the numbers of people in prison awaiting trial can be reduced with relatively simple, practical supports. In the youth justice system, the Bail Supervision Scheme began as a pilot in Dublin in 2016, with the evaluation demonstrating that there was a 72 per cent reduction in reoffending (six months post-scheme versus six months pre-scheme).³² Of the young people who successfully completed the programme, 85 per cent were given a non-custodial sentence. The scheme was rolled out to greater Dublin, Cork and Limerick in 2021. The project evaluation in 2019 found that the BSS enabled young people at high risk of bail denial to adhere to bail conditions and reduce reoffending by effectively supporting their caregivers. There is currently no bail supervision scheme in operation in the adult criminal justice system.

The Department of Justice *Review of Policy Options for Prison and Penal Reform 2022-2024* recommended developing a pilot Bail Supervision Scheme for women and other vulnerable members of the prison population, including those with mental health needs.³³ The Review includes a detailed analysis of a similar scheme in Scotland, which found that the net benefits of supervised bail as an alternative to

²⁹ Council of Europe Committee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, [Report to the Government of Ireland on the visit carried out from 23 September to 4 October 2019](#) (2020) para. 29.

³⁰ Red-C, IPRT, [Public attitudes polling on prison and criminal justice](#) (2024).

³¹ Ibid.

³² Department of Children and Youth Affairs, [Evaluation of the Bail Supervision Scheme for Children](#) (2019).

³³ Department of Justice, [Review of Policy Options for Prison and Penal Reform 2022-2024](#) (2022).

remand over the three years examined were between £2 million and £13 million.³⁴ This analysis aligns with the findings of the evaluation of the Bail Supervision Scheme in Irish youth justice and builds on a previous proposal in a 2021 report by the Probation Service, *Towards a 'Best Practice' Approach to Working with Women who Offend* to “ascertain the feasibility of a structured bail supervision and support programme for women”.³⁵ In this vein, IPRT welcomes Minister O’Callaghan’s recent statement that “[i]n relation to pre-trial detention, work has commenced on the development of a pilot Bail Support Scheme for women which aims to provide an alternative to custodial remand”.³⁶ We hope that this could lay the groundwork for future developments in terms of bail support for adults in the wider system to divert them from prison where appropriate and provide them with the wraparound supports they require to turn away from criminality and address the root causes of their offending.

IPRT is available should you wish to discuss any of the above or require further information.

Yours sincerely,



Niamh McCormack BL
Legal, Policy and Public Affairs Manager

Sent by electronic mail.

³⁴ Ibid, p. 43.

³⁵ The Probation Service, [*Towards a 'Best Practice' Approach to Working with Women who Offend*](#) (2021) p. 5.

³⁶ Dáil Éireann Debate, 15 July 2025, [Ministers Questions 739, 743, 771](#).

7 August 2025

This submission is provided in response to the request by e-letter on 8th July 2025 for written representations on the efficacy of Irish bail laws.

Dear Mr Staines,

Thank you for your letter dated 8 July 2025 inviting written representations as part of your assessment of the efficacy of Irish bail laws. Extern welcomes the opportunity to contribute to this important review.

While we do not claim expertise in Irish judicial law, Extern has extensive experience in supporting individuals at risk of offending.

We currently deliver Youth Diversion Projects (YDP) and the Bail Supervision Scheme (BSS) for young people, which has demonstrated success in Dublin and is now expanding to Cork and Limerick. Our frontline work with vulnerable individuals provides us with valuable insights into the practical challenges and systemic gaps that affect outcomes for those charged with summary offences.

Key Issues in the Adult Justice System for Summary Offences

1. Inconsistency in Bail and Sentencing Decisions

- The absence of a standardised risk assessment framework leads to varied outcomes across jurisdictions.

2. Limited Judicial Powers for Persistent Summary Offenders

- Judges may lack clear statutory authority to remand repeat offenders, even where public safety is at risk.

3. Over-Reliance on Custody Due to Lack of Alternatives

- In the absence of structured community-based options, courts often default to custodial remand.

4. Delays and Procedural Inefficiencies

- Summary offences are not always dealt with promptly, undermining the principle of timely justice.

5. Inadequate Information Sharing

- Courts may not have access to full bail histories or prior breaches, limiting informed decision-making.

6. Lack of Integration with Support Services

- Many individuals face addiction, mental health, or housing issues that remain unaddressed in the justice process.

7. Minimal Oversight and Review Mechanisms

- There is limited systematic review of bail decisions or enforcement of conditions.

Proposal: Adult Bail Supervision Scheme

Extern proposes the introduction of an Adult Bail Supervision Scheme (ABSS) as a proportionate, community-based alternative to custodial remand. Building on the success of the youth model, the ABSS would provide structured case management, peer mentoring, and wraparound supports to individuals on bail. The scheme would aim to reduce reoffending, improve compliance, and enhance public safety—while upholding constitutional protections.

Key Objectives:

- Reduce custodial remand.
- Support compliance, risk reduction, and rehabilitation.
- Address underlying needs such as addiction, housing, and mental health.

Eligibility:

- Adults (18+) on remand or at risk of remand.
- Assessed as suitable through a structured risk and needs assessment.
- Voluntary participation with consent to supervision terms.

Core Components:

- Case Management: Individualised support plans, regular contact, and 24/7 phone support.
- Peer Mentoring: Trained mentors with lived experience offering emotional and practical support.
- Wraparound Supports: Access to addiction, mental health, housing, and employment services.
- Monitoring and Compliance: Regular reporting, use of technology, and graduated responses to non-compliance.

Governance and Partnerships:

The scheme would be delivered by a community-based organisation in collaboration with the Courts Service, Probation Service, An Garda Síochána, housing authorities, HSE, and peer-led organisations such as Spéire Nua.

Alignment with Terms of Reference

This proposal directly addresses the review's focus on:

- Persistent offending while on bail.
- Breaches of bail conditions.
- Proportionate alternatives to detention.
- Systemic improvements in bail supervision and support.

Extern recommends that the Department of Justice consider piloting and evaluating an Adult Bail Supervision Scheme. An initial independent evaluation of the youth scheme by the University of Limerick is available here: link [Evaluation of the bail supervision scheme for children \(pilot scheme\)](#)

Conclusion

The introduction of an Adult Bail Supervision Scheme offers a constructive and proportionate response to the challenges of repeat offending while on bail. By integrating peer mentoring and addressing the root causes of offending, the scheme supports rehabilitation, reduces reoffending, and enhances public safety.

We thank you for the opportunity to contribute to this important review and would be happy to provide further information if required.

Yours sincerely,



Leslie Ann Scott

Chief Executive Officer

ICCL Submission on the Review of Ireland's Bail Laws

July 2025

Introduction

1. The Irish Council for Civil Liberties (ICCL) welcomes the opportunity to provide input into the government's review of Ireland's bail laws.¹ We note that an expansion of the terms of reference has been requested from the initial focus on people in breach of their bail conditions while being prosecuted for summary offences, to include people being prosecuted on indictment. This submission will address both sets of circumstances.
2. This submission will outline the existing legislative provisions in the Bail Act 1997, the Criminal Justice Act 1984 and the Criminal Justice Act 2007 which give An Garda Síochána significant powers to object to bail and to seek judicial authority to arrest people for alleged imminent or actual breaches of bail conditions. It is respectfully submitted that these already existing powers make legislative reform unnecessary. If An Garda Síochána is struggling with individuals persistently violating their bail conditions, there are many existing legal tools available to them to bring these people before the courts to review the status of their bail.

Legal Background

3. The particular rights relied upon relevant to the question of pre-trial detention include the right to liberty of the person (Article 5 ECHR) the right to a fair trial (Article 6 ECHR) and the absolute prohibition of cruel, inhuman and degrading treatment (Article 3 ECHR).
4. In addition, the core principles underpinning pre-trial detention include the presumption of innocence, which is enshrined in Article 48(1) of the Charter of Fundamental Rights and Freedoms and elaborated upon in Directive 2016/343 on the Presumption of Innocence in Criminal Proceedings.
5. Any deprivation of liberty, however short, interferes with the core fundamental right to liberty and in all cases must be based in law. Pre-trial detention must be seen by legislators, judges, prosecutors, and law-enforcement officers as an exceptional measure.
6. While there is a general presumption in favour of granting bail, there are means available to advance objections to bail used by presenting gardaí and counsel instructed by the Director of Public Prosecutions (DPP).
7. Objections to bail are grounded in most cases in the relevant categories set out in *People (AG) v O'Callaghan* [1966] IR 501.² That case underscored that the primary factor to be considered when assessing the soundness of objections to bail is the likelihood the accused person making the bail application will seek to evade justice by absconding or otherwise interfering with the process. The judgment set out the following conditions that may be considered during a bail application:

¹ This submission was written by Seán Egan BL and its contents are drawn from research previously undertaken by ICCL, relevant legislation and the experience of the author as a legal practitioner, as well as those of other practitioners.

² *People (AG) v O'Callaghan* [1966] IR 501.

- a. The nature/severity of the charge;
 - b. The nature of the evidence to support the charge;
 - c. The likely sentence to be imposed upon conviction;
 - d. The possibility of the disposal of evidence;
 - e. The possibility of interfering with witnesses;
 - f. Whether the accused person has failed to meet bail before;
 - g. Whether the accused person was caught red handed;
 - h. The objections of the Attorney General or the Gardaí;
 - i. The substance and reality of the bailsman offered; and
 - j. The possibility of a speedy trial.
8. The factors listed above are connected by the principle of the likelihood that the applicant for bail will use their release to impede the prosecution. The factors are designed to assess whether an individual has the means and motive to interfere with the criminal justice system. A person caught red-handed committing a serious offence who is expecting a long prison sentence is thought to be more inclined to abscond than someone with a plausible defence who is eager to clear their name and who is not facing serious charges.
 9. The O'Callaghan judgement identified a further factor: the likelihood of committing further offences while on bail. This factor was removed by the Supreme Court which believed it constituted unconstitutional preventative detention and an unacceptable dilution of the presumption of innocence. A referendum was held in 1996 to insert the sixteenth amendment into the Constitution to overrule this finding. It passed; in response the government enacted the Bail Act 1997.
 10. Section 2 of the Bail Act 1997 allows presenting gardaí and DPP-instructed counsel to raise objections to bail if the applicant is charged with a serious offence (meaning one which if tried on indictment carries a potential sentence of five years or more in prison) and the prosecuting authority anticipates further offending from the applicant if they are granted bail.
 11. It is notable that even though section 2 objections are restricted to people accused of serious offences, presenting gardaí will sometimes make what are in substance section 2 objections in the guise of O'Callaghan objections. This is a breach of the limitations of section 2 of the Bail Act 1997 which confuses the application of the relevant law. Better training and oversight should be employed to prevent this from happening as it undermines the rights of bail applicants.

Section 7 of the Criminal Justice Act: Admissibility of Garda Opinion Evidence in Bail Applications

12. Prosecuting authorities are further aided during the bail process by the admissibility of a form of evidence not typically admissible in criminal trials.

13. Section 7 of the Criminal Justice Act 2007 amended the Bail Act 1997 to allow gardaí of the rank of Chief Superintendent to give opinion evidence that a refusal of bail is necessary to prevent the commission of a serious offence. Opinion evidence is a controversial form of evidence that does not sit comfortably in Ireland's adversarial legal system in which every person enjoys the presumption of innocence. It is not admissible in criminal trials, except those held in the Special Criminal Court, which is subject to different procedures which dilute the procedural rights of the accused.
14. Opinion evidence is often based on confidential information from informers or sensitive garda operations and so it is typically privileged. This makes it exceedingly difficult for counsel making the bail application to cross-examine the objecting Garda Superintendent effectively about the basis of their opinion and whether it is in fact reasonable.
15. Regardless of the concerns expressed above about the admissibility of opinion evidence it is a powerful tool afforded to gardaí to put concerns they have about the possibility of further serious offending by a bail applicant before the court.

Section 11 of the Criminal Justice Act 1984 (as amended): Mandatory Consecutive Sentences for Offences Committed on Bail

16. Section 11 of the Criminal Justice Act 1984 (as amended) mandates judges to impose a consecutive sentence when sentencing individuals for offences committed while on bail for other offences. In addition, it mandates judges to consider the commission of the offence while on bail an aggravating factor they must factor into their sentencing decision.
17. The mandatory consecutive sentence creates a significant disincentive to individuals to engage in further offending while on bail because it increases their likelihood of receiving a substantial custodial sentence.

Section 13 of the Criminal Justice Act 1984 (as amended): Standalone Offence of Failing to Answer Bail in Breach of Bail Conditions

18. Section 13 of the Criminal Justice Act 1984 created a criminal offence for failure to surrender to bail without reasonable excuse. This is used to punish individuals who repeatedly fail to attend their court dates. This offence is subject to the mandatory consecutive provision set out in section 11 of the same act. This is an existing, effective tool for dealing with individuals who are repeatedly in breach of their obligation to attend court dates arising out of a pattern of persistent summary offending.

Bench Warrants: Arrest Warrants for Non-attendance in Breach of Bail Conditions

19. Judges regularly issue bench warrants providing for the arrest of individuals who fail to appear before them in violation of the conditions of their bail. If a person fails to answer bail and a bench warrant issues, they can be arrested and brought before court. If the judge issues the bench warrant with an endorsement pursuant to section 8 of the Bail Act

1997, the person arrested on foot of the warrant can be released by An Garda Síochána if they enter into a new recognisance set out by the judge when the warrant was issued.

20. If a bench warrant issues without a section 8 endorsement, the warrant must be executed before the court. This happens after a person has been arrested on foot of the warrant or at an agreed-upon court date in consultation with a relevant member of An Garda Síochána. The execution of the bench warrant necessitates a new bail application. This gives An Garda Síochána another chance to object to bail if they are concerned about the breach of bail conditions.

Section 9(4) of the Bail Act 1997: Warrant for Arrest (Alleged Specified Breach)

21. Section 9(4) of the Bail Act 1997 allows a garda to put an allegation before the court in writing and on oath that a person has breached a specified bail condition at a particular place and time. In light of this information, the court can issue a warrant for the person's arrest. The individual is brought before the court where they have the opportunity to contest the allegation that they breached a condition of their bail. If the person is found to have breached a condition, the court can remand them on bail again, perhaps with additional conditions, or they can remand them in custody to await trial.

Section 6(5) of the Bail Act 1997: Warrant for Arrest (Alleged Imminent Breach)

22. Section 6(5) of the Bail Act 1997 allows a garda or an independent surety for a person on bail to put evidence before the court in writing and on oath of their honest belief that a person on bail is going to imminently break a condition of their bail. In light of this evidence, the judge can issue a warrant for the arrest of the person on bail. Section 6(8) of the Act states that a person arrested on foot of such a warrant should be brought before the court as soon as possible.
23. Section 6(5) of the Bail Act is a powerful tool for controlling potentially harmful behaviour associated with people on bail breaching their conditions. A garda has the ability to seek judicial authority to pre-emptively arrest individuals if they have a reasoned basis for believing they will imminently breach their bail conditions.

Section 6 (10) of the Bail Act 1997 (as amended): Summary Arrest Power for Breach of Bail Involving Specified Persons

24. The Bail Act 1997 was amended by the Criminal Justice Act 2017 to provide gardaí with a summary arrest power in circumstances where a person is anticipated to be, in the process of or has breached any of their bail conditions, or if they believe an immediate arrest is necessary to prevent an alleged injured party, witness or other person named by the court in a person's bail conditions from being harmed, interfered with or intimidated.

Bail Revocation Hearings

25. If the gardaí become aware that someone is in violation of their bail conditions they can bring an application to have the matter listed for the purpose of a bail revocation hearing.
26. At these hearings gardaí will give evidence of alleged breaches. The accused person's legal representative can challenge the evidence and the court will decide whether the breach has been proved. If the breach is proved, it will be recorded on the file as a breach and the judge will assess the application to revoke bail in light of the number of recorded breaches and submissions from the garda moving the application and the legal representative resisting it. Judges have a record of previous proven breaches of bail conditions and factor the previous breaches as well as any newly proven breaches into their decision.
27. Several commonly imposed bail conditions are relatively easy to monitor, such as: being of sober habits, keeping the peace and being of good behaviour, staying out of a particular area, signing on at a Garda station or abiding by a curfew and living at a particular address. Non-compliance with these bail conditions by people engaged in persistent offending who are well known to the gardaí is relatively easily detected and an application can be made to revoke a person's bail.
28. The terms of reference for the review mentions notifications to the court of previous suspended sentences. It is the view of ICCL that this would be inappropriate and irrelevant in a context where the court is assessing the issue of bail and is not sentencing a person for an offence. The court would be notified about a suspended sentence if they convicted a person under section 13 of the Criminal Justice Act 1984 for failure to appear at a court date in violation of their bail conditions. At that point the new conviction would become relevant as a triggering offence necessitating a section 99 of the Criminal Justice Act 2006 hearing where the judge would decide whether to reactivate the suspended sentence.

Pre-trial Detention: What Is the Harm?

29. Often when the merits and practicalities of bail are being debated, insufficient emphasis is placed on the harm incurred by people who are subject to sometimes lengthy pre-trial detention. This section will outline the negative impact that excessive use of pre-trial detention can have on detained individuals and the broader community.
30. ICCL research from April 2024 has found that an increasing number of people are being held in pre-trial detention in Ireland.³ In 2020, 14.2% of the prison population were being held on remand; this grew to 18.9% by 2022.⁴

³ Irish Council for Civil Liberties, '[Improving Judicial Assessment of Flight Risk](#)', (Irish Council for Civil Liberties 2024) 1.

⁴ Ibid.

31. There has also been an increase in the length of time people are spending on remand. In December 2020, 11.5% of people in prison on remand were on remand for a year or more, an increase from 6% in December 2019.⁵
32. The increasing number of people on remand includes a sharp uptick in the number of people being remanded in custody while facing minor charges like public order offences. A 2020 Irish Times article found there had been a 56% increase in people on remand of this type of offence compared to 2016.⁶
33. Remanding people in custody instead of granting them bail can lead to an array of deeply damaging and potentially dangerous outcomes. These consequences for individuals who sometimes have significant personal difficulties – including homelessness, social exclusion, mental health difficulties, drug and alcohol addiction and other traumatic and adverse life events – should be at the forefront of legislators’ and judges’ minds when they are considering bail laws.
34. Remanding someone in custody to await their trial can devastate the foundations of their life. Even with the procedure adopted to expedite the trials of people in prison on remand, it can still often take months or years to hold a trial. In 2022, Ireland had the lowest number of judges per capita in Europe.⁷ This relative lack of judicial resources contributes to a significant backlog in criminal cases. ICCL’s 2024 report⁸ on bail and flight risk recommended the appointment of more judges and the construction of additional courtrooms to reduce time it takes for cases, particularly those of people in prison on remand, to be heard. ICCL reiterates this recommendation while noting the concerns expressed by the head of the Irish Prison Service about the appointment of additional judges leading to an increased number of prisoners, compounding the prison overcrowding crisis.⁹
35. In a letter to the Department of Justice, released on foot of a freedom of information request, the director of operations for the Irish Prison Service (IPS) told the Department of Justice that a new policy was needed in relation to bail. The IPS official said that due to critical levels of overcrowding a policy is needed to ensure that people awaiting trial for non-serious offences are not remanded in custody.¹⁰ It is important to address the backlog of cases and the prison overcrowding crisis. If An Garda Síochána and the DPP give sufficient weight to the prison overcrowding crisis and the necessity of preventing excessive use of pre-trial detention when considering whether to object to bail, then both issues can be address simultaneously.

⁵ Ibid.

⁶ Ibid.

⁷ Irish Council for Civil Liberties, [‘Towards Best Practice: ICCL press briefing on the Judicial Council Act 2019’](#), (Irish Council for Civil Liberties 2022) 1.

⁸ ICCL, [‘Improving Judicial Assessment of Flight Risk’](#), 22.

⁹ Ken Foxe, [‘Overcrowding in Irish prisons linked to appointment of new judges, system chief warned’](#) *Irish Times* (Dublin, 6 June 2025).

¹⁰ Ken Foxe, [‘Prison service pleaded with Government to delay court cases to address chronic overcrowding’](#) *Irish Examiner* (Cork, 22 July 2025).

36. When someone is remanded in custody they risk losing their employment, their housing and any social welfare benefits they may be in receipt of. It can also significantly strain their personal relationships and prevent them from discharging their caring obligations to their children, partners, parents or anyone for whom they have caring responsibilities. Each of these potential outcomes can have a significant negative impact on the people and families involved, and can strip an individual of the protective factors that stabilise their lives and prevent or deter them from being engaged in criminal activity. Disrupting people's lives can lead to an increase in offending which harms the entire community. Criminological research has demonstrated that pre-trial detention is positively associated with arrest for further offences.¹¹ Researchers describe pre-trial detention as "criminogenic", meaning it generates further criminal behaviour.¹²
37. Backdating a sentence to the date the person was remanded in custody is a common practice in Irish courts. This is quite effective at mitigating the negative impacts of pre-trial detention for individuals convicted and sentenced to significant prison terms. However, they are still deprived of the opportunity to settle their affairs in anticipation of imprisonment. Individuals in pre-trial detention who are acquitted, whose trial collapses or who are convicted of minor offences not always associated with a custodial sentence are in a much worse position. ICCL reiterates our recommendation in our 2024 report that the government should legislate for a right to compensation if someone is held in lengthy pre-trial detention and is then acquitted or given a non-custodial sentence.¹³ The quantum of compensation could be assessed in relation to the time spent in pre-trial detention and the negative life outcomes that stemmed from being detained.
38. In its most recent report, the Council of Europe Committee for the Prevention of Torture (CPT) noted that "chronic overcrowding continues to plague the entire prison estate", with severe consequences for people's lives in prison. The cumulative effect of the overcrowding in Irish prisons "may well, in the CPT's view, amount to inhuman and degrading treatment".¹⁴
39. The prison overcrowding crisis impacts the provision of essential educational, psychological and social supports to people in prison, and ultimately their quality of life and prospects for rehabilitation.¹⁵ It also endangers the safety of people in prison and prison staff as it leads to increasing levels of violence. It is notable that the biggest spike in violence has been found in Cloverhill Prison, the remand prison.¹⁶ Any proposed change in bail laws should be considered in light of the prison overcrowding crisis.

¹¹ Ian A. Silver and others, 'Does pretrial detention influence time until re-involvement with the criminal legal system?', (2024) 94 Journal of Criminal Justice.

¹² Ibid.

¹³ ICCL, '[Improving Judicial Assessment of Flight Risk](#)', 22.

¹⁴ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment, [Report to the Irish Government on the visit to Ireland](#) (Council of Europe 2025), 5.

¹⁵ Ailbhe Conneely, '[Prison overcrowding 'stark' and against EU recommendations - IPRT](#)' RTÉ (Dublin, 16 October 2024).

¹⁶ Sean McCarthaigh, '[Prison watchdog finds violence is 'inevitable' in the 'degrading conditions' at Cloverhill](#)' Irish Examiner (Cork, 18 December 2024).

40. Prison officials are being forced to use temporary release to free up space. This is undermining the judicial decision-making underpinning the sentences of the temporarily released. The prison overcrowding crisis is being exacerbated by policy decisions such as detaining people in prison before their deportation and increasing judges' sentencing powers for commonly prosecuted offences. Further legislative restrictions on bail could put additional, unsustainable pressure on a system in a state of permanent crisis.
41. ICCL acknowledges the government's plans to increase prison capacity to address the overcrowding in Irish prisons. However, regardless of whether this approach will be effective, it will take years for this proposed new capacity in the prison estate to become operational.

Conclusion and Recommendations

41. The extensive legislative powers available to gardaí to bring people in violation of their bail conditions before court mean that it is not necessary to reform Ireland's bail laws to deal with people who offend while on bail.
42. Addressing offending behaviour from people on bail may require additional focus from the gardaí and enhanced training around the use of the relevant legislative provisions to seek arrest warrants from court.
43. Mandatory consecutive sentencing for offences committed while on bail is a strong deterrent to offending on bail. However, some people who offend while on bail are not in a position to abide by their bail conditions or to address the root causes of their persistent offending. This can be due to, for example, persistent chaos in their lives or mental health difficulties. Judicial discretion and forbearance are required to ensure that particularly vulnerable people are not given excessive punitive sentences for offences committed while on bail.
44. Any review of bail laws needs to give serious consideration to the harms that excessive use of pre-trial detention inflicts on individuals that are detained, their families and the broader community.
45. In an Irish context, the harms of excessive pre-trial detention need to be emphasised in light of the dangerous overcrowding in the prison system. Holding an individual in prison on remand puts them at risk of violence and inadequate treatment and conditions which may amount to inhuman and degrading treatment.
46. For the above stated reasons, it is neither desirable nor feasible to significantly revise bail laws in a manner that would increase pre-trial detention.

About ICCL

The **Irish Council for Civil Liberties** (ICCL) is Ireland's oldest independent human rights body. It has been at the forefront of every major rights advance in Irish society for over 40 years. ICCL helped decriminalise homosexuality, divorce and contraception. We drove police reform, defending suspects' rights during dark times. In recent years, we led successful campaigns for marriage equality, data protection and reproductive rights.

Visit iccl.ie for more information.

Introduction

Dublin Rape Crisis Centre (DRCC) welcomes the opportunity to contribute to this review of the efficacy of Irish bail laws. As a national organisation providing direct support, counselling, advocacy and accompaniment to victims/survivors of sexual violence, we see first-hand the serious and often ongoing harm experienced when the accused in a sexual offence case is granted bail.

This is particularly evident through our court accompaniment service, which supports victim/survivors as they engage with the criminal justice system. Through this service, we provide practical and emotional support to individuals attending court for hearings, trials and sentencing. It is in these settings that the impact of bail decisions is most acutely felt on victim/survivors, including the distress, the fear and the re-traumatisation that can arise from seeing the accused person remain in the community, often for extended periods before or even after trial.

This submission is informed by anonymised frontline experience, of our court accompaniment team, as well as insights from the National Helpline and our counselling services. Their work enables us to reflect the lived realities of victim/survivors and to identify areas where bail laws require reform to ensure decisions are trauma-informed and uphold the rights and well-being of those affected by sexual violence.

Bail in the context of sexual violence and its impact of victim/survivors

In sexual offence cases, the decision to grant bail can have lasting consequences for victim/survivors. While the presumption of innocence is a fundamental principle of the Irish legal system, it must be balanced against the rights, safety and wellbeing of those who have experienced serious harm. The justice system could more fully adopt what has been referred to by Charleton & Cross as a “*presumption of victimhood*.”

“Presuming victimhood” as Charleton and Cross write, “simply ensures that anyone coming to court making such an allegation is treated in a sensitive manner, appropriate to the difficult and sometimes traumatising experience they have had.”¹

This presumption does not mean assuming the accused is guilty, nor does it compromise the right to a fair trial. Rather it is about recognising the traumatic nature of sexual violence and for those who report such crimes to be treated with dignity, sensitivity including a consideration of safety, throughout the process, including during bail proceedings.

In cases of rape, sexual assault and child sexual abuse (CSA), we have observed that bail is routinely granted to the accused after being charged. Remand in custody is typically reserved for individuals with previous convictions, where there is a demonstrable risk of flight, or where significant violence was involved in the offence. This means that in many instances, the accused person continues to live in close proximity to the victim/survivor, often in the same community, sometimes for years while awaiting trial.

Clients we support through DRCC’s court accompaniment service frequently report being retraumatised by seeing the accused in their daily lives. Many are forced to alter their routines, avoid

¹ Irish Judicial Studies Journal Vol. 5 (2) (2021) *Towards a presumption of victimhood: Possibilities for re-balancing the criminal process*. Available at: [1. Charleton and Cross Presumption of Victimhood.pdf](#) pg. 3

public and/or social spaces or even relocate to reduce the risk of coming face-to-face with the person accused of harming them. Meanwhile, the accused often continues life as normal, living freely and visibly in the community. All of this creates a perception that the justice system prioritises the rights of the accused over the needs and safety of victim/survivors which causes deep and lasting distress. These challenges are particularly acute in rural areas where community infrastructure means the likelihood of encountering the accused in shared spaces such as local shops, health centres, churches and/or schools is high. One client described attending a GP appointment only to have the accused sit down beside her in the waiting room. Such encounters bring up intense anxiety, social isolation and reinforces the sense that the burden of protection lies with the victim/survivor, not the system or the state.

In another case, a client regularly saw the accused in her locality, yet the defence later claimed the accused was medically unfit to attend trial. This contradiction in what the client observed and the defence raised, created additional frustration for our client and a fear that the case would be further delayed or jeopardised.

Our National Helpline and counselling services also hear similar accounts of fear, disempowerment and social withdrawal, some directly related to the presence of the accused in a shared locality, for others it is simply knowing the person who harmed them is out there. For many, this ongoing uncertainty causes disruption to their daily lives and undermines their sense of safety.

The Helpline, as a confidential listening and support service, regularly hears how the long delays within the criminal justice system leaves victim/survivors feeling frightened, powerless and isolated. Many may not explicitly reference bail but some do. One Helpline counsellor recalled a caller who found herself in a lift with the person she had accused of a sexual assault. This was two years after the case had been reported. The caller described feeling entirely responsible for her own safety, adjusting her routines and behaviour to avoid potential encounters. Another caller, who had been raped by someone while he was out on bail, spoke not only of the rape she experienced but of her sense of betrayal by a system that failed to protect her.

Similarly, our therapists report that many clients engaged in the criminal justice process struggle to progress in their recovery while knowing the person accused of harming them remains in the community. Very few of these therapists could recall instances where bail was denied. In one exception, it was granted due to the accused being identified as a potential flight risk.

These experiences underline the urgent need for bail decisions to take greater account of the impact on victim/survivors.

Post-conviction bail prior to sentencing

One particularly distressing aspect for victim/survivors is the practice of granting continuing bail to a person who has been convicted but is awaiting sentence. For many victim/survivors and their families, a guilty verdict serves as a powerful acknowledgment of the harm they experienced. So, to then see that person remain at liberty, is retraumatising and can significantly undermine their confidence in the legal system.

In one case supported by DRCC's accompaniment team, our client waited four months and attended three separate sentencing hearings before the man convicted of sexually assaulting her was finally remanded in custody. During this time, defence counsel repeatedly sought adjournments to allow for

reports to be furnished to the court. These delays, while often procedurally lawful, are experienced by victim/survivors as deeply unjust.

Psychological and emotional toll

One victim/survivor speaking publicly after her assailant was jailed in 2024 said: *"I lost five years of my life to waiting for a trial... You feel like a puppet on a string and somebody else is controlling your life."*² Her words echo what many of our frontline services hear, how the criminal justice process can leave victim/survivors in a state of limbo which impacts on their ability to heal, to rebuild their lives and to regain a sense of safety and autonomy. For many, the psychological strain has consequences for their mental health and wellbeing including prolonged anxiety, symptoms of post-traumatic stress, panic attacks, social withdrawal and suicidal thoughts. The harm is compounded by the lack of consistent communication or updates from An Garda Síochána regarding case progress. The long delays in bringing sexual offence cases to trial leave victim/survivors in a state of uncertainty. This "purgatory" is intensified as the accused remains on bail for extended periods, contributing to the victim/survivor's sense of powerlessness. The emotional toll is not just about what happened to them but about how long they are left waiting, without clear timelines, without any meaningful input into the process, there is a sense for many of being forgotten within the system.

While the presumption of innocence must be upheld, the lived reality of victim/survivors should not be ignored. The safeguarding of rights within the criminal justice system must be broadened to reflect the equally serious and legally recognised rights of victims, including the right to protection³ and the right to information to enables active participation⁴ as set out in the Victim's Rights Directive, transposed into Irish law by The Criminal Justice (Victims of Crime) Act 2017 and the Third National Strategy on Domestic, Sexual and Gender-Based Violence. These frameworks and legislation all affirm that victim's rights must be upheld.

Balancing Rights

If the State is serious about encouraging victim/survivors of sexual violence to come forward, then the criminal justice system must become more responsive to their needs, including by expediting sexual offence trials and placing greater weight on the psychological and safety impact of bail decisions on them.

At present, however, most victim/survivors don't access the justice system at all. According to the CSO's Sexual Violence Survey (2022)⁵, just 5% of adult victims who disclosed their experience to anyone went on to report it to An Garda Síochána. Of those who did not report:

- 59% believed it was not serious enough;
- 25% did not believe the Gardaí could help;
- 17% feared they would not be believed; and
- 17% did not want to go to court.

² Clarke, V. July 3 2024. Available at: <https://www.irishtimes.com/ireland/2024/07/03/i-lost-five-years-of-my-life-waiting-for-a-trial-blatnaid-raleigh-describes-pain-of-delay/>

³ EU Victims' Rights Directive 2012/29/EU Article 18 Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029>

⁴ EU Victims' Rights Directive 2012/29/EU Article 6 Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029>

⁵ <https://www.cso.ie/en/statistics/crimeandjustice/sexualviolencesurvey/>

This data is sobering. It underlines the extent to which victim/survivors are not only carrying the trauma of the sexual offence but they are also hampered by a mistrust in the system that should protect them. When victim/survivors are not confident that they will be believed, protected or supported through the legal process, they will not engage. And yet, when cases do proceed to trial, conviction rates in sexual offence cases are relatively high, reflecting both the seriousness of the offences that make it to court and the strength of the supporting evidence. This contrast between low reporting and high conviction where sexual offence trials proceed, speaks to the importance of strengthening victim/survivors' engagement with the criminal justice system from the outset, including through the application of bail law.

The findings of a recent UK Home Office report⁶ support this perspective. The report, which examined police use of protective measures in cases of violence against women and girls, found that victim/survivors consistently reported feeling safer when bail conditions were imposed, even when those conditions were limited. Although many could not distinguish between “*release under investigation*” and formal bail, what mattered most was the reassurance that some form of protective action had been taken. This highlights the importance of clear communication and consistent enforcement of bail conditions, which can have a powerful impact on a victim/survivor's sense of safety and autonomy and can help support continued engagement within the criminal justice process.

From an Irish perspective, these insights reinforce the urgent need not only to review how bail is applied in sexual offence cases but also to ensure that victim-survivors are provided with adequate information, meaningful opportunities to participate and protection throughout the process.

We also note the Programme for Government commitment to establish a specialist panel of judges trained in domestic, sexual, and gender-based violence (DSGBV). The implementation of this commitment would allow bail hearings in sexual offence trials to be assigned to judges with the appropriate expertise, ensuring that decisions are informed by a strong understanding of trauma and the dynamics of sexual violence.

Any review of bail laws must be guided by a trauma-informed approach. One that recognises and responds to the distinct and enduring harm experienced by victim/survivors and that aims to build a justice system in which they feel protected, respected and heard.

Recommendations

Drawing on our work with victim/survivors who engage with the criminal justice system, DRCC recommends the following to ensure bail decisions reflect the realities of sexual violence:

1. Victim/Survivors should be informed when bail hearings are scheduled and of the outcome.
2. Courts should be required to actively consider the potential impact of bail on the victim/survivor, including re-traumatisation or intimidation and apply protective conditions including exclusion zones based on the victim's location.
3. Ensure that An Garda Síochána respond promptly and effectively to breaches of bail conditions.

⁶ *A duty to protect: Police use of protective measures in cases involving violence against women and girls*. Updated June 7 2022. Available at: <https://www.gov.uk/government/publications/police-use-of-protective-measures-in-cases-of-violence-against-women-and-girls>

4. Courts should be supported by trauma-informed tools that assess risk factors specific to sexual violence including coercive control, proximity and the likelihood of intimidation.
5. In line with a commitment given in the Programme for Government, we urge the establishment of a DSGBV judicial panel so that bail hearings in sexual offence cases are assigned to be heard by specialised trained Judges to ensure that decision making is trauma-informed.
6. A presumption against post-conviction bail in sexual offence cases, especially where a custodial sentence is likely.
7. Stricter limits on pre-sentencing adjournments and faster timelines for reports.
8. The current wait time for sexual offence cases to be heard places huge psychological strain on victim/survivors. These trials should be expedited to reduce the prolonged trauma experienced by those impacted by such crimes and limit their exposure to the accused while he/she is on bail.
9. Establish a mechanism to collect disaggregated data on bail decisions in sexual offence cases that includes pre-trial and post-conviction bail, conditions imposed, breaches, delays and outcomes.

ENDS.



Mr. Lorcan Staines SC
Law Library
Four Courts
Dublin 7

By Email only; lorcanstaines@lawlibrary.ie

Our Ref: BK/KEB001008 Your Ref:

14 August 2025

Re: Review of State's Bail Law

Dear Lorcan,

I understand that you have been tasked with undertaking a review of the State's bail laws.

You have invited submissions on any issues arising from practice, and I set out below the challenges I have observed through my work in the Children's Court in Dublin. By way of background, I have over ten years' experience practising in the Children's Court and attend this court on an almost daily basis. As a result, I have a particular interest in juvenile justice, having lectured in this area and serving on the board of a Youth Diversion Project in Dublin. All views expressed in this correspondence are my personal opinions.

In my view, the difficulties we face in relation to bail for juveniles in Ireland are far more acute than those encountered in the adult courts.

1. Oberstown Capacity

There are currently 46 detention places provided under Ministerial Order: 40 for boys and 6 for girls. Since late 2024, and for most of 2025, Oberstown has been operating at full capacity for boys. This has resulted in an effective "one in, one out" system. Only in recent weeks have beds become available for juveniles, but there is little doubt that when the District Court resumes in September, we will face the same problem again.

While detention should always be a measure of last resort, and I am a strong advocate of diversion, the current lack of capacity is failing both the public and the children themselves. Many of the young people before the court are vulnerable, often in addiction,

and sometimes in need of the stability that a period of detention can provide. A significant number are in care and lead highly chaotic lives. When such children are granted bail instead of being remanded, they often go on to commit further serious offences, putting both themselves and the public at risk. It should be noted that the Children Act 2001 correctly prevents a remand to Oberstown for Welfare reasons alone.

Car theft is a particular concern. Many of my clients are involved in such offences, and their safety is a major worry. Over the past number of years, three children I have represented have been involved in fatal road traffic collisions. There is a very real fear that it will take another such tragedy before this issue is addressed. This concern is shared by members of the judiciary sitting in the Children's Court.

We have had numerous cases where children have been remanded on bail when the court clearly wished to remand them to Oberstown but could not due to the absence of available beds. In 2025 alone, I have represented children whose bail breaches were proven multiple times—one child breached bail on more than five occasions—yet the court could not revoke bail for want of space. That child told me, after finally being remanded to Oberstown, “I did not take the bail seriously; I was always let out.”

Young people are acutely aware of the shortage of beds, and this is directly feeding offending behaviour. On one occasion, I told a young client during detention in a Garda station that, given his record, he was likely to be remanded to Oberstown. His immediate response was, “There's no beds.”

This is not a new problem. In 2018, I was involved in a case in which Judge John O'Connor was forced to release a child he described as “a risk to the public at large” because there was no available bed. That child was arrested later the same night in connection with a burglary at the home of an elderly woman.

2. Garda Case Managers

Early intervention is vital in addressing the needs and behaviour of a child in trouble.

When a young person appears before the Children's Court, they have already been deemed unsuitable for diversion and are typically engaged in significant offending. The role of a dedicated Garda Case Manager in both supporting the child and monitoring bail conditions cannot be overstated. In my experience, early involvement of a Case Manager often leads to a reduction in offending, ensures bail conditions are properly monitored, and serves the best interests of the child.

Unfortunately, for many of my clients, a Case Manager is appointed far too late—by which time offending is already entrenched. I have long advocated for a formal process allowing a solicitor to request the appointment of a Case Manager at an early stage, and I



believe such a measure would improve outcomes for both children and the wider community.

Conclusion

While there are several challenges in managing juvenile bail, the chronic shortage of detention places in Oberstown is, in my view, the most urgent and damaging. Without sufficient capacity, the courts are forced into granting bail to children who pose a clear and immediate risk to themselves and others, despite judicial findings to the contrary. This undermines public confidence, emboldens offending behaviour in young people who know the system's limitations, and fails in our duty of care to vulnerable children whose chaotic lives demand structured intervention.

Any meaningful reform of bail law must address this capacity crisis as a priority. This should be accompanied by measures to strengthen early intervention, expand the availability and timeliness of Garda Case Manager appointments, and ensure that the Children's Court has the necessary tools to protect both the community and the child.

Yours sincerely,

Sent By Email No Signature

BRIAN KEENAN
KEENAN & COMPANY SOLICITORS LLP

Submission to the Minister of
Justice, Home Affairs and Migration
Jim O Callaghan TD.

In respect of the review of Bail Legislation,
and issues surrounding offences
committed by offenders while on Bail

Submitted by
Gerard McGrath
Retired Garda Sergeant 23327g



gerry2scott@gmail.com

087 2343562

1st September 2025

A Chara.

I wish to take this opportunity to introduce myself. My name is Gerard McGrath I'm a retired Garda Sergeant having served just 39 years' service in An Garda Siochana. I wish to make this submission in respect of issues surrounding Bail Legislation, breaches of Bail and offences committed while on Bail.

I understand from recent and ongoing media reports that you are currently reviewing the legislation and have appointed Lorcan Staines SC to carry out a review of such. I believe that I'm well placed to make this submission based on my experience in An Garda Siochana but in particular certain areas of an Garda Siochána where I worked having regard to crimes under investigation and my practical knowledge of faults as regards incidents surrounding Bail .

Briefly I started my career in Fitzgibbon Street Station, I subsequently moved on transfer to the Serious Crime Squad (Operation Cobra) where this was my first introduction to serious investigations of national importance. I worked on the Veronica Guerin R I P and D/Garda Gerry McCabe R I P and other investigations where along with other members on the unit who were tasked in carrying out investigations, building up a front-line operational ability in objecting to prisoner's bail where serious charges were preferred. At that time, we only had the O Callaghan Rules, but they worked well for me and other members.

I was subsequently promoted to Sergeant and transferred to Garda College where I taught law to Student Gardai. Because of my operational background I was selected to deliver particular lectures and, drawing on my background, transferred my knowledge to up and coming members of An Garda Siochana. I subsequently returned to Dublin where I was Station House Officer in Clontarf Station, again responsible for overseeing investigation from members on my unit and ensuring warrant issues were attended to and Bail or otherwise granted to prisoners having regard to the nature of the offences.

In 2008 I moved on as a Detective Sergeant to the then established Organized Crime Unit. Here again I was responsible for the investigation of serious crimes and where prisoners were charged with serious offences ensuring that procedures in relation to objections to bail were properly conducted at bail hearings that the members knew and were well briefed of the current legislation that was then in place now that there was the Bail Act and O' Callaghan rules to use.

In 2014 I had an opportunity to return to Garda College after recruiting recommenced. I was asked to take charge of the Crime and Incident module and was appointed Module Coordinator. I was responsible for updating lectures on various aspects of tuition as legislation evolved or was amended. In 2019 I was appointed Sergeant in Charge for Reserve Training and designed, developed and delivered a training program to 100 Reserve Gardai.

I was also appointed Sergeant In charge of Phase III training to Probationer Gardai. This involved coordinating the attendance of external lectures to give tuition to Probationer Gardai. It is that one of the lectures I designed , developed and delivered for two hours was in relation to Bail .The first hour was delivered as a power point presentation with the second hour being an open discussion , question and answer session, with subsequent feedback .It is in particular this aspect as to why I'm making this submission as some of the issues discussed were problematic for members in their efforts to deal with associated offences in relation to bail .

The topics covered in the lecture were,

- (a) Station Bail and Bail bonds. Independent sureties.
- (b) Remands on bail,
- (c) Conditions attached to Bail,
- (d) Failure to answer Bail.
- (e) Monitoring Bail Conditions
- (f) Execution of Warrants
- (g) Power Of arrest.
- (h) Charging Section 13 Criminal Justice Act 1984,
- (i) Enquiries as to locating Offenders having breached Bail,
- (j) Offences committed on Bail,
- (k) Assistance from external and state agencies in locating offenders,
- (l) O Callaghan Rules,
- (m) Bail Act 1997,
- (n) Burglary of Dwellings Act 2015.

I further referred to two cases where it was noted that the release of the person on Bail from either a Garda Station or from the Courts tragically resulted in the deaths of innocent parties, these cases were,

- (o) Murder in Carlton Hotel Limerick 2007 by Gerard McGrath (Thankfully no relation)
- (p) Hit and Run by Zigimantas Gridziuska in Carrickmacross 2nd August 2011.

The second hour of the lecture was a discussion forum where members highlighted certain inconsistencies in the attitude to Bail by some members in charges as regards the granting of station bail, and other difficulties and issues surrounding the various legislation associated with bail,

- (a) This included granting bail in the first instance or on the 2nd instance where offenders were already on Bail for offences and had appeared before the courts or had committed offences on bail and had yet to appear before the courts.
- (b) Frustration in giving objections to Bail in the District Courts where station Bail was not granted, but Bail still being granted by the courts.
- (c) Difficulties in monitoring offenders on bail, i.e. (i) Signing on conditions and adherence to them (ii) Identifying offenders signing on at stations (iii) Failure of a direct power of arrest, in their efforts to arrest offenders for breaches or possible breaches of bail.
- (d) A lack of knowledge by some members as to how to carry out enquiries to possibly locate offenders, by either using state agencies or how to engage with certain section within An Garda Síochána to assist in locating offenders who may have absconded on bail to other jurisdictions.
- (e) Their lack of knowledge as to the process or procedure in relation to 'Estreatment of Recognizance'
- (f) Possible accountability or disciplinary process in relation to their failure to execute a warrant or to make such enquiries or attempts, in relation to locating an offender.

It should be noted however that these members were only starting into their careers by a few months, and while some showed knowledge of issues it is of course expected that members would gain experience as their career developed. It was also emphasized that the 'Separation of Powers' must be adhered to at all times and the independence of the Courts must be respected.

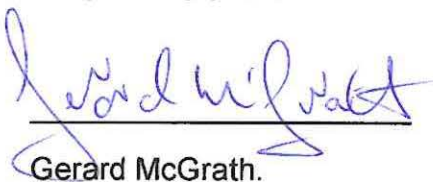
I have also read in some articles recently that certain offences were being looked at in relation to Bail but it is my belief and always was that it not the offence that is the issue, "but the offender" and their attitude to committing offences on Bail. For some offenders to sign a Bail bond at station level or from the courts either with or without conditions is simply an excuse in some cases to go on a crime spree before being sentenced for offences. I have recently read of offenders where they are charged or sentenced before the District Court having committed multiple offences while minor in nature while on bail.

In the following sections I have highlighted certain provisions of Acts where I believe amendments could be made to strengthen breaches of certain acts and offences in relation to breaches of Bail, and recommendation to changes to some procedures to assist members of An Garda Siochana in the tracking, enquiries, locating and execution of warrants for offenders having breached bail.

Where necessary for reference purposes I have referred to the Law Reform Commission web page for legislation as it is updated and current content.

For contact purposes I have included my email and phone number if you wish to follow up on any matter, but I hope that the following paragraphs will give an insight into some difficulties that members face in dealing with the topic of Bail. This is of course up to and including my knowledge of procedures, Garda Policy, and legislation as of January 2021 when I retired.

Respectfully yours.



Gerard McGrath.

P.S

If in case you are wondering about my e mail address, I hold the distinction of to date since the formation of An Garda Siochana in 1922 to almost 40,000 members, to be the distinguished holder of two Scott medals for bravery, uniquely one awarded for an incident on duty and the second for an incident off duty.

Index to submissions.

1. Criminal Justice Act 1984.
2. Committing Offences while on Bail.
3. Breaches Of Bail.
4. Release On Station Bail or Bail from The District Court.
5. Section 12 Criminal Justice Act 2006
6. Garda Response and Improvements.

Section 13 Criminal Justice Act 1984.

1.Failure to surrender to bail.

13.—(1) If a person who has been released on bail in criminal proceedings fails to appear before a court in accordance with his recognizance, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding F46[€5,000] or to imprisonment for a term not exceeding twelve months or to both.

(2) It shall be a defense in any proceedings for an offence under subsection (1) for the accused to show that he had a reasonable excuse for not so appearing.

(3) For the purpose of section 11 an offence under this section shall be treated as an offence committed while on bail.

(4) Where a person has failed to appear before a court in answer to his bail and the court has directed that a warrant be issued for the arrest of that person by reason of his failure to answer his bail, a member of the Garda Síochána may arrest such a person notwithstanding that he does not have the warrant in his possession at the time of the arrest.

(5) Where a person is arrested pursuant to subsection (4) the member arresting him shall as soon as practicable produce and serve on the said person the said warrant.

F47[(6) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this section may be instituted within 12 months from the date on which the offence was committed.]

1.2 Recommendation.

It is noted that the term for commencement of proceedings was changed from 6 months to 12 months. This should be changed to 2 years to mirror the maximum penalty in the District Court. While it is stated that any term on imprisonment should be consecutive to any other sentence it does not always happen, and I have seen where its 'marked taken into consideration'. This charge also needs to be made mandatory for anyone who fails to appear as the onus falls "for the accused to show that the he had a reasonable excuse for not so appearing"

Committing Offences while on Bail.

2. Committing Offences while on Bail.

At the present time there is no charge for the offence of committing an offence on Bail other than the offence of failing to appear. I believe that an offence needs to be created for repeat offending. Along with any new charge that would be given to an offender the offender should also be charged with the separate offence of committing a criminal offence while on Bail.

In the apology given to the O Farrell Family the Minister himself highlighted the issue of offences committed while on Bail.

"Our criminal justice system at present requires under section 11 of the Criminal Justice Act 1984 that a person who is convicted of an offence whilst on bail should face a sentence consecutive to the offence for which bail was granted. However, the commission of an offence whilst on bail is not itself an offence in the same way as failing to appear before a Court in accordance with bail terms is an offence under section 13 of the Criminal Justice Act 1984. Nonetheless, it is a condition of every bail bond that an accused does not commit any further offences whilst on bail."

2.1 Recommendation

Introduce a new offence of 'Committing an Offence while on Bail'. This I believe would strengthen Garda members objecting to bail. This would strengthen the case to show that the offender is non-compliant to Bail in particular by showing thier continued criminality and haveing no regard for Bail or any conditions attached to it. Again, it goes back to the offender signing a Bail bond acknowledging that an accused does not commit any further offences whilst on bail. It would further strengthen Garda's objection to Bail under a section 2 Bail application.

Section 2(1) f Bail Act 1997

- (f) any other offence in respect of which the accused person is charged and is awaiting trial,

Breaches Of Bail

3. Power of arrest for breaches of Bail.

There is no direct power of arrest for breaches of Bail. Section 6 (5) Bail Act 1977 quite clearly states that if a person breaches a condition of bail ; e.g. failing to sign on , failing to observe a curfew and once again coming back to the offence of committing an offence while on Bail the member must obtain a warrant from the courts. It is very specific and clear,

Section 6(5)

Where a person charged with an offence is admitted to bail by a court on his or her entering into a recognisance with or without a surety or sureties, the court may, on the application to it in that behalf by a surety or sureties of the accused person or of a member of the Garda Síochána and upon information being made in writing and on oath by or on behalf of such surety or member that the accused is about to contravene any of the conditions of the recognisance, issue a warrant for the arrest of the accused person.

However further on in the act there is a power of arrest but only if certain conditions are attached to recognisance. Section 10 of the act states

(10) Where a member of the Garda Síochána—

(a) with reasonable cause, suspects that a person who has been admitted to bail—

(i) is about to contravene any of the conditions of the recognisance,

(ii) is in the act of contravening any of the conditions of the recognisance, or

(iii) has contravened any of the conditions of the recognisance,

and

(b) considers that it is necessary to arrest the person immediately to prevent harm to, interference with or intimidation of the person in respect of whom the offence is alleged to have been committed, a witness to the offence alleged or to any other person specified in a condition referred to in subparagraphs (v) or (vi) of paragraph (b) of subsection (1), he or she may arrest the person without warrant.]

It is my understanding that this section was introduced to allow a member of An Garda Síochána to make an arrest in either a condition of Domestic Violence charges or possible threats to potential witnesses in trials. When I was developing this lecture for the Phase III Probationer Gardai, I wrote to the legal section in Garda Headquarters pointing out this as a possible anomaly as to a power of arrest within the act. So, while there is no general power of arrest exists if a specified condition is attached as stated above this then gives a power of arrest. I subsequently received a reply from the legal section which simply stated that "members should be guided by the provisions of the Bail Act 1997" no clarification on the matter just what the Bail Act says.

This is contrary to the position in England where their Bail Act of 1976 states

Section 7 Liability to arrest for absconding or breaking conditions of bail

(1) If a person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a court fails to surrender to custody at the time appointed for him to do so the court may issue a warrant for his arrest.

(2) If a person who has been released on bail in criminal proceedings absents himself from the court at any time after he has surrendered into the custody of the court and before the court is ready to begin or to resume the hearing of the proceedings, the court may issue a warrant for his arrest; but no warrant shall be issued under this subsection where that person is absent in accordance with leave given to him by or on behalf of the court.

(3) A person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a court may be arrested without warrant by a constable—

(a) if the constable has reasonable grounds for believing that that person is not likely to surrender to custody;

(b) if the constable has reasonable grounds for believing that that person is likely to break any of the conditions of his bail or has reasonable grounds for suspecting that that person has broken any of those conditions; or

(c) in a case where that person was released on bail with one or more surety or sureties, if a surety notifies a constable in writing that that person is unlikely to surrender to custody and that for that reason the surety wishes to be relieved of his obligations as a surety.

As it can be seen section 7 (3) a,b ,c is quite clear in relation to breaches of conditions of Bail or Bail in general that bestows upon a Constable a power of arrest.

3.1 Recommendation.

Remove the requirement for a member of An Garda Siochána to obtain a warrant for breaches of Bail. This I believe would speed up the process of bringing offenders before the courts for breaches of Bail e.g. failing to sign on at appointed days and times , failing to adhere to curfews and more importantly breach of Bail 'I will not commit any offence ".on their Bail bond. I consider that by simply removing the word 'and ' replacing it with the word 'or ' as at 6(5) between sub paragraph above would solve this problem.

Release On Station Bail or Bail from The District Court.

4. Review of Bail legislation.

Prior to the enactment of The Burglary of Dwellings Act 2015 a discussion document was circulated within An Garda Siochana seeking views of members in relation to their views of Bail legislation and offences committed on Bail. I made the following submission while not the original one as reproduced here as it on my old Garda computer but in effect its reproduced here as near as possible. This proposal was to limit the times that an offender could be granted Bail and the appeal mechanism open to them. The granting of Bail is currently governed by the Criminal Procedure Act 1967.

Section 28 having relevance with respect to Bail from the District Court.

Section 31 having relevance with respect to Bail from a Garda Station.

My submission was as follows.

4.1

Where a person is arrested and charged at a Garda Station, and that that person has

- (a) no charges outstanding,
- (b) is not required to attend at any remand of a District, Circuit Court with respect to a date for hearing of any such or other charges that require a date for hearing or other remand of matters for mention or other circumstance,
- (c) Is not currently on bail awaiting his attendance for the first time before a District Court,
- (d) Is not awaiting the outcome of a Probation Report or awaiting sentencing on any matter.

The provision as at Section 31 Of the above act will apply provided that the offence is one where the nature of the offence does not require an objection to bail having regards to the seriousness of the charge or issues surrounding threats to witness etc., or the possibility of the prisoner absconding or other circumstances as is currently the norm that the offender may be granted Bail.

4.2

Where a person is arrested and charged at a Garda Station, and that that person fulfills the criteria as at (b) (c) and (d) above, the member in charge may not be at liberty to grant station bail in the above matter. (Because of the fact of Offences committed on Bail)

Note. In the above circumstances at 4.2 the offender is brought to Court.

- (a) the Judge is informed of the fact of new offences committed on Bail.
- (b) The arresting member informs the Judge of the previous nature of the offences for which he is on Bail for,
- (c) The arresting member shall make an application to have all previous Bail cancelled and estreated,
- (d) The member shall make an application to remand the Prisoner in custody and shall cite by reason of such application Section 2 Of the Bail Act and in particular
- (e) Section 2(1) f Bail Act 1997

“any other offence in respect of which the accused person is charged and is awaiting trial’

Again, the independence of the Judiciary must be respected and if Judge grants Bail, it will either be with or without conditions. It has previously been stated that Bail should not be denied to a person as a form of punishment, but that all people are entitled to bail.

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A Spokesman for the Minister for Justice Jim O’ Callaghan sated that

” Lorcan Staines SC is to assess the current Bail Laws mad make any recommendations he believes are appropriate taking into account the requirements of constitutional Justice”. They continued “The Judiciary is entirely independent in the exercise of its function and as such, the decision to grant Bail in a particular case is solely for the courts” .

4.3 Further Charges and Changes.

This recommendation may have been the downfall of my submission.

I further suggested that if an offender was arrested for a 3rd or subsequent offence that the District Court was not at liberty to consider Bail but that only a judge of the High Court could consider the facts for the granting of Bail.

This was in effect a "3 strike rule".

As a further part of this submission on Bail I suggested that at that time the Garda Domestic Violence Policy recommends that a person charged with a Domestic Violence Offence under the Act should not be granted station Bail but remanded in custody to appear in Court where conditions could be attached to a Bail bond. Again section 6(5)b of the Bail Act 1997 has relevance in that the Court can attach conditions rather than a member in charge attaching conditions for an offender being released on station Bail for an offence under the Domestic Violence Act 2018 and its prior enactments or any associated offence such as a criminal damage or assault.

Matter Of Interest

Referring back to the lecture I gave on the Bail Act 1997 and its reference to Garda Policy on Domestic Violence, one member informed me that a Defense Solicitor successfully challenged the failure to release his client on station Bail to appear in Court, rather to remand his client in custody to appear in court. The Garda member made relevant reference in their evidence to threats to the injured female party and other associated grounds; however the Solicitor was successful in his application to the Judge that his client had been denied bail from the member in charge for the offence for which he had been charged in that "Garda Policy was not Law Policy". The member further informed me that a Solicitor for the State who was in court on an unrelated matter stepped in and assisted the Garda in the case before the charges were on the verge of being dismissed.

4.4 Recommendation.

Remove the authority for a member in charge to grant station bail where an offender is charged with a new offence who is already on bail to answer charges before the courts.

. Section 12 Criminal Justice Act 2006

5. Power of Garda Síochána to photograph arrested persons.

12 (1) Where a person is arrested by a member of the Garda Síochána under any power conferred on him or her by law, the member may photograph the person or cause him or her to be photographed in a Garda Síochána station as soon as may be after his or her arrest for the purpose of assisting with the identification of him or her in connection with any proceedings that may be instituted against him or her for the offence in respect of which he or she is arrested.

5.1

The above section of the Criminal Justice Act 20026 allows a member of An Garda Siochana to photograph an arrested prisoner. This was essentially brought in after the introduction of 'tracking forms " rather than members going to court. It was designed to assist in the identification of prisoners to court presenters and the prison service where the prisoner was not known to them rather than having a member identify that he arrested the accused who is before the court.

5.2 Recommendation.

Make it mandatory that all prisoners are photographed for the purposes of identification. This will assist in identification before the courts but also that the photograph be uploaded onto the Garda PULSE system to assist with identification when signing on if bail conditions are set. This can also help in the identification of prisoners when arrested on warrant.

Garda Response and Improvements.

6. Bail sign on conditions and conditions attached.

At the present time An Garda Siochana operates a physical book for signing on for bail conditions. Some stations could have up to 10 Bail books in operation. In Clontarf station we had 3 books and while it was relatively able to manage enquiries from members to check if someone was signing on in accordance with their conditions. Failure to sign on is also a problem where prisoners miss day's or specific times that they are required to do so , the only alternative is to get a warrant from the courts to arrest rather than make a direct arrest as previously discussed.

6.1 Breaches of Curfew.

This is perhaps the most difficult aspect of a Bail condition to monitor. If a person is subject to a conditional curfew and lives relatively close to the Garda District the member could be able to establish from other members if an accused person was seen outside his curfew hours. If, however, the accused person lives some distance away or down the country perhaps the investigating member is dependent on an outside District Garda to notify the investigating member of breaches of the curfew. Again, no direct power of arrest the member must go and get a warrant to arrest for breaches of the Bail conditions.

6.2 Recommendations.

(a) Introduce an electronic system linked to the Garda PULSE system in relation to signing on conditions. The system should be set up that it does not allow a sign on before the required time or after the end time. It could also be set up to automatically notify the investigating member that there has been a breach of Bail. It would also allow the member to remotely access the bail signing on system from their own station rather than to have to physically look through pages and books to find where a prisoner is meant to be signing on.

(b) Update photographs of persons signing on by the use of photographs as previously described in submission 5.

(c) Additional checkbox's on the Garda PULSE system to ensure that bail conditions are being monitored and if a warrant is issued other than a record of attempts to execute the warrant, what other enquiries have been carried out to with a view to locating the offender.

(d) An information page on the Garda Portal giving assistance to members as to how to carry out enquiries to locate offenders, e.g. Airports. Seaports, Dept of Social Welfare, Prisons and other Garda sections where enquiries abroad can be made if an offender absconds.

(e) Re-establish the process of 'Estreatment of Recognisance'. From my enquiries that I made this may not be always the case across the District Court system. I recall that there was a big push to re-establish this process back in the mid 90's but I'm not aware of what happened to this initiative. There is no point in somebody signing a Bail bond and giving an undertaking to forfeit a sum of money if it is not followed through on.

Conclusion.

While some of the submissions may appear radical again I have always surmised that it is the 'offender not the offence' that can be the problem and I think that some of these submissions may go some way to discouraging the problem of offenders committing offences while on Bail and failure to appear in Court while on Bail .

The downside of this though could be an increase in the prison population of prisoners on remand, and as I have already read that the system is bursting at the seams while at full capacity, these submissions could further aggravate the prison system.

Dáil Éireann debate - Tuesday, 27 May 2025

Vol. 1068 No. 1

Apology to Shane O'Farrell and his Family: Statements

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[An Leas-Cheann Comhairle](#)

Before calling on the Minister for Justice, on behalf of all Members of Dáil Éireann, I wish to acknowledge the presence in the Distinguished Visitors Gallery of Shane O'Farrell's family - his mother, Lucia, his father, Jim, and his sisters Pia, Hannah, Gemma and Aimee. They are very welcome. Some 14 years ago, they lost their beloved son and brother, Shane, who was just 23 years of age. He was a young man entering the prime of

his life. Shane was killed by a hit-and-run driver who should have been in jail at the time.

Since Shane's death, the family have relentlessly pursued truth and justice for him. It has not been an easy journey and there have been many setbacks along the way, but they have remained steadfast. I salute their courage, dignity and resilience over the past 14 years. The searing pain of Shane's tragic death can never be erased but it is my sincere hope that today's apology will bring a small measure of solace to them in their grief and loss.

I call the Taoiseach.

The Taoiseach

I would like to say a few brief words on behalf of the Government of Ireland in advance of the Minister for Justice's, Deputy O'Callaghan, apology to Shane O'Farrell and his family for the failures of the criminal justice system in this case.

In the first instance, it is incumbent on me, on behalf of the entire Government, to recognise the deep pain, trauma and sense of loss suffered by Shane's mother, Lucia, his dad, Jim, and the entire O'Farrell family since that most awful of days when Shane O'Farrell was killed on 2 August 2011. A young life so clearly full of energy, potential and promise was cruelly taken and a loving family was devastated by senseless loss. His loss

was felt most deeply by his family and friends but also by the community as a whole and, indeed, the Irish people.

Shane was a person every family would be proud of. He excelled academically and in sport. His untimely death, the cutting short of this life just beginning and the ending of this unbounded potential at such a young age adds to and amplifies the unjust nature of his death. It is important, therefore, for me to say, without hesitation or caveat, that, simply, what occurred should not have occurred.

One of the most fundamental duties of the State is to seek to keep our people safe. Tragically, due to failings within our justice system - which the Minister will address in detail - Shane O'Farrell was exposed to danger to which he should not have been exposed. That series of failures allowed the driver of the car who knocked down Shane O'Farrell to be at liberty when, in all reasonable circumstances, he should have been in custody. Knowing the facts that we know now, it is obvious our communities deserved better, the O'Farrell family deserved better and Shane O'Farrell deserved better. While we cannot comprehend the grief you, as a family, have suffered, we can acknowledge the wrongs of the past and commend the bravery, courage and determination of your actions over the past 14 years.

As is obvious from previous statements made by many Members of this House, the motions that have been passed here and in the Seanad and from the statements that will be made here today, these Houses of the Oireachtas are united in support, empathy

and compassion for the O'Farrell family and what they have gone through. Yet, nothing we do in this House will change what occurred on 2 August 2011 despite the overwhelming support witnessed here today. We can, however, try to ensure we learn from what occurred and seek to prevent what happened from happening again. We can seek to ensure that Shane O'Farrell is not forgotten.

Shane's mother Lucia, his father, Jim, and the O'Farrell family have been tireless in their pursuit of truth and advocacy for reform. Today, the Minister for Justice will put the truth of what happened on the record of the House. He will also set out his proposals for reform. It is fitting and correct that he will also announce his plans to memorialise Shane and his life.

To Lucia, Jim, Gemma, Pia, Aimee and Hannah, it is my deepest and most genuine wish that the statement to be made by the Minister for Justice, the apology contained within it and the actions which are to be taken will offer some comfort and perhaps some peace to you after all you have gone through. Your campaign to get to this day has been long but it has not been in vain. I also thank the Leas-Cheann Comhairle for his sustained perseverance and advocacy on this case.

I commend the Minister and his team on the proposals they brought to Government earlier and for requesting that these statements to be made in the Dáil today.

As Taoiseach, and with the whole of Government, I fully endorse and support the apology to be given by the Minister for Justice.

The Tánaiste

I want to begin by welcoming members of the O'Farrell family to the House. I am conscious that for Shane's parents, Lucia and Jim, and his for his four sisters, Hannah, Gemma, Aimee and Pia, this very far from your first time in this House, or in the environs of Government Buildings. I had the honour of meeting you when I served as Minister for Justice. I was in awe of you all. I was in awe of your family and I was in awe of the might of a mother fighting for justice for her son. I saw at first hand your fortitude and determination to secure justice for Shane, your only son, your only brother, who was so cruelly taken from you. When I met you, we sat for hours as you remembered Shane. The pain was as raw as the day you lost him. Throughout that meeting, you brought to life a kind, happy, generous and determined young man. He was a sports lover and an exceptionally bright individual. He was a son, a brother and a friend. We can all attest to the strength of the Irish mother. Shane was blessed with a very special mother, who along with his father and his sisters, has championed his cause day in and day out for 14 long years. Lucia, you and your family have ensured that his name is heard and echoed in the corridors of power.

The commitment you have shown to this campaign is a tribute to a mother's love for her son, but also a family's pursuit of justice and truth. I hope that today, in some small

way, we can start to heal the wounds left by Shane's untimely death. I know the agonising pain of Shane's tragic death near Carrickmacross in County Monaghan on 2 August 2011 has since been borne alongside your long campaign against the injustice of his killing. It is beyond regrettable that it is so often the case that the interactions of victims and their families with the State are so prolonged as to feel adversarial. I know that this, too, has exacerbated your already unimaginable pain.

I know Shane's death plunged your tight-knit community in County Monaghan into the depths of grief and numbness. The community had lost one of its own. Shane was a 23-year-old young law graduate with his entire life, a bright future, all ahead of him. The harrowing events of that day in August 2011 were just the beginning of a living nightmare for the O'Farrell family. Nothing we can do or say today will take away the pain of his loss but I hope the steps that we are taking will help bring some sense of closure and some small sense of comfort.

Today, we acknowledge failures in the Courts Service and the criminal justice system that exposed Shane to danger on the fateful day of his tragic death. My colleague, the Minister for Justice, will formally deliver a public apology to the O'Farrell family very shortly on behalf of the Government. The Government made a number of decisions, on the recommendation of the Minister and arising from the campaign of the O'Farrell family, that we hope will bring about meaningful changes. The Minister, Deputy O'Callaghan, will outline these decisions in detail. They are rightly intended to directly

respond to the failings we are acknowledging today. I commend the Minister for bringing forward these measures and for proposing these Dáil statements today.

Nothing we can do or say can ever make up for the grief or sorrow of the O'Farrell family and the anguish of their long campaign for justice, but I hope that an apology today and the actions we are taking alongside it may be some balm for the pain that you bear. I hope you will take some comfort in having translated that pain into changes that should, and must, protect others in the way that Shane should have been protected, so that other families do not endure the suffering that you have. Shane's memory lives on in this and in so many ways, thanks to your enduring love and your inexhaustible resilience. Thank you again for being here today, for the Government to deliver this statement. As Tánaiste, I fully endorse and support the apology that will now be given by the Minister for Justice.

Minister for Justice (Deputy Jim O'Callaghan)

I also want to welcome the family of Shane O'Farrell to the Distinguished Visitors' Gallery, his loving parents, Lucia and Jim, and his sisters, Gemma, Aimee, Pia and Hannah.

When Shane O'Farrell left his home in Carrickmacross on the evening of 2 August 2011 to go on a cycle in preparation for a charity triathlon, he had his whole life ahead of him. At 23 years of age, Shane had secured a law degree from University College Dublin, had

just completed his masters in law at Trinity College Dublin, and would no doubt have proceeded to commence a professional career that would have been as distinguished as his student career.

That life was never lived because Shane was killed that evening. His loss was incalculable. His family's was interminable. I know how much pain the O'Farrell family have gone through since they were informed that day of Shane's death. There is nothing I nor the Irish Government can do to alleviate that pain. What I can do, however, is record how the justice system that operated at the time exposed Shane to a threat to which he should not have been exposed.

For many years, the O'Farrell family have sought a public inquiry. In fact, this House voted on 14 June 2018 and 10 July 2024 for the establishment of such an inquiry. The Seanad voted for one on 13 February 2019. The purpose of an inquiry is not to administer justice but to reveal and report on facts that are of public importance. Many of the facts associated with Shane's death have already been established, mainly through the indefatigable work of his loving mother Lucia. We could spend many years inquiring into these facts - facts that are already known - in the hope or expectation that a chairperson of such an inquiry would report them in a manner sympathetic and favourable to the facts as presented to me by the O'Farrell Family. I need neither more nor further entrenchment of those facts in order to face up to my responsibility as Minister for Justice and the State's responsibility for failings in our system that exposed Shane to danger on that fateful day. It is part of the heavy burden that I carry as Minister

for Justice that I must confront these failings in our criminal justice system. I do not need to wait for five years for an inquiry report to tell me about those failings. I know them already. I do not need a report to force me into Dáil Éireann to give the apology to the O'Farrell family that I humbly give today.

The purpose of inquiries is twofold: first, to establish facts; and second, to effect consequences that derive from those facts. We have many of the facts. I now want to proceed to the consequences. Primary responsibility for Shane's death rests with Zigimantas Gridziuska, the Lithuanian man who, having been stopped by the Garda drugs squad an hour before Shane was killed, drove the car that struck Shane from behind. He failed to stop and remain at the scene. Subsequently that night, he hid his vehicle away from his home. When he returned to his home that night, he told his wife that he had knocked someone down, yet they both then went to bed. Neither of them called emergency services. The driver was prosecuted in February 2013 for dangerous driving causing Shane's death. He was acquitted of that charge by direction of the trial judge. Unfortunately, a lesser charge of careless driving was not open to the jury. Prior to Shane's death, Zigimantas Gridziuska had repeated interactions with the criminal justice system, with his first conviction in Ireland occurring in March 2008. His repeated offending and the State's response to his consistent breach of court orders and sentences merits repetition before the House. It is an illustration of the havoc and, as we know, tragedy that can derive from the actions of a recidivist offender who is not held to appropriate account by our criminal justice system. These are the facts that we know about his criminal behaviour in the 24 months prior to Shane's death. We know that, on

27 January 2010, he was remanded on continuing bail in respect of four offences, having previously been granted bail for another offence on 28 August 2009. On 12 May 2010, Gridziuska was charged with two theft offences and was sent forward for trial on indictment to Monaghan Circuit Court. On 9 June 2010, Gridziuska was charged before Carrickmacross District Court with four offences of possession of heroin. He received a six-month concurrent sentence for two of these convictions and a three-month conviction for one other, with the final conviction being taken into consideration when imposing sentence.

On the same day, 9 June 2010, he filed an appeal against these convictions and lodged €1,000 in lieu of surety. This resulted in him being released from custody on that day. The first failing by the State arose here because the appeal documentation was wrongly filed, with the result that the appeal was never processed within the District Court office in Monaghan. The appeal should have been recorded on the criminal cases tracking system that is operated by the Courts Service, but it was not. Had it been recorded, the appeal documentation would have been produced and the file would have been sent to the Circuit Court so that an appeal hearing could be arranged. The failure to record this appeal meant that there was never a determination as to whether his six-month sentence for the heroin offences should be activated. Instead, by simply lodging an appeal on the day of his conviction, Gridziuska avoided ever having to serve the sentence imposed.

It must also be recalled that, on the same day, 9 June 2010, Gridziuska also faced four other charges before Carrickmacross District Court. He was charged with theft and also charged with theft and receiving, and he was sent forward for trial on both charges to Monaghan Circuit Court. Between 9 June 2010 and 11 January 2011, Gridziuska committed ten further offences relating to road traffic offences, the possession of heroin and theft. Four of these cases came before his honour, Judge John O'Hagan, at Monaghan Circuit Criminal Court on 11 January 2011 and the Circuit Court judge directed that they be adjourned for one year until 11 January 2012. The judge said that if Gridziuska kept out of trouble and did not commit further offences, he would adopt a lenient approach. However, if he got into further trouble, he was to be brought back before the court and a custodial sentence would be imposed. It is worth reciting the exact words used by Judge John O'Hagan on that day. He said:

If he does get into trouble again, it will come straight before me, anywhere on the Circuit, wherever I may be. You might even get a trip to Donegal, wherever it may be. Bring it in front of me and I will deal with Zigimantas Gridziuska. I am giving him this chance and this chance only. If he messes it up so be it. And I can assure you, Zigimantas Gridziuska, if you do mess this one up and you do get convicted, you will be going to prison; not you might; you will be going to prison.

This is where the second failing of the State occurred, because between this date of 11 January 2011 and Shane's death, Gridziuska was charged with and-or committed 11 further offences, yet he was not returned to Judge O'Hagan. On 16 February 2011,

Gridziuska was brought before Carrickmacross District Court on another drugs charge. He was convicted and sentenced to six months imprisonment. Again, he appealed his conviction, lodged €1,000 in lieu of surety and was again released. On this occasion, his appeal papers were properly lodged. The failure of the State was that this conviction should have been brought to the attention of Judge O'Hagan, who had very clearly indicated that any further offences should be brought to his attention.

On 23 February 2011, he was convicted of two counts of theft. On 8 March 2011 he was convicted of another theft charge before Cavan Circuit Court. None of these convictions was brought back before Judge O'Hagan. In fact, he was also arraigned on that date for another single theft charge that had been sent forward on 17 December 2010 from Virginia District Court.

The failure to notify Judge O'Hagan was again repeated when Gridziuska was convicted of five theft offences committed over five days, before Ardee District Court on 9 May 2011, resulting in a four-month suspended sentence. Once more, this conviction was not brought to the attention of Judge O'Hagan. On 11 May 2011, he was convicted of speeding, with no referral back to Judge O'Hagan. On 8 June 2011, he was again convicted of a single drugs offence before Carrickmacross District Court and was fined €500. Again, this conviction was not brought to the attention of Judge O'Hagan. It is also noteworthy that he received a conviction in Northern Ireland on 15 July 2011, and arrest warrants issued against him at that time were not executed.

The O'Farrell family believe, and I agree with them, that had those convictions on 16 February, 23 February, 8 March, 9 May, 11 May, 8 June, 15 July and-or 25 July 2011 been brought to the attention of Judge O'Hagan, as he directed in his ruling of 11 January 2011, the likelihood is that Gridziuska would have had a custodial sentence imposed upon him on any of those dates. Had this occurred, Gridziuska may not have been at large on that fateful day on 2 August 2011 when Shane was killed while on his bike.

Between 27 January 2010 and Shane's death, Gridziuska was convicted of 30 offences. We know that the 30 offences he committed before Shane's death were committed while he was on bail, and we know that he was on bail for at least six offences on 2 August 2011. At present, our criminal justice system requires, under **section 11** of the **Criminal Justice Act 1984**, that a person who is convicted of an offence while on bail should face a sentence consecutive to the offence for which bail was granted. However, the commission of an offence while on bail is not itself an offence in the same way as failing to appear before a court in accordance with bail terms is an offence under **section 13** of the **Criminal Justice Act 1984**. Nonetheless, it is a condition of every bail bond that an accused person does not commit any further offences while on bail.

The legitimate questions that the O'Farrell family have asked are why the persistent breaches of bail conditions by Gridziuska, through the commission of further offences, did not trigger a response under our criminal justice code; why consecutive sentences

were not imposed in respect of the offences he committed while on bail; and why warrants that were issued were not executed.

On 26 January 2011, on 11 May 2011 and on 25 July 2011, Gridziuska breached his bail conditions when he was convicted of road traffic offences. None of these was brought to the attention of Judge O'Hagan. More significantly, the five theft offences he was convicted of on 9 May 2011 were not brought to the attention of Judge O'Hagan. In fact, the court hearing those theft offences was not informed of Judge O'Hagan's direction. Gridziuska was also charged with having no tax on his car on 6 April 2011, but this was not prosecuted until 16 November 2011.

It is clear that throughout this time Gridziuska was ignoring the many different bail conditions set by the various courts. It is clearly the case that many of the offences committed by Gridziuska while on bail were summary offences. The broader question that must be answered is how our criminal justice system should respond to a recidivist offender who persistently breaks summary laws and whether, even if the theft offences had been brought to the attention of Judge O'Hagan, the judge would have had the jurisdiction, through statutory power, to remand Gridziuska in custody.

In order to answer these policy questions, I have asked Lorcan Staines SC to assess our bail laws and make any recommendations he believes are appropriate, taking into account the requirements of constitutional justice and the impossibility of refusing bail to every person accused of summary offences. I have required that this report be

finalised and presented to me within four months of his engagement. I have asked that he identify any necessary changes that need to be made to our laws on bail and-or suspended sentences.

This is not a report that needs to establish facts, since those facts are very readily apparent from the charges laid against Gridziuska in the year leading up to the death of Shane O'Farrell. It will not result in people having to invoke their in re Haughey rights and lawyering up in a process that would inevitably take years. More importantly, it will not need to establish any facts since the relevant facts are already known.

This year, the Government will also be seeking the amendment of **section 53(4)** of the **Road Traffic Act 1961** in order to take into account one of the consequences of the trial of Gridziuska. As we are aware, he was acquitted, by direction of the trial judge, of dangerous driving. The jury was not, however, permitted to proceed to consider the lesser charge of careless driving. It has been the law since 1962 that where a trial judge directs the acquittal of a person charged with dangerous driving, they cannot then be found guilty of the lesser offence of careless driving.

The option of the lesser offence is available with a jury acquittal of dangerous driving and it is a serious flaw in our law that the option is not available in the event of an acquittal direction from the judge. I am pleased to say that the Minister for Transport, Darragh O'Brien, has agreed to ensure that **section 53(4)** of the **Road Traffic Act 1961** is amended in the next Road Traffic Bill he will be introducing in the Dáil this year. This

will be the second change to our law achieved as a result of the tireless campaigning of Shane's family. **Section 17 of the Road Traffic Act 2014** was also introduced in memory of Shane and as a necessary correction of our law. It established a new indictable offence of leaving the scene of an accident where an injury or death has occurred.

This review of our bail laws and the further proposed change to our laws that I announce today are a reflection of how the criminal justice system did not protect Shane O'Farrell. Our laws will be changed to reflect his memory.

In light of the failings in the criminal justice system that I have outlined in this speech, it is incumbent on me, as Minister for Justice, to apologise to Shane O'Farrell and the O'Farrell family for the fact that the criminal justice system did not protect him as it should have. I do so apologise. However, we should also remember Shane not just because of how he died but also because of how he lived and what his life may have been. Shane was a law graduate of UCD and TCD. He respected and obeyed the law. He was destined for a career in the law. Nothing I can do can realign that trajectory of a life stolen in its prime. We can, however, commemorate that life. I am honoured to announce that the Department of Justice will fund every year a scholarship in the name of Shane O'Farrell that will be awarded to a student who distinguishes him or herself in the masters in law degree at University College Dublin. The Shane O'Farrell award will confer on its recipients, in perpetuity, the honour of the excellence by which Shane lived his short but exemplary life.

It is my sincere hope that what I have said today on behalf of the Department of Justice and on behalf of the Government of Ireland will provide some peace to the O'Farrell family. I hope that the review of our bail laws and the actions to be taken thereafter will help prevent other families having to suffer in the way the O'Farrell family have suffered. I hope the O'Farrell family can take pride and comfort in the fact that Shane's memory will live on through the scholarship at UCD.

I will finish by saying something to the O'Farrell family that I know every Member of this House will agree with. It is because of the work and tireless campaigning of the O'Farrell family that the memory of Shane O'Farrell will not be forgotten.

Deputy Mary Lou McDonald

The apology offered today by the Government to the family of Shane O'Farrell comes after 14 years of their courageous and relentless pursuit of truth and justice for their son and brother. This apology is a vindication of the O'Farrell family's unwavering stand for Shane and the life that was so cruelly taken from him. It is an acknowledgement of the litany of abuse by the entire State apparatus, not merely the criminal justice system, to which the family was subjected. It is to the shame of successive Governments that it has taken 14 long years to get to this point.

Shane's parents, Lucia and Jim, and his sisters, Gemma, Pia, Aimee and Hannah, fought a fight that no family should ever have to face. A heartbroken, bereft family were forced

to battle for more than a decade against a State and system that should have had their backs. The truth is that the wagons were circled, ranks were closed and the State lined up against the O'Farrells at every turn. In the words of Shane's sister, Hannah, the family were treated like the enemy for daring to ask questions. Every bit of progress, every new piece of information, had to be dragged out of the authorities and would never have seen the light of day were it not for the tenacity of the O'Farrell family.

On an August night in 2011, Shane O'Farrell was cycling home to his family but he never made it. Shane was struck by a car driven by Zigimantas Gridziuska near the town of Carrickmacross in County Monaghan. It was a hit-and-run. He left Shane to die on the road, a young man of 23 with his whole life in front of him, his immense potential, his bright future and all of his tomorrows snatched away in the blink of an eye. To have your beautiful son taken from you in such a cruel way is enough to shatter the heart of any mother, any father and any family, but to uncover that the man responsible for your son's death should have been in jail at the time heaps searing injustice upon immeasurable heartbreak.

On the night Gridziuska hit Shane with his car, he was in breach of bail and should have been in Garda custody. Seven months prior to that fateful night, he appeared before the Circuit Criminal Court on theft charges. The judge deferred sentencing him for one year but warned him, as the Minister said, that he would be jailed if he committed further offences. Three months before the hit-and-run, he appeared before Ardee court on further theft charges. The judge was not informed of the order from the Circuit Court

and he was given a suspended sentence. He was released again. It was this disastrous decision that allowed Gridziuska to be driving a car that night, a disastrous decision that cost Shane O'Farrell his young life.

Serious questions have been repeatedly asked about the nature of engagements between Gridziuska and An Garda Síochána because he routinely broke the law. He had 42 criminal convictions to his name. Gardaí failed to execute court orders against him. He received three custodial sentences in 2010, the year before he hit Shane O'Farrell with his car, and he did not serve a single day of any one of those sentences. He was undeniably a recidivist offender but was he more than that? There are credible allegations that he had, in fact, been operating as a Garda informer, yet answers have never been provided - not one. This person was routinely able to flout bail and court orders and custodial sentences. He hit and killed a young man with his car at a time when he should have been in jail.

The big unanswered question is this: why is it that he was at liberty on that night he fatally struck Shane with his car? Nobody has ever given an answer as to how this was allowed to happen, not to the O'Farrells, not to the Dáil and not to the general public. The O'Farrells have faced indignity upon indignity. They have been traumatised and retraumatised, confronted with years of shoulder shrugs and stonewalling, with a message from the powers that be: give up, shut up and go away. Lucia and Jim O'Farrell,

their children and their family faced all this but they did not give up, they did not shut up and they did not go away. They fought and fought and fought.

That the family has achieved this apology today is a testament not only to their courage, not only to their determination, but to their undying love for Shane. His face, his voice, the life he could have had, the life he should have had, inspires them to keep going, to face it all. God knows, the O'Farrells are owed an apology from the State. They are owed reams of apologies. Today is the day for his lionhearted family who have shown what it means to love somebody unconditionally, a family that has not once backed down in their fight to achieve justice for their son and brother. They have faced the heartache of the empty chair, a pain compounded by the absence of answers, by the absence of truth, yet they kept Shane's memory alive and did not allow his death to be swept under the carpet.

I have met Lucia and Jim so many times throughout the years. Their decency, their integrity and their love for their family shines through every time. Their values stand in stark contrast to the disrespect and the dishonesty that they faced: a formidable Irish mammy and daddy who took on the powers that be, the power of the State and never flinched - not once - because they would not let their son down; and a 23-year-old lad who had everything going for him, who had his entire life ahead of him but who never got the chance to live the years owed to him.

Cruthúnas atá sa leithscéal seo go raibh an ceart ag muintir O'Farrell. Bhain tábhacht le saol Shane O'Farrell. Baineann tábhacht lena bhás agus an bealach a bhfuair sé bás freisin. Shane O'Farrell mattered; his life mattered; his future mattered; and his death and how he died mattered too. The courageous fight of the O'Farrell family, whom we salute, stands today as an enduring testament that the truth matters. Like love, it matters and it endures.

Deputy Matt Carthy

To use that Irish phrase, I knew Shane O'Farrell to see but I had never spoken with him. It is one of my regrets that I did not get to know the man in life that I now feel I know well - the good-looking, talented, popular young man from my home town of Carrickmacross. Conversely, I regret that I have had to get to know his family so well. I regret that because it is only because of what happened to Shane on a summer's evening in August 2011.

Prior to that, Jim and Lucia O'Farrell were the quiet dignified parents of four daughters and their beloved son. They caused no offence to anyone. They were model citizens. They were the definition of a perfect Irish family. Their lives changed forever when Zigimantas Gridziuska killed their son. The shadow of an unbearable grief was to become the constant backdrop to their lives but they were also set to become formidable campaigners for truth and justice and today is their vindication.

Today is a welcome acknowledgement by the Government that this family was right in their campaign. No longer can their assertions of State failures be described or dismissed as allegations. It is an indisputable fact that Shane O'Farrell was failed by the State resulting in his death and that his family were failed by the State every day since. The man who killed Shane O'Farrell should not have been at liberty on 2 August 2011.

Zigimantas Gridziuska lived what has been described as "a charmed existence". He had an amazing ability to avoid consequences for breaking the law in Ireland, such as the moment, less than an hour before Shane was killed, the car in which Mr. Gridziuska was travelling was stopped by the Garda. There was no tax, no NCT and the insurance had been secured fraudulently. Driven by one known criminal, the passengers comprised of other known drug dealers, including Gridziuska, but there was no search, no arrests or no seizure of the car. Gridziuska was told to take the steering wheel and then he drove on down the road to hit Shane O'Farrell, throwing him over the bonnet of the car, leaving Shane to die on the side of the road before driving on into Carrickmacross, hiding the car and going to bed.

A few years before that, Gridziuska had arrived in Ireland with 12 convictions from Lithuania. Time and time again, he committed crimes in Ireland. Time and time again, he walked free from theft, drugs and traffic offences. In 2008, 2009, 2010 and throughout the first half of 2011, he was repeatedly arrested and repeatedly brought to court and, repeatedly, he walked free.

He committed hundreds of bail violations. Whenever he was returned to courts, gardaí failed to notify the presiding judges of the facts of this man's criminal rampage. They mislabelled evidence and failed to tell the courts of outstanding warrants. When a judge demanded that further crimes result in a return to his court, gardaí, it seems, simply ignored the call. Despite a bail condition to sign-on daily at Garda stations, Gridziuska managed to carry on as if that condition did not exist. He even ended up imprisoned in the North for a time and nobody seemed to notice. The Courts Service also managed to mislabel papers to Gridziuska's advantage. Any one of multiple failings, if it had been set right, would have ensured that Shane O'Farrell would be alive today. Even when he was in court after he killed Shane, gardaí did not object to bail. Zigimantas Gridziuska walked free again.

Upon his conviction after Shane's death, the judge offered Mr. Gridziuska a choice: either serve a prison sentence or return home to his family in Lithuania. The simple question that Shane O'Farrell's family have been asking ever since is: how could that be? Why is it that, regardless of the crime, the man who killed their son and brother could simply not be jailed? Was he just the luckiest criminal to ever walk the earth or was it something more sinister? For 14 years, they have sought answers from the State and for 14 years they have been stonewalled at every turn. They endured a seven-year GSOC investigation, an 18-month independent review mechanism process and a four-year scoping exercise, none of which delivered answers and all of which fulfilled what, I suspect, was the intention to delay and frustrate the O'Farrell family's quest for truth, but

they could not succeed because Government after Government failed to appreciate or understand the formidable opponent that they had pitted themselves against.

Lucia O'Farrell today told me that she is just a 67-year-old mother trying to get justice for her son. I have come to realise that there is nothing more powerful because it was not any of the State investigations, not the Garda, the courts or the Director of Public Prosecutions, DPP, or GSOC, or IRM or the scoping exercise, that found any of the failings that have been outlined here today. In some instances, in fairness, it was the media, "Prime Time" and The Ditch, in particular, but, in virtually every instance, it was the tenacity, determination and intelligence of Shane's father, Jim, Shane's sisters, Gemma, Pia, Amy and Hannah, and, above all, Shane's mother, Lucia, who found the answers that brought us to today. They did everything that they did for Shane, above all - there is no doubt about that - but they also did it to ensure that no other family would ever have to go through what they had and that will be the test of the words of Government today.

The Minister can direct that the GSOC section 103 report, entitled "The Public Interest Report", into Shane's case be published in full. He should also direct that the file that we know exists relating to Zigimantas Gridziuska, held by the Garda National Crime and Security Intelligence Service, be published because many people, myself included, believe that Zigimantas Gridziuska was an informer and that he was permitted to wreck havoc because gardaí prioritised the protection of their source above all else. The

publication of those documents would be a signal that the Government's words of today will have meaningful effect and I hope that happens.

I mentioned that I regret that I have gotten to know the O'Farrell family so well but in another sense I am so proud to have gotten to know them over the years and to have joined them for a small part in their journey. Lucia O'Farrell is a force of nature.

I am sorry, Lucia, that it has taken so long for you to get to this point but I want you to know that you have touched the lives of so many people over the past 14 years. You have been an inspiration, in particular, to others who seek truth and justice for their loved ones. I hope that you know that today would not have happened were it not for your efforts - all those meetings, letters, emails and countless hours of investigation and reading. It should not have been necessary but it has all been vindicated today.

Above all, I hope that you Lucia and Jim, and Gemma, and Pia, Amy and Hannah, know that you have done Shane proud. I hope that your grieving process can start properly today. I sincerely hope and pray that you can all at last find the peace you deserve and the peace and comfort that, I know, Shane would want for your all.

Deputy Ivana Bacik

I pay tribute to you Lucia and the O'Farrell family, Jim, Gemma, Pia, Amy and Hannah, for your unwavering quest for justice for your son and brother, Shane. You have fought

so insistently and so strongly for so long. Shane's life was cut short so cruelly 14 years ago on 2 August 2011 and I know from meeting with you so many times over the years just how much your grief and sorrow at his loss was compounded by that sense of injustice at the multiple failings of the State that have been outlined comprehensively by the Minister. Before my colleagues speak further, I just want to say how welcome, and yet how overdue, this apology is for the State failings that you have endured. At last, the injustice you have endured has been recognised. You have worked so hard to achieve the giving of this State apology and it is an important day. For us, we welcome it. We await to hear your response to the words of the Minister, to the actions he outlined and to this important apology today, but we all think of you and you think of Shane today.

Deputy Ciarán Ahern

Like everyone, I was absolutely shocked to hear of the tragic circumstances of Shane O'Farrell's death on 2 August 2011. I am always saddened to hear of deaths on our roads, of which there are still too many, but as a cyclist, a law student, a UCD graduate and someone who was around Shane's age at the time, his death in particular hit home with me. I recently had the privilege of meeting with Shane's mother, Lucia, and his sister Hannah. The meeting stuck with me for a number of reasons, including the extraordinary background to Shane's death and the subsequent miscarriage of justice in how the investigation of that death was handled by the State. It was a miscarriage of justice and we need to be clear about that. However, what stuck with me the most was the dogged determination of Shane's family to rectify that miscarriage and to make

sure that justice was realised for both Shane and the O'Farrell family. The O'Farrells have been wronged by the State and by our justice system. Shane has been wronged.

We in the Labour Party welcome this State apology to the O'Farrells today. The Minister supported the O'Farrell family from the Opposition benches, as did the Leas-Cheann Comhairle, who is also sitting here today, and politicians from many parties, including my own, and I commend him on taking this important step and beginning to make amends for what happened. A State apology is a rare thing. The State does not easily apologise for anything. Apologies must almost always be dragged out of it following significant campaigning, heartache and often adversarial litigation on the part of those affected. An apology is certainly warranted in this instance. We would not be here were it not for the resolute determination and ceaseless campaigning of Lucia and all of the O'Farrell family to achieve justice for Shane and for their family, who first had to live with the grief of Shane's killing and then with the gaslighting from those the family were relying on for straight answers and justice. The O'Farrells should all be incredibly proud that they have got us to this point. I hope today's apology will provide them with some degree of closure.

During the State apology to the Stardust families, the Tánaiste, who is with us today, said:

In such shattering circumstances, the ... expectation must surely be that the State comes to the aid of its citizens and supports them in the terrible aftermath. Instead, it is

to our great and eternal shame that, far from the warm embrace of a caring State, the Stardust families experienced a cold shoulder, a deaf ear and ... generations of struggle for truth and justice. It is to our great shame that State processes heaped misery upon tragedy for the Stardust families.

Those same words could be copied and pasted with respect to what our State has put the O'Farrell family through. They too have had misery heaped upon tragedy. The report of the scoping exercise carried out by Judge Haughton to determine whether further enquiry was needed in this case adopted a narrative of victim blaming, which I know has been a source of considerable pain for the O'Farrell family. To suggest that Shane was somehow at fault for his own death was plainly wrong and the supposed evidence on which that suggestion was made does not stack up. The first three pages of the Haughton report are dedicated to criticising Shane and intimating that his own actions had a hand in what happened to him. I cannot begin to imagine how the O'Farrell family must have felt when they first read it. There is one person directly at fault for Shane's death and that is the driver of the vehicle that hit him, Zigimantas Gridziuska. However, the justice system that allowed that man to be out on the streets in the first place is also in the dock today. To have their son and brother blamed for his own death and the various processes they have had to go through just to get some answers have been an exercise of repeated revictimisation for the O'Farrell family. That happened at the hands of this State.

I do not want to presume how the O'Farrells are feeling about what the Minister has said during this apology. I understand that this will be their first time hearing the actual substance of the apology. This apology of wrongdoing by the State may be enough for them. It may provide the closure they need and deserve. I sincerely hope that is the case and that they can finally rest after a long and arduous fight for justice for Shane. I will talk to the family following these statements and whether they feel they need to continue this fight or they feel this issue can finally be put to bed, we will make that argument. The O'Farrell family's wishes must take precedence.

Notwithstanding this apology and how the O'Farrells feel about it, questions still remain for the State regarding how this case was handled and these must be answered to ensure this can never happen again. For example, there are questions as to how a document as flawed as the Haughton report was so easily accepted by the State and our justice system and used to quash calls for a public inquiry. The report was necessarily incomplete given the nature of the terms of reference and the documentation given to the judge. It could never have been anything other than incomplete and inadequate. It is extremely concerning that certain judges were not informed of Gridziuska's breaches of bail by the Garda or the prosecution. That is an incredible error and it was compounded by the fact that two gardaí who were disciplined in respect of the handling of this matter successfully challenged their disciplinary proceedings on the basis that they were not properly trained on the PULSE system and not legally required to check the court outcomes and, as such, not actually required to bring previous outcomes to the attention of the court. We need to know

that this cannot and will not happen again. The loopholes that allowed this to happen need to be closed immediately whether through legislation, some other mechanism or simple training for gardaí. This is one of a series of significant failures that resulted in years of pain and struggle for justice for the O'Farrell family.

Something went seriously wrong here and the State and our justice system need to answer the questions this case raises about their processes and how to ensure this never happens again. No family should have to go through what the O'Farrells have had to go through. To lose a son and a brother and then, in the Tánaiste's words, to have misery heaped upon tragedy is not acceptable. We cannot allow it to happen again. This apology cannot be used to whitewash the serious failings at the heart of this matter.

Deputy Marie Sherlock

I welcome that the O'Farrell family have finally got an apology today. Is it enough? I do not know but we all very clearly know that we are only here, 14 years on from that young man's death, because of the sheer persistence, tenacity and fight of a family. Lucia, Jim, Hannah, Gemma, Pia and Amy, you have been fobbed off and told that Shane was to blame for his own death. No family in this State should have had to put in the effort you have had to put in over 14 years, day and night, but you have had to and it is only because of all of that effort and heartbreak that we are here today. I hope today will give

you some peace. You have been an inspiration for other families who have been wronged by this State.

I do not want to take away from Shane and the O'Farrell family today in any shape or form but I want to reflect very briefly on the fact that this coming Sunday marks the 20th anniversary of a young man, whose family Deputy Gannon and I know well, going into Store Street Garda station for a minor misdemeanour and coming out unconscious. For the family of Terence Wheelock, the pain and festering anger and frustration at the wrong they believe was inflicted on their brother lives on to this day. There are other families across this State who have been wronged by An Garda Síochána and the criminal justice system who have to fight on and who may never have had the energy the O'Farrell family has shown. The O'Farrell family has been a great inspiration. I am very glad that we are here today.

Deputy John McGuinness

Lucia O'Farrell and her family have been in and out of the offices of TDs and Senators in this House to fight for justice for Shane since 2011. I am thrilled that we are here today to witness this apology from the State and to hear the Minister recount all the failings of the State during the investigation.

Today we could say it is vindication but we have to remember that all through those years it was not easy for Lucia O'Farrell and her family. It was not easy to come before

each one of us here in the House to try to convince us that something was wrong. We have heard those stories before. Lucia O'Farrell painted a picture of a State and a system that was rotten, a State and a system that brought no justice to her son and that gave him no chance whatsoever. It was not the Government or the system that uncovered all of the wrongdoing. It was Lucia O'Farrell who meticulously went through every single event from 2011 onwards and put all of that information down on paper to inform every one of us and to tell us to do our job - enough empathy, enough advice and enough assurances from politicians and officials: do your job as parliamentarians. That is what she was asking, and to recognise what was wrong for her son and for many others who are confronted by a State that, as this obviously shows, could not care less.

Lucia O'Farrell is made of stern stuff. She had a backbone and she knew what she wanted to achieve. She had a love for her son that was unmatched and this drove her on. She asked me regularly in conversations, "How will I face Shane eventually if I do not get justice for Shane?" Lucia O'Farrell, you can face him whenever that day comes because you certainly have brought justice for him and you have certainly exposed the State for what it is. Every step of the way obstacles were put in your way but you did not stand back and you kept going. A greater commitment to keeping our citizens safe and our State honest is part of the legacy of Shane O'Farrell. This is what you have achieved. The corrections the Minister for Justice outlined here that are needed to make the State and the apparatus of the State function will go some way to assisting those who may

have the experience like you have had, or other events in their lives, to get justice far quicker.

In here we have to question ourselves as to why we are here. We should not be here and be blindly led by party Whips or by commitment to party. We should be led by our commitment to the citizens we represent. We should be led by our commitment to justice. We should not stand back in the face of those who would like no light to be shone in the dark corners, who would like no one to be penalised or sanctioned, and who would not want the truth to come out. That day is gone. We as parliamentarians must constantly remind ourselves that we are here with an obligation to keep our people safe. With Shane O'Farrell we did not keep him safe. We put him in harm's way. The Judiciary, the DPP, and An Garda have an awful lot to answer for. I cannot ignore that. I will not ignore either the bravery of our Minister who I am sure, in spite of what he was told and in spite of the obstacles that were put in his way, came forward and gave this apology. It was a little piece of leadership quality that others should take note of. It is that type of bravery we need from the ordinary Members of this House to ensure that justice is done and is served.

Today is a day for the O'Farrell family, to allow this apology given by the Minister to seep in and to understand it, and to understand Lucia what you have achieved. It is clear that in a mother's love for her son, an Irish mammy is certainly a formidable force in Ireland and a formidable force that should be listened to, but unfortunately you were not listened to. I ask you to consider what has been said by the Minister. As I listened to him

today reading out all of the wrongs that were meted out to the investigation around Shane, I could not help but think that since 2011 to this date it was all denied. It was a vote against an inquiry. It was a weakness in the political system and a desire to protect the status quo. It was a desire to turn our back on the reform that was needed. We saw it played out here from one side of the House to the other and I regret that. I regret that we have not within us the drive to ensure that the reform so needed right across the State is put in place. Lucia and Jim O'Farrell and their children have brought all of this before us again today to remind us of the amount of work we still have to do and the amount of reform that still has to be put in place. No longer should whistleblowers, or anyone else who has a story to tell such as Lucia O'Farrell and her family's, be shunned. We should listen to them and give them the space they require to tell their story. That is what we are here for, to be prepared to act, to be prepared to change the system, to be prepared to change the party system and the status quo, and whatever else holds the wrongdoing together and away from scrutiny. Enough is enough.

Lucia and Jim, I hope that after today you take the time to understand what you have achieved, take the time to understand that you have brought justice for Shane and that you had someone like the Minister understanding the law who could present us with this apology today. Shane would like you to live your life. When you go to visit him this evening, you will have something very substantial to report. I have no doubt Lucia that he would like to see you and Jim and the girls catch up on the years that you have lost since 2011, live out your life and live it out in memory of Shane. You have left an

everlasting impression on all of us in this House who were willing to listen and to act.
Thank you.

Deputy Cathy Bennett

The death of any person on our roads is a tragedy. The death of a child is a tragic hardship that no parent should have to bear. Shane O'Farrell was just 23 years old when he was struck and killed while out cycling near his home in Carrickmacross. The driver fled and while the man who took Shane's life handed himself into An Garda the next day, it seems as if in the intervening 14 years there has been a broad flight from justice and accountability on the part of the State.

I welcome that Shane O'Farrell and his family have received an apology today. Despite questions remaining unanswered and crucial reports being denied to the O'Farrell family to this day, it is an acknowledgement that the State has done something for which it must apologise. Shane O'Farrell had every right to be on the road that night. The man who killed him did not and he was a career criminal with a dozen convictions in Lithuania.

He racked up more than double that in offences here on his crime spree across the north east. It is simply not credible that the series of events that surrounded and led to the death of Shane O'Farrell can be explained away as a litany of errors.

While this overdue apology is welcome, it can only be the beginning in answering what this State did when it denied the O'Farrell family their right to grieve in peace, when they were forced to fight every single step of the way against the State, which often said all the right things in public, denying them the truth, justice and the opportunity to grieve in privacy and peace at every opportunity. If this apology is to be meaningful, it is incumbent on the Government to change the laws and ensure that we have a system that works. How can we be certain that no other family will go through what the O'Farrells have gone through? My judgment will be guided by the O'Farrell family, who are working tirelessly in the name of justice for their son and brother Shane. They have done more than Minister, any judge or report to ensure that no other family goes through what they have gone through again. I commend and thank Lucia, Jim, Gemma, Pia, Aimee and Hannah.

Deputy Cian O'Callaghan

First, I pay tribute to the family of Shane O'Farrell, namely, his mother Lucia, his father Jim and his sisters, Aimee, Pia, Hannah and Gemma, who are in the Distinguished Visitors' Gallery. I also acknowledge the official apology from the Minister for Justice. The family have been waiting for 14 years for this apology and for answers to questions about the death of their son and brother Shane. The apology is a reflection of the 14 years of campaigning by the family and their struggle for truth and justice. Shane O'Farrell should never have been taken away from his family. When I met Lucia, she told me of a kind, compassionate and caring son. Shane was a person who others turned to when

they were in difficulty. He never turned people away. He listened and helped in any way that he could. He was hugely respected and loved. Shane had a bright future ahead of him and so much more to give. Shane was dearly loved by his family, including his sisters, his mother, Lucia and his father, Jim. The trauma, heartache and grief of losing Shane has been compounded by years of campaigning for truth and justice.

I raise the failures of GSOC, the Garda Síochána Ombudsman Commission, which is now named Fiosrú. It spent seven years investigating the complaints of the family and has refused to publish the two reports it produced, adding to this trauma. GSOC had this case for seven years. Shane's sister, Gemma, initially put her complaints in in January 2012. Those complaints were still under investigation, when, on 29 April 2014, then Minister for Justice Alan Shatter ordered a section 102 public interest investigation. This directed that all complaints should be investigated independently of the Garda in the public interest. The public interest investigation was completed on 13 April 2018. The family received a summary version only. A year later, in January 2019, GSOC produced another section 97 report regarding minor discipline. This recommended to the Garda Commissioner that three Garda members receive disciplinary fines. The Garda Commissioner then appointed a superintendent to look at the recommendations by GSOC to see if these officers should receive discipline and he agreed that they should. One garda accepted the fine. The other two took judicial review proceedings and challenged the decision. The outcome of the judicial review proceedings was that the Garda Commissioner agreed on consent not to discipline the two gardaí. This was because there was no evidence that they had ever been trained on the PULSE system to

check previous court outcomes. It was not part of their training then and still is not now. Responsibility for Garda training rests with the Garda Commissioner. The section 101 public interest report, which was completed in April 2018, has been refused to the family. The section 97 report regarding minor discipline has also been refused to the family.

In Northern Ireland, the police ombudsman, when it has completed its report, will call the family in, go through the report and give the family the report to take home as it might help to answer some of their questions. Why is such a practice not being followed here? How can there be proper confidence in a body that will not give families the very report which it has prepared and which is in the public interest? Taxpayers' money was spent on seven years' investigation of the complaints relating to the horrific failings in this case. It is imperative that these reports are given to the O'Farrell family. There is absolutely nothing in the legislation that states the reports should not be given to the family. I call on Fiosrú to immediately hand over these reports to the family of Shane O'Farrell and not make them wait any longer. Shane should be with his family today. Nothing can change that, but what can be changed is that the answers that the family have been campaigning for all these years can now be provided.

Deputy Gary Gannon

To Lucia, Jim and the O'Farrell family sitting with us in the Gallery today, I offer my condolences and express my admiration of their dignity in grief, which has been

extraordinary. Their courage is incalculable. They should never have had to fight this hard or for this long just to be heard. They should never have had to carry that burden of proof. Their campaign has been an act of love and courage. This House and this State owes them infinitely more than words. Their son, Shane O'Farrell, was 23 years old. He was a son, a brother, a law graduate and a cyclist and had a life full of promise that was ended in seconds. His life was taken by a man who should never have been on that road, who should never have been at liberty and who was protected by a system that repeatedly looked the other way. Today's apology is long overdue, but if it is to mean anything, it must force us to confront a deeper truth, that Shane's death was not a one-off failure, but the result of a justice system that is broken at both ends. The man responsible for Shane's death had more than 40 convictions North and South of our Border. He was on bail for multiple offences and had breached suspended sentences. Judges were not giving the correct information. The Garda did not act at the exact moment when it mattered, and court orders were left unenforced. A young man with every reason to believe in the law and who dedicated his short academic life to the law was killed by the State's failure to uphold that law. What is worse, after losing their son, the O'Farrell family were forced to become investigators, legal researchers and campaigners simply for the basic truth, for accountability and for the dignity of their son's life to be recognised by the very institutions that failed him. While we rightly offer an apology today, let us all be clear that an apology is not justice, accountability or reform. An apology without a commitment to atone is no apology at all.

I welcome the proposed changes to the law outlined by the Minister today, but gaps still remain. When the system does incarcerate people, it does so in overcrowded, under-resourced institutions. People go in with anger in their hearts from addiction and trauma and they come out more isolated, more hardened and more entrenched. Our recidivism rates prove that and the dangers to the communities do not reduce. This is a system that is broken at both ends. We have a system that does not detain those who are very clearly dangerous and offers no real rehabilitation to those who are sent back into the communities. It is a system where families such as the O'Farrells wait 13 years for truth while trying to piece together how so many warnings were ignored, while others, victims of assault, robbery and intimidation see no follow-up, no Garda presence or resolution. We cannot keep pretending that justice is working when everyone, including victims, families, front-line gardaí and even those inside the system, knows it is not. Justice should protect people. It should correct wrongs and restore trust. Right now, it is failing on all of those fronts.

If today's apology is to carry weight, let it be a turning point, not just for Shane's family, who has had to fight so hard, but for the kind of justice we deliver in this State, who we hold accountable, who we should clearly see as a threat, who we help recover and who we keep letting fall through the cracks. Shane deserved better. His family deserved infinitely more, and I hope they find some remote form of solace in today's State apology and in the facts outlined by the Minister.

For the rest of us who need to believe that the system is meant to serve, this must be a reckoning point. It must be the start of a system of justice worthy of that name. We owe it to Shane, who committed his short academic life to the law, to ensure we improve the system in order that this cannot happen again. We owe it to Shane's family to ensure that never again should a family who have so tragically lost a child and a brother have to align their grief with the tenacity to go in search of the truth and fight so hard just to receive the truth of your loss.

The very antithesis of justice is the retraumatising of victims and their families. All of us are sorry you have had to fight this hard. I hope today brings some closure. If it does not, I hope the family knows there will be voices across this Chamber ready to carry their call, to answer that call and to demand more if they so wish it. I was taken by the words of the Leas-Cheann Comhairle that all of us need to find our courage when it matters and to listen, to hear better and to respond better. I am reminded of the words of previous apologies in this Chamber and the campaigners who fought for them. I refer, for example, to Christine Buckley, who use the simple phrase: "I believe you before you open your mouth". That should be the basis of our institutions, and never again should the grief of families have to be prolonged in search of truth. I am sorry. We are all sorry, and we are here should you need us again.

Deputy Cormac Devlin

I begin by welcoming the apology offered by the Minister for Justice, Deputy Jim O'Callaghan, to the family of Shane O'Farrell. It is a necessary and appropriate step, an acknowledgement of the profound and preventable failures that led to Shane's death and of the deep hurt and sense of injustice his family have carried for over a decade. I echo the apology and send my heartfelt sympathies to the O'Farrell family on the tragic and avoidable loss of their beloved son and brother, Shane.

What happened to Shane should never have happened. Zigimantas Gridziuska, the man responsible for the hit-and-run incident in which Shane was killed in August 2011, had no right to be at liberty. He had more than 40 previous convictions. He was on bail for multiple offences, had breached his bail conditions and was the subject of suspended sentences that should have been activated, as outlined by the Minister earlier. Yet, inexplicably and unforgivably, no action was taken to bring him before the courts. The system failed at every turn. An hour before Shane's death, gardaí stopped the car in which Mr. Gridziuska was travelling. The car was uninsured and lacked a valid NCT. The driver was replaced by Gridziuska himself and the car was allowed to continue on its way. That encounter could and should have led to his arrest. It could have prevented the collision that claimed Shane's life. Instead, the opportunity was missed. The system once again looked away. A young man full of promise was lost.

The grief and heartbreak endured by the O'Farrell family have been compounded by the State's slow, inadequate and often defensive responses. In the face of extraordinary personal loss, the family have shown immense courage and dignity. Their campaign for

truth, for justice and for reform has been tireless. They have never sought vengeance. What they have sought is accountability, and through their persistence, they have forced the State to confront uncomfortable truths. I pay tribute to colleagues from across the House who stuck with the family and their campaign for justice over the years, particularly the Leas-Cheann Comhairle, Deputy John McGuinness, who consistently raised the issue during the term of the previous Dáil.

As recited earlier, there have been multiple investigations and inquiries. Each process shed further light on the gaps and dysfunctions within our criminal justice system. While some of these inquiries concluded that no single failure directly caused Shane's death, what is absolutely clear is this: had the system functioned properly, Gridziuska would not have been on the road that day and Shane would still be alive. The circumstances of this case raise serious concerns around the bail laws, suspended sentences and interagency communication. These are areas where the system's failings were starkly exposed. I welcome confirmation by the Minister that work has begun on implementing reforms. That must continue at pace. We need to acknowledge what the O'Farrell family have said, namely that no report, however detailed, can heal the damage done when the State fails in its most basic duty to protect the innocent from known danger.

Alas, it is often said that justice must not only be done, but must be seen to be done. In this case, for too long, justice was obscured. The O'Farrell family were left to navigate a maze of bureaucracy, evasion and delay. That must never be repeated. We owe it to

them and to Shane's memory to ensure no other family find themselves in such a position. Let me be clear: this is not about one tragic case alone; it is about the integrity of our justice system. It is about whether the safeguards we believe are in place are actually functioning and about how the State responds when things go wrong. The measures introduced in recent years, including reforms to bail and sentencing law, are welcome, but reform must be ongoing. It must be grounded in compassion, accountability and a willingness to listen. That includes listening to the families of victims. It includes respecting their experience even, and especially, when it challenges official narratives.

The O'Farrells have done this State a service by refusing to remain silent. Their advocacy has already led to change. It will continue to shape how we deliver justice in this country. As we reflect today on Shane's life and on all that has been lost, let us resolve to build a justice system that is not only more efficient, but one that is more humane, where errors are admitted, failings are corrected and the lives of victims and their families are treated with dignity and respect. To Lucia, Jim and the entire O'Farrell family, we are truly sorry for your loss. We are sorry for the failures you have endured and we are grateful for your strength in continuing to seek the justice Shane deserves.

Deputy Donnchadh Ó Laoghaire

I cannot imagine how difficult it is for the O'Farrell family to listen to so much of the detail being repeated, but I think it is a significant step that an apology has been

achieved. I commend the O'Farrell family for their campaigning. I had many meetings with Lucia and the family. In my nine years in this place, she is one of the most impressive people I have ever met. I refer to her level of detail and just seeing things that passed other people by. As the Minister stated, there is no question but that we would not be in this position other than from Lucia's campaigning. I know she was supported by the whole family and by people outside the family, but there is no question about the fact that we would not be at this stage without her. We cannot think of what happened to Shane O'Farrell as just a tragedy - and it was a tragedy. Undoubtedly, there were failings. There were real and profound failings concerning in what has happened. It is impossible to escape the conclusion that if things had been done as they should have done, Shane O'Farrell might still be alive. The things that might have been done include Gridziuska having been brought back to Judge O'Hagan and the appeal having been recorded and reported in the way that it should have been. It is difficult to escape this conclusion.

I note several things from the Minister's statement. I welcome the apology, but it was stated that, "We could spend many years inquiring into these facts - facts that are already known". The Dáil voted for a public inquiry in 2018. The Seanad voted for an inquiry in 2019. That is several years in which much of that work could have been done. I note some of what was said in terms of something new I have not seen before. I refer to whether the authority exists in terms of bail and whether someone can be remanded. I do not at this point have the ability to evaluate whether that is correct. There is no

doubt, however, that the system as a whole profoundly failed, and it is hard not to see a pattern. The Minister has recognised this in the past.

I hope that this will not be the end of it. I welcome the scholarship and the changes in legislation, but the truth still needs to be established. I ask the Minister to consider this further. I again commend the O'Farrell family and extend my thoughts to them for everything they have been through.

Deputy Paul Murphy

The main thing I want to do is to pay tribute, as has been done by many others, to Lucia, Jim and Shane's sisters. For 14 years, you should have been able to grieve and live your lives. Instead, you had to fight for justice.

We should remember that the family was not fighting for justice against nobody. The state was on the other side and was blocking the search for justice. The State apology is a vindication of what the family has been fighting for for 14 years.

It has to be over ten years ago that I met Lucia because I was an MEP at the time. I remember her specifically making the point about Shane being a UCD law graduate, as I was. What struck me was the burning indignation and anger at the injustice, how Shane had been killed and should not have been killed. That was combined with what others have referred to, namely the forensic detail of how this happened and how it

simply should not have happened at many points down the line because Gridziuska was free and in a position to be driving that car.

I sincerely welcome the apology. Effectively, it is a repudiation of the results of the scoping inquiry. That inquiry found that the State had nothing to apologise for, had nothing to inquire into and that there was no need for a public inquiry. The outcome of the extremely lengthy scoping document, which went far beyond what we normally think of as scoping, was to say that the State had nothing to apologise for. It is effectively a repudiation of the role GSOC played and of the latter's reports. That should be recognised.

I really welcome the apology, but I also emphasise that an apology is not a replacement for the truth. There is a need to go further. The Minister was at pains to emphasise that the facts are known. He said we could spend many years inquiring into these facts that are already known. He said that what he is doing "will not need to establish any facts since the relevant facts are already known." I just worry, and I take my lead fully from the family on this. An important fact is sitting unanswered and not mentioned by the Minister. In 2018, the Minister stated in the House:

Tragedies happen in families throughout this country but the reason the tragedy of Shane O'Farrell merits public discussion and debate in this House and public

investigation is because it reveals a very significant inadequacy and inefficiency at the heart of the criminal justice system.

What is still not known and what is not stated is why. There has been failure upon failure of the criminal justice system. Was that simply inefficiencies in the system or was it something more? Was Gridziuska protected because he was an informant for the Garda? That is a significant question that remains unanswered and that has wider implications. I again my lead from the family, but I still feel there are Garda papers to be published in this regard. We could do with having clarity on that matter.

We should not have to be here dealing with apologies. We should not need to have future apologies. This month marks the 20th anniversary of Terence Wheelock's death. His family will be on the streets this Saturday still fighting for justice and still demanding a public inquiry. They and others take inspiration from the O'Farrell family.

Deputy Catherine Connolly

I welcome the family. I wish we did not have to welcome them here. I welcome the apology and I welcome the changes that are proposed for a review of the bail laws, particularly that relating to a four-month time limit. I welcome that there will be a change in legislation regarding a direction from a judge to allow lesser charges to be put. I welcome that there has already been a change to legislation to make leaving the scene of the accident an indictable offence. I also welcome the scholarship. While I

welcome all of that, I have the most serious concerns that questions have not been answered and therefore we cannot learn. I do not think the O'Farrell family can bear the burden any more. Like other Members, I will be entirely guided by them.

It is ironic that a life sentence was imposed on the O'Farrell family and not on the person who committed all the offences. On 2 August, it will be 14 years since Shane's death. The family have persisted with each one of us. I have been elected to the House on three occasions. After each election, they have come with dignity and respect and sat with us to force us to do something. They have succeeded, because various Opposition groups have put motions before the Dáil. We stood together calling for an inquiry. While I very much welcome the apology today and the fact that the Minister has gone through it and said that we know the facts and do not need an inquiry to tell us about the facts, who is going to tell us what led to those facts? Where does that question go? How did this happen? How were matters that clearly indicated the man involved should be brought back before the judge in the case not brought to his attention? Who will answer these questions? How can the system, not just the Garda but the courts and everybody else as well, learn? Other families have also been affected by the failures that have been outlined here.

While I welcome the apology and hope it gives some solace to the family, who have worked for 14 solid years to get to this point, parallel with that we must ask how we learn from this. How do we prevent this happening again in the future? At every opportunity, I mention this. My introduction to the Dáil was the O'Higgins report on

Sergeant McCabe. I went on from there to read the Charleton report, the report of the Morris tribunal and anything I could lay in my hands on. Each time there were significant bad behaviour and significant gaps that we really have not come to terms with. We thought with the Morris tribunal that criminality was limited geographically.

The failure to bring matters before the courts in this case also happened in other cases, which led to very serious consequences. The big gap I see is the failure to account for how we have this litany of facts in relation a man who went back to his own country. I stand here humbly and say that I really do not know where to go next. It has taken 14 years of this family giving up their lives in memory of their son and their brother to get this seat of democracy to say that what happened was absolutely wrong. These are the facts. It should not have happened, but we will not have an inquiry because we know the facts. It seems to be a circular argument really.

I have reluctance in relation to inquiries and how they go on forever. I shared those concerns recently in discussing the Farrelly inquiry and so on. We need to look at what led to those facts. What has the Garda learned? What has Garda management learned? Why are the reports not being published? I have no doubt the Minister is sincere, but he is apologising on behalf of the State, on behalf of the Government and on behalf of institutions that utterly failed. If this apology is sincere, then what must go along with it is the publication of the reports at the very least.

The scoping exercise was an absolute disgrace. It referred to the victim being at fault because he did not have a light and so on. That was just a burden too much to bear. I thank the O'Farrell family very much for being here today. They have helped us.

Deputy John Lahart

Words are completely inadequate, but I want to share some thoughts in spite of that. I warmly welcome the steps taken by my colleague the Minister for Justice, Jim O'Callaghan, to try to bring some - I will not say closure - sense and reason to the awful events that happened in Carrickmacross a decade and a half ago.

I am very happy the Leas-Cheann Comhairle is in the Chair to oversee the proceedings.

When you get a little older in life, certainly in my case anyway, you become acutely aware as each decade passes of your mortality. It might seem odd to raise my mortality in the context of this debate - I just mean in relation to anybody's mortality. Why do I raise it? You become so pronouncedly aware of the value of life, the moment of life, the uniqueness and individuality of life and the passing phase of life and the unique, amazing opportunity we all have as human beings to have been born and to have experienced life. The one thing we learn is that some people are so careless about other people's lives. That is a point that really impacts me as I get older and as one begins to appreciate the value, importance and pricelessness of time. It is those thoughts that are

to the front of my mind when I think of the O'Farrell family who are sitting behind me this evening.

I took an interest in this as a newish Deputy when we were in opposition between 2016 and 2020 for one reason, and one reason only, which is that the Leas-Cheann Comhairle, Deputy John McGuinness, kept raising it at Fianna Fáil parliamentary party meetings. I did not know who Shane O'Farrell was. I did not know who Lucia O'Farrell was or who the O'Farrell family were, but John McGuinness kept raising it. He was relentless as an advocate and I must say, my admiration for him, which had been considerable at that time, just grew and evolved because he just would not let it go.

One Saturday evening, by arrangement with Lucia and her husband, I drove up and visited them. Her husband asked the most important question at the end of the night: what can you do? Why have you come here? I did not have an answer to that, except in my own head I was hoping that the gesture was enough to show that this was not going away and that we would continue to do our best to highlight this until we got to some semblance of truth in the matter. As I would expect from him, the Minister has very eloquently outlined each failure in terms of some of the organs of the State, so there is no point in me going back over that. Of course, the people who have expressed these facts most articulately and cogently are the O'Farrell family themselves. My admiration for them is boundless. They have kept the memory and the issue around Shane's needless death alive.

There are just two bits I would like to paraphrase from the Minister's speech. He said he agrees with the O'Farrell's that had the convictions of 16 February, 23 February, 8 March, 9 May, 11 May, 8 June, 15 July and 25 July been brought to the attention of Judge O'Hagan, the outcome of this could have been so much more different. He went on to say that his report is not a report that needs to establish facts since those facts are very readily apparent from the charges laid against Gridziuska in the year leading up to the death of Shane O'Farrell. In those lines is also contained the need for the apology to the O'Farrell family because in spite of all those facts, justice was not done.

There is a poem written by Linda Ellis called "The Dash". Some people may be familiar with it. It essentially relates to a summary of people's lives. The dash is contained between the year they were born and the year that they passed away. I will go back to my original point about how careless some people are with the lives of others. That carelessness, and the carelessness of the State through various organs of State, ensured that the dash in the case of Shane O'Farrell's life denotes a very short period of time. I will quote from the poem:

For that dash represents all the time

That they spent ... [alive] on earth.

And now only those who loved them

Know what that ... [little] line is worth.

I hope in a tiny way that the moves by my colleague, the Minister for Justice, Deputy Jim O'Callaghan, today in terms of the speech he delivered, the apology he delivered and, most particularly, the commemorative piece in terms of the scholarship that is being initiated in memory of Shane O'Farrell goes some way to ensuring that the dash in his biography continues for time to come.

Deputy Rose Conway-Walsh

As we have done for several years now, I welcome Lucia, Jim, Gemma, Pia, Aimee, Hannah and the extended O'Farrell family to the Gallery today. They are absolutely the family that would not go away, and I thank them for that, although I wish they did not have to make yet another trip to the House to try to secure justice for their son and brother Shane.

It was important that the truth of what happened that led to the death of Shane O'Farrell was outlined here today. Reading that into the record is important, but what is important is the why. I wonder as I sit here whether there are people who have spoken here today who know the why? The O'Farrell family deserve that.

Today's apology by the Government, although welcome, took far too long and has been an excruciating journey for Lucia and the O'Farrell family. The family have been forced to

become campaigners for justice, meeting TDs, Ministers and successive taoisigh for years. If it were not for the tenacity, endurance and love of Lucia O'Farrell for almost 14 years, I can say with absolute certainty that this apology would not be happening today. The campaign for justice for Shane has uncovered appalling ineptitude and inexplicable actions in decisions made by An Garda Síochána, the Director of Public Prosecutions, DPP, the justice system and all of the agencies of the State that have been involved in this case. This family have been very badly let down by the systems that are supposed to protect citizens, and Shane O'Farrell paid with his life. He was a wonderful young man with a bright future ahead of him. The truth is straightforward. This should never have happened.

There are examples that were read out today of the complete incompetence that occurred again and again in this case. It is beyond comprehension that a beautiful young man, an upstanding member of the community on the cusp of making his way in the world, was killed by a criminal who fled the scene and who received a suspended sentence and a plane ticket home. It beggars belief that Shane O'Farrell was the victim not only of the man who killed him, but of the State that failed to protect him and then cruelly denied his family justice over and over again. I hope that for the O'Farrell family, today's apology brings some comfort. I know it does for other families. It brings some hope to those who right now search for the truth, those who are denied an inquest and those who are denied the truth. I refer to families like that of Joe Deacy from County Mayo who have waited almost seven years, which the Minister knows. I want Lucia O'Farrell and her family to know that whatever their decision is on how to proceed from

this point, they will have my full backing and the continued support of the Sinn Féin Party. May Shane O'Farrell rest in peace. May Shane O'Farrell always be remembered.

Deputy Michael Collins

I want to begin by welcoming the statement of apology delivered by the Minister for Justice in the Dáil. It is right and proper that the State formally acknowledge the multiple failings that contributed to the tragic and entirely avoidable death of Shane O'Farrell. This apology is a long overdue recognition of the pain, frustration and injustice suffered by Shane's family over the past 14 years. It represents a significant step in acknowledging the truth, namely, that the system failed Shane and failed his family.

I commend the O'Farrell family for their relentless pursuit of justice. Their dignity, resilience and commitment in the face of stonewalling and bureaucratic delay have been extraordinary. The apology is meaningful, but it must not be seen as the conclusion of this matter. Rather, it must be the beginning of real accountability and systemic reform. An apology without action is hollow. Words of regret must be matched with a sincere commitment to the uncovering of the full truth. The core question remains unanswered. How was a man with over 40 convictions, multiple breaches of bail and an outstanding warrant still free to drive on Irish roads?

Shane O'Farrell did not die in a vacuum. His death occurred within a context of chronic failures across our justice system. Policing, prosecutions, bail, monitoring and judicial

oversight are not merely administrative errors; they are systemic issues with life or death consequences.

The O'Farrell family has been clear that only a full public inquiry can uncover the complete chain of failures that led to Shane's death. I fully support the call for such an inquiry, as does Independent Ireland. I call on all Members of the Oireachtas to do the same. Previous investigations, including the GSOC review, the independent review mechanism and the Haughton scoping exercise, have fallen short. These processes were narrow in scope, opaque in their methods and failed to compel or interrogate key witnesses under oath. They left the most important questions unanswered and did little to restore public confidence in our institutions.

The public has a right to know how this happened and, more importantly, how it can be prevented from happening in the future. A full public inquiry, conducted transparently and independently and with the power to compel testimony, is the only credible path forward. If our justice system is to function with integrity, it must be open to scrutiny. Shielding these failures from sunlight does a disservice not only to Shane's family, but to every family in this country. This is not about one individual or one bad decision; it is about a pattern of dysfunction that poses a risk to every person in Ireland. A public inquiry would not only serve justice for the O'Farrell family, but identify the systemic weaknesses that need urgent reform. It would provide a foundation for better interagency communication, proper bail enforcement, meaningful oversight and a justice system that prioritises public safety. Only through such an inquiry can we ensure

that what happened Shane's family does not happen to another family. The Oireachtas has already voted in favour of a public inquiry. That democratic mandate must be honoured.

The Minister's apology must not be used as a political cover-up to avoid the further action that is clearly required. Upholding justice requires not just expressions of regret, but concrete steps to identify failings and implement change. We owe it to Shane, his family and every citizen of this State who expects accountability from their institutions. Shane O'Farrell's death was a tragedy but another tragedy would be letting it pass without learning from it. The apology is a start, but it is not the end.

Again, I would like to pass my condolences to Shane's family.

Deputy Peadar Tóibín

I want to welcome the O'Farrell family and thank them. I want to mention two TDs who have done a great deal of work on this over the years for the family, namely, Deputies John McGuinness and Matt Carthy. That deserves recognition.

To bury a child is in excruciating pain, one that no parent should ever have to experience. That should have been the limit to the pain the family experienced, but that was not the case. The State then heaped pain in a continuous battle against the family over the next 14 years. The O'Farrell family took on the State in what was probably the

most persistent campaign I have ever seen, which has to have had a significant emotional and physical cost to the family, given all the work they have done.

The door was slammed shut on the family by so many aspects of the State, including the Garda, the courts, the Probation Service, the DPP and the Department of Justice. One of the most ignorant ways in which the State slammed the door on the family has to have been the result of the scoping exercise, which blamed the death on Shane himself. That was a particularly dark aspect of the State's handling of this. I challenge incompetency in this Chamber regularly, but even I cannot believe the State could have been so incompetent as to line up so many aspects of damage in this situation.

The only other reason Zigimantas Gridziuska could have been allowed to walk with impunity in and out of court for so long in this country has to have been because he was an informer. If that is the case, questions remain unanswered and there would be wide-ranging ramifications. The fact that he was a foreign national who came into this country, had 12 convictions in this State and committed two offences in the North of Ireland before he killed Shane and then committed crimes in Belfast after he killed Shane is incredible. The fact he came to this country with 12 convictions already for aggravated burglary, handling stolen property, road traffic offences, a defective vehicle, malicious damage and threat is also incredible. The fact it took the O'Farrell family to ask the Garda after Shane was killed to check with Interpol whether Gridziuska had previous criminal convictions is an outstanding and damaging dereliction of duty in the

State. It is an incredible situation. For two years, he had the impunity of the State. The questions around those two years have to be asked and answered.

Can it happen again? That is a big issue. I believe it can happen again. I submitted a parliamentary question to the previous Minister for Justice. We have the right to remove EU citizens of this country if they have criminal records. That number has fallen significantly over the past number of years. The only guarantee that this will not happen again is if we have truth and accountability, and I do not believe we are there yet.

Deputy Paul Nicholas Gogarty

On this occasion, I would like to offer my personal condolences to the family and welcome the apology given on the record to the late Shane O'Farrell. I used to say that the period between my previous tenure as a TD in 2011 and being re-elected last November was a very long time. Compared to what Shane's family has had to go through even to get this acknowledgement, I feel for the family on a personal level. As a family, they possibly have not got closure. They certainly have not got justice from the apology, but I hope this is the start of the process rather than the end of it.

We have had the two GSOC reports and the farcical excuse of an inquiry into whether to hold an inquiry. I welcome what the Minister said regarding section 53(4) of the Road Traffic Act and the 2014 legislation that was introduced, but the key factor is that there are no consequences for people who already have criminal records to stop them from

reoffending, for example, the threat of further sentencing or, more importantly, other measures. We have a very small amount of time and I hope will go into the minutiae of this at a later stage.

Why should someone who has so many convictions, including for road traffic offences, be allowed to drive? Why do not we have more cases where people have curfews to prevent them from going out? Why do we not use, as Deputy Tóibín said, the measures in place to expel people with multiple criminal convictions from the country? We have enough of our own who do not face consequences. I hope that, in Shane's memory and for others, we will try to ensure that this type of scenario cannot happen again.

I also support an inquiry for the O'Farrell family. It is long overdue. This is the start. I hope the Minister will say in his final statement that this is the start of the process and an inquiry will be held.

Deputy James Geoghegan

I want to acknowledge Jim, Lucia, Aimee, Pia, Hannah and Gemma who are in the Distinguished Visitors Gallery. I acknowledge the apology that has been issued on behalf of the State by the Taoiseach, the Tánaiste and the Minister for Justice.

I first spoke with Lucia almost 12 years ago on the telephone. We have heard many people speak of the engagement Lucia has had in this building. I was then somebody

who had recently qualified as a barrister, not having practised and with a limited knowledge of the criminal justice system in truth. I spoke to a woman who was deep in grief for her son. In every conversation I had with her, she identified to me the number of challenges she witnessed throughout the process of dealing with the grief of the death of her son and how the criminal justice system pursued his assailant. In each of those conversations, Lucia brought this person, Shane, whom I had never met, to life. I think I spoke to her four, five or six times on the phone. Subsequently, I was sent a series of documentation, which I reviewed like many others in the House did.

Only a couple of weeks ago, some 12 years later and now a Member of Dáil Éireann, I met Lucia again. What struck me when I met Lucia was how, for her, time was still so frozen. The grief she expressed to me on the telephone 12 years ago was still ever present, and yet the adoration and love for her son was precisely the same. The memories of him were the same. He was as much alive in her memories then as he was 12 years ago when she spoke to me on the phone. One of the ways in which we can pay tribute to our media in some respects is that, very often when incidents of crime occur, we see lots of pictures of the perpetrators of those crimes, but in Shane's case, we have seen his beautiful smiling face throughout this period in which justice has been sought for him.

It is impossible for me to even consider, contemplate or even remotely understand the loss that every member of the O'Farrell family has felt over the years since Shane's passing. I now have my own kids; I did not then. I now have my own family. I cannot

possibly imagine how I would feel to lose a child and then, having lost that child, not receive justice for the manner in which he died. If there is any case that demonstrates to the Irish public how cold the State can sometimes be to victims, it is the case of Shane O'Farrell. It is simply an extraordinary stain on the State that, once again, a family has had to fight for years after years after years to receive justice. He did not receive justice in the criminal justice system. As the Minister for Justice has acknowledged today, he shares the opinion of the O'Farrell family that had the criminal justice system appropriately dealt with the person who killed him, Shane might be alive here today. That must be an appalling pill to swallow, and something that absolutely needed to be acknowledged. I praise the Minister for doing so.

Not only is it the case that the justice system failed the O'Farrell family in advance of losing their son, but the system has failed the family in every month and year since. When I listened to Deputy John McGuinness speak earlier, whom I know has been to the forefront of raising these issues in the Dáil, it made me as a new Member of the Dáil ponder just how important the privilege of the Dáil is and how we use Dáil privilege. In truth, if Lucia had not come into the Dáil or Seanad as many times as she did, the O'Farrells may have been a family who never got justice. They may have been given the runaround in the courts system. They may have never got this apology. That is the reality. It is the sad reality that there are almost certainly families throughout the country who could not endure what the O'Farrell family have put themselves through to arrive at a day like today but, my God, are they a credit to Shane. It is unquantifiable to recognise, see and feel a family who have worked so hard to keep Shane's memory alive. It is an

appropriate and proportionate announcement that the Minister has made in respect of memorialising Shane as a law graduate in UCD. In any conversation I had with Lucia, she reminded me of how far he could have gone. I think of this as someone who has gone through that career and worked as a barrister for ten years, and what contribution Shane could have made to the legal system. He is making a contribution to the legal system by virtue of the scholarship the Minister has announced today. Forevermore, if you are a student of law in UCD, you will know this story. You will hear this story.

I hope this story will contribute not just to the statutory changes the Minister has outlined today, which I welcome, but to a further rethink of how we treat victims in the State. It is the case that laws have changed in the State since Lucia and the O'Farrell family set out on their quest for justice. We have a victims of crime Act now, which essentially transposes EU victims of crime legislation into Irish legislation. It provides victims with greater involvement in the criminal justice process. However, it is still the case that victims feel they do not get the justice they deserve and they are forced to bring their case to the courts. This is something we need to consider at the outset, in the same way as we are doing in many other areas of the State, particularly when it comes to clinical negligence.

Where there are people who are wronged by the State in the criminal justice system and where there are victims who are wronged by the criminal justice system, and they are forced to use the only means by which they think they can vindicate the rights of the victim through bringing their action to court, it is incumbent on the State to review

and consider how we can respond to that case in the most expeditious, fair and proportionate way. This is so that we do not do what the State did to the O'Farrell family, retraumatising them for more than a decade by not providing the type of justice that Shane richly deserved.

I have nothing further to say other than to wish every member of the O'Farrell family the absolute best. Well done to all of you for bringing Shane's memory alive today. I hope this apology does go some way to giving them some measure of justice, which they all so much deserve.

Deputy Pádraig Mac Lochlainn

I acknowledge the O'Farrell family, who are in our Distinguished Visitors Gallery. I acknowledge Lucia and Jim, Shane's parents, and Gemma, Pia, Aimee and Hannah, his beloved sisters. I first met Lucia and Jim many years ago here in Leinster House. I was serving as the Sinn Féin justice spokesperson at the time. I will never forget that meeting. Lucia had a framed picture of Shane. She took me through what had happened. At that point, it had happened in recent times. There was the grief of this family, who are a role model Irish family. They are hard-working and decent and they have done everything that you are supposed to do. I could see the profound injustice that was burning in Lucia and Jim. They have continued to inspire all of us who have

met them over the years. My wife, Sinéad, worked with Mary Lou McDonald and, because of that, she worked with Lucia. As a mother, she really identified with the pain.

Sinéad, like many Irish people, sends her deep love to Shane's family for everything they endured. They were failed twice. They lost their beloved son and brother due to an appalling litany of failure in our criminal justice system. It was wilful neglect and absolutely appalling beyond belief. They have to get up every day without him in their lives but then they were failed again because every door they knocked on was slammed. The answer to every question they asked was held back, delayed or procrastinated upon.

I thank the Minister for his statement today. It was heartfelt and comprehensive, as it needed to be, but any citizen who looks at the scale of the failure will see it is beyond belief, in respect of our bail system. The Minister is aware of the suspicion that this criminal, this evil man was a Garda informer and was protected by the very people who are supposed to protect us. This family was grievously failed.

I am pleased there will be a monument to Shane's memory in the scholarship to UCD and I welcome that there will be legislative change, but the Irish people owe a debt of gratitude to the O'Farrell family. They have shone a light on the utter failures of our criminal justice system, how the parts do not talk to one another and how it sometimes protects evil people and fails us all. The greatest memorial to their beloved son and brother will be that laws will change and people will be inspired to fight the system

against all odds. No matter how long it takes, they will get justice because justice and righteousness are on their side.

Deputy Mattie McGrath

Today's apology by the Government is long overdue. While welcome, it cannot undo the deep pain and injustice endured by the O'Farrell family for more than a decade. Shane O'Farrell was a bright, compassionate young man whose life was stolen in the most avoidable of circumstances and the system utterly failed him.

I salute the O'Farrell family who are here today for all the work they have done. From the outset I stood with Lucia and the family. Why would I not? It was my duty. I salute the courage of, and pursuit of truth by, the O'Farrell family. The facts are undeniable. The man who killed Shane should not have been on the roads that day. He had a litany of offences and was in breach of bail, a suspended sentence and probation orders. Yet, the State through its courts, prosecution services and An Garda turned a blind eye. We in this House cannot pretend this was a tragic accident alone. It was a systematic failure compounded by cover-up, delay and the disgraceful treatment of a grieving family.

I consistently called for a public inquiry, not for limited reviews or reports written behind closed doors, but a transparent, independent tribunal with the power to compel

witnesses to get to the heart of the matter. This apology must be followed up with action. Words mean nothing without justice. As I said, I do not have great faith in it.

I welcome the Minister's words and apology and commend him on the scholarship in memory of Shane, but we have too many legacies. I go back to the Fr. Niall Molloy case from the 1980s who was murdered in a house. I can talk about the Strokestown Four, a recent case, or the Omagh and Monaghan bombings and the fact we did not have a public inquiry into the Omagh bombing. I sat in my office and met the garda who drove the bomb to the Border that night, but nothing was done about it. The Government parties will not even co-operate with the British inquiry into the Omagh bombing in Northern Ireland. They are laggards in that respect. Many other families are left there, so I do not know what hope Lucia and her family will take away from this debate.

It is grand to debate it. The Leas-Cheann Comhairle, knows, as he, like me, has been raising it for more than a decade, that it is the system that covers up like this. Lucia O'Farrell is still fighting to get statements and information and she cannot even find out whether the man who killed her son is in this jurisdiction now or where he is. She will not be told. She is not being treated respectfully by An Garda Síochána, which is shameful. Judge O'Hagan had all these strong words that he would send him to jail. Was there any follow-up on that? Did he not have any powers to ask why he was not told? It is a sad vista. I could call it GUBU but I will not. It is systematic in our State.

Cover-up and circling of the wagons is going on and will continue to go on, and it is shameful.

Deputy Carol Nolan

A mother's unwavering love for her son, a family's courageous determination to overcome the obstacles, denials, bureaucratic indifference and outright hostility to own up to the wrong perpetrated on Shane has brought us to this day. The last email I received from Shane's mother, Lucia, was in July after I co-signed a Private Members' motion calling for action and justice for Shane. Lucia has always been a model of the fiercely protective love that Irish mothers are known for. She is a model to us all of the value of persistence and the pursuit of justice. Her beloved son, Shane, never left her heart before or after the moment of his tragic and unlawful death brought about by a reckless cowardly criminal.

We are here today to honour Shane and his family, his sisters and his dad, Jim. Nothing we can do can return Shane to his family but we can take action to ensure no family ever has to endure this kind of brutalising treatment at the hands of the State, including the courts and other authorities, again. I hope today is a small step in that direction.

Deputy Danny Healy-Rae

I am glad to get the opportunity to welcome Shane's family, Jim and Lucia and their girls. I am sorry they had to go through so much to get recognition for what happened on that fateful night. I commiserate with them on the loss of their son and thank them for doing so much to try to protect his name and to ensure he got the proper recognition he and they deserve.

I thank the Minister for doing the honourable thing this evening and the Government for making the apology that is so deserved. It matters because a terrible wrong was done. A man who should not have been on the road, should not even have been loose, was and the whole thing was covered up for many years. It is only right that we and the Government make the apology they deserve. I hope they can clear their minds.

His family will never forget Shane or cease to miss him, but at least the burden and the fight they were carrying for many years to get recognition is over. They cannot bring him back but at least right is being done as far as the Government and the Minister are concerned. I am grateful that this is happening tonight. I wish the family the best for the future because they deserve it.

Deputy Brendan Smith

Like all other speakers, I welcome Jim and Lucia and their daughters to the Distinguished Visitors' Gallery this evening. I am glad the Minister made the apology on behalf of the State. It was overdue. His words were clear about the terrible injustice that

was done to the O'Farrell family on the tragic loss of life of their son, who was killed by a person who should not have been at large at that time in 2011.

The Minister and other speakers outlined the litany of criminality the particular individual who took Shane's life was involved in. He had been before many courts, North and South. It was a litany of criminality that unfortunately led to the loss of life of a fine young talented individual from an excellent family.

The Minister, the Leas-Cheann Comhairle and other speakers outlined in detail the huge amount of work the O'Farrell family, especially Lucia, did in itemising what happened. In doing that research, she outlined with great clarity the sequence of events and criminality and how the State failed Shane and his family.

Like many Members, I met Lucia and her family on many occasions. I still remember when, in her own house, she outlined in detail the sequence of events and non-appearance of this particular individual in the courts, North and South. It was with absolute clarity and down to the finest detail. I am glad the Minister recognised that in his contribution.

The Leas-Cheann Comhairle will recall himself, the Minister and myself having many conversations over the years regarding the need for the concerns of the O'Farrell family dealt with in the proper way. Unfortunately, it has taken considerable time to get to this position today but the Minister's statement is very welcome. Like other contributors to

this debate, I again record the great grace and dignity in the way in which Lucia, her husband and their daughters went about campaigning, putting the truth before all of us and outlining again, with absolute clarity, the litany of convictions and criminality and how the State had failed Shane.

I take this opportunity to say Lucia and her family have done the State a great service in what has to have been awfully difficult circumstances to campaign for justice for a son who was taken away so wrongly by a criminal who should not have been at large at that time in our country or in any other country.

An Leas-Cheann Comhairle

That concludes statements. I thank the O'Farrell family again for being here with us. I thank all the Members who contributed today and supported the family in the past. I wish them well.

-
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Parliamentary Question & Response

For **Written Answer** on : **04/03/2025**
Question Number(s): **541** Question Reference(s): **9815/25**
Department: **Justice**
Asked by: **Matt Carthy T.D.**

QUESTION

To ask the Minister for Justice the number of crimes that were recorded where the suspected offenders were on bail in each of the last three years, by county and category of offence, in tabular form; and if he will make a statement on the matter.

REPLY

It is important to note that restricting a person's liberty is a serious issue, given the Constitutional presumption that a person is deemed innocent until proven guilty in a court of law. The Bail Act contains robust provisions on both dealing with and pre-empting breaches of bail. Where an individual fails to comply with any bail conditions, the judge may issue a bench warrant, mandating An Garda Síochána to arrest and bring the person before the court.

Furthermore, a Garda member may immediately arrest a person without a warrant where the member has reasonable cause to suspect that that person has breached, or is about to breach, a bail condition and the member considers the arrest necessary to prevent harm to, interference with, or intimidation of a victim or witness.

Finally, it is worth noting that, under section 11 of the Criminal Justice Act 1984 as amended, any sentence of imprisonment for an offence committed while on bail shall run consecutive to any sentence for a previous offence. Furthermore, the fact that the offence was committed while on bail must be treated as an aggravating factor in sentencing and result in a higher sentence than would otherwise have been given.

In relation to the specific data requested by the Deputy, the table below, as provided by An Garda Síochána, outlines the number of crime incidents reported in each year where the incident record indicated at least one of the persons associated with the incident as a "Suspected Offender" were flagged as having been suspected of committing the offence while on bail.

Region	Division	2022*	2023*	2024*
Dublin Region	D.M.R. Eastern	1,322	1,283	1,252
Dublin Region	D.M.R. North Central	7,385	8,229	9,340

Dublin Region	D.M.R. Northern	2,363	2,773	2,764
Dublin Region	D.M.R. South Central	4,138	4,002	4,514
Dublin Region	D.M.R. Southern	1,950	2,169	2,010
Dublin Region	D.M.R. Western	2,938	2,871	2,711
Eastern Region	Kildare	1,012	1,167	1,255
Eastern Region	Laois/Offaly	751	779	814
Eastern Region	Meath/Westmeath	1,117	1,619	1,792
Eastern Region	Waterford/Kilkenny/Carlow	1,639	1,905	1,706
Eastern Region	Wexford/Wicklow	1,096	1,291	1,404
North Western Region	Donegal	442	542	507
North Western Region	Galway	919	1,107	1,068
North Western Region	Louth/Cavan/Monaghan	1,684	1,854	1,951
North Western Region	Mayo/Roscommon/Longford	614	584	576
North Western Region	Sligo/Leitrim	277	352	434
Southern Region	Clare/Tipperary	1,077	1,103	1,037
Southern Region	Cork City	1,690	1,856	2,082
Southern Region	Cork County	667	820	687
Southern Region	Kerry	565	806	694
Southern Region	Limerick	1,748	1,801	1,750
Total		35,394	38,913	40,348

*Figures collated based on PULSE data as of 28 February, 2025 and are operational and may be liable to change.

In terms of offence type, data available for 2024 indicates that the most common offence types committed by offenders on bail were:

- Public Order / Drunkenness (25%)
- Theft from Shop (23%)
- Simple Possession (6%) - relates to a person who is in possession of a controlled drug for their own personal use.
- Criminal Damage (5%)

ENDS



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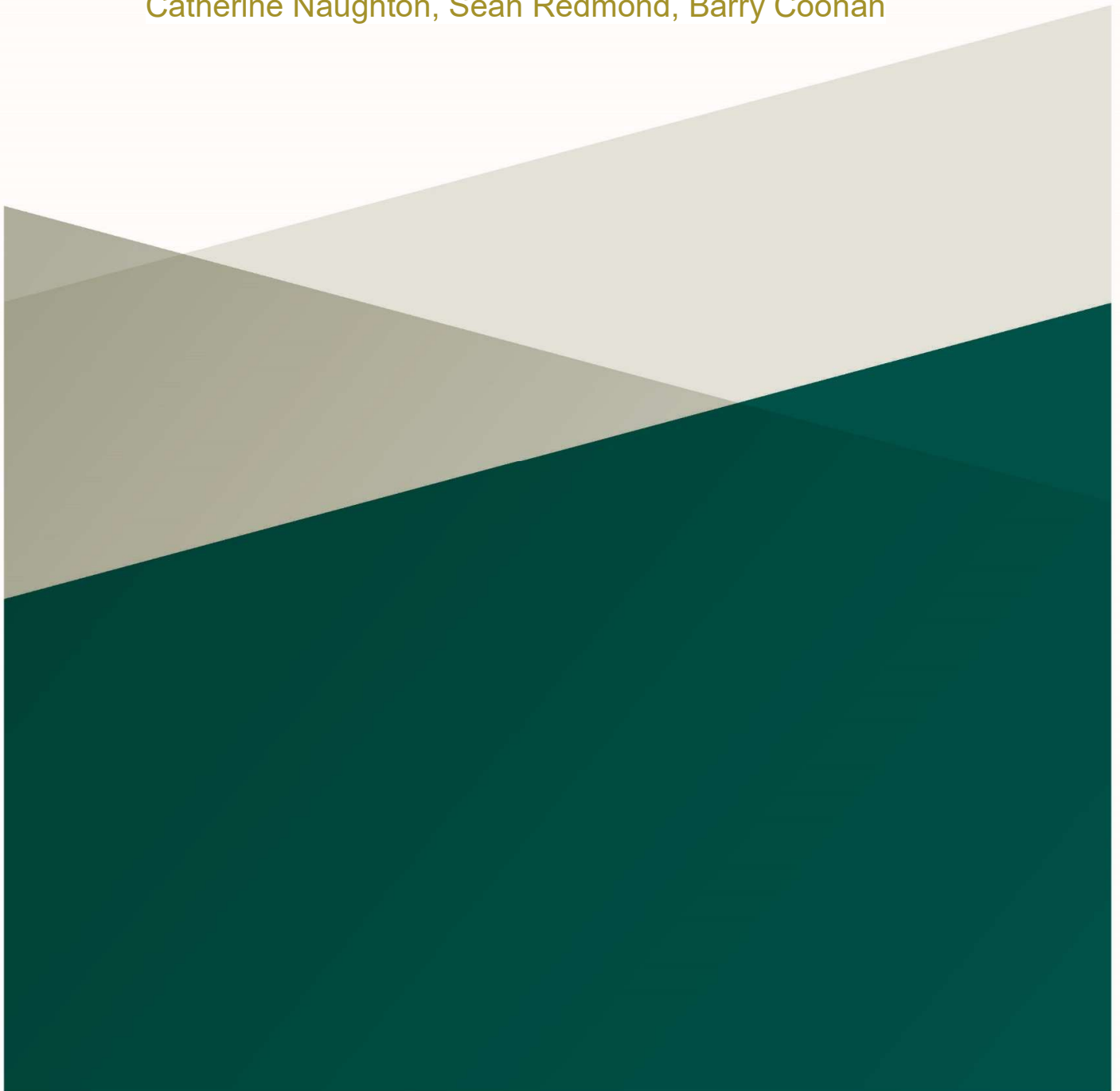
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and Youth Affairs

Evaluation of The Bail Supervision Scheme for Children (Pilot Scheme)

Catherine Naughton, Sean Redmond, Barry Coonan



Evaluation of Bail Supervision Scheme for Children

Catherine Naughton, Sean Redmond, Barry Coonan

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Dublin Ireland, December 2019



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Acknowledgments

The REPPP research team from the School of Law in the University of Limerick, commissioned by the Department of Children and Youth Affairs to complete this evaluation has benefited from the assistance of many groups and individuals.

We sincerely acknowledge

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The Extern team for providing access to redacted data, use of their offices and the BSS team who were extremely generous and open in terms of their professional knowledge of the BSS and experience with the young people and their families. In particular Fiona Murphy the BSS manager who readily facilitated the evaluation and gave clarity on all requests.

The respondents from stakeholders (including An Garda Síochána, Probation, Oberstown, Tulsa, Solas and Candle community training projects and legal representatives), the Bail Supervision Scheme oversight group and the judge who all gave freely of their professional experience and expertise.

In particular, we would like to give a special thanks to the young people and their caregivers not only for their time but also for their openness and honesty as they described their experiences of the BSS.

The report significantly benefited from expert review and feedback by Dr Richard Boyle, Institute of Public Administration

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Acronyms and Abbreviations

BS	Bail Supervision
BSS	Bail Supervision Scheme
Court 55	The Children Court located in Smithfield, Dublin
DCYA	Department of Children and Youth Affairs
Extern	BSS Service Providers
GSAS	Garda Síochána Analysis Service
IYJS	Irish Youth Justice Service
JLO	Juvenile Liaison Officer
MST	Multisystemic Therapy
Oberstown	Oberstown Children Detention Campus
Probation	Young Persons Probation (YPP)
REPPP	Research Evidence into Policy Programmes and Practice

Minister's Foreword

I welcome this Evaluation Report of the Bail Supervision Scheme (BSS) and note the very positive findings.

The Bail Supervision Scheme was established by my Department with the aim of providing the courts with an alternative for children who were at risk of bail denial. The BSS provides intensive intervention for children's caregivers to facilitate sustainable change by complying with bail conditions while remaining in the community. The scheme not only benefits the young person and their families, but the whole community.

I wish to acknowledge the work of the Research Evidence into Policy Programmes and Practice (REPPP) within the School of Law in the University of Limerick for conducting this evaluation. The evaluation was carried out by Catherine Naughton, Sean Redmond and Barry Coonan. My grateful appreciation also goes to all who inputted into the evaluation process, especially the families of the children who had been involved in the scheme and the Therapists who work so professionally with the families of the children.

The BSS, led by my Department, is a multi-award winning project having received recognition both nationally and internationally. In the Correctional Excellence Awards category at the 2019 International Corrections & Prisons Association (ICPA) conference held in Buenos Aires it received the "Community Corrections Award". It also received this years "Excellence Through Collaboration" award at the Civil Service Excellence and Innovation Award for its collaborative work. I wish to acknowledge the agencies, statutory and non-statutory bodies, who made this possible. The bodies involved include the Courts, An Garda Síochána, the Probation Service, Oberstown Children Detention Campus, Tusla and, of course, Extern who are commissioned to operate the scheme on behalf of my Department.

I am very pleased to note that the evaluation shows the scheme has been successful in meeting its aims in the areas of reducing offending by the children involved in the programme; ensuring greater compliance to the bail conditions laid down by the court as well as ensuring that 85% of those that completed BSS attracted a non-custodial option at their sentencing hearing.

I also wish to highlight the importance that re-engagement by the children, in either education or training, proved to be a very positive influence on ensuring good outcomes.

My Department are now looking at progressing plans to expand the scheme and make it available to a larger cohort of children who come before the courts.

Dr Katherine Zappone, T.D.

Minister for Children and Youth Affairs

Executive Summary

The Department of Children and Youth Affairs (DCYA) designed a Bail Supervision Scheme (BSS) to provide the courts with an alternative for young people who were at high risk of bail denial. The BSS incorporates the evidence-based Multisystemic Therapy (MST) model within the normal court processes (for example, supports provided by court services, Young Persons Probation and An Garda Síochána). Young people at high risk of bail denial tend to have complex needs;¹ they may have experienced multiple adversities, be early school leavers and live in challenging environments. Such conditions place additional challenges on the young person's ability to adhere to the strict bail conditions laid down by the court. The MST model provides intensive support for the young person's caregiver² in his or her home. Taking a holistic strengths-based, collaborative, problem-solving approach, the BSS team³ works predominantly with the caregiver to help them to support the young person. By tackling barriers to positive change within the young person's home and community environment and facilitating the caregiver to challenge the young person's problematic behaviour, the BSS aims to facilitate sustainable pro-social change in the young person's behaviour.

Following a tender process in 2016, DCYA commissioned Extern⁴ to provide a pilot BSS for young people attending the Children Court (Court 55) in Smithfield, Dublin. Following an implementation period, DCYA commissioned the School of Law in the University of Limerick to evaluate the BSS. The evaluation combined multiple methodologies including a quasi-experimental design⁵ and incorporated multiple data sources to test a theory of change.⁶ It investigated whether the BSS worked (outcomes) and sought to identify the conditions that facilitated the observed outcomes (process). The report presents these findings.

¹ See Oberstown quarterly factsheet on the characteristics of young people detained: <https://www.oberstown.com/campus-stats/>

² The term 'caregiver' refers to the relevant adult who has agreed to take on the caregiver role and work directly with the BSS team for the duration of the scheme (this term may include, for example; the young person's parent, an extended family member, or foster carer).

³ The Extern worker responsible for implementing the BSS. All members of the BSS team are also MST therapists.

⁴ A social justice charity that works with young people to promote change. Extern was commissioned by DCYA to implement the BSS in September 2016.

⁵ A method that uses a pre-existing group for comparison against a treatment group to estimate the causal impact of an intervention on a target population. It is an alternative to a randomised control trial (experimental) where random assignment of individuals is not feasible.

⁶ Refers to an ex-ante statement proposing a causal chain about how bail supervision will contribute to impact. The evaluation tested this theory of change.

DID THE BAIL SUPERVISION SCHEME WORK?

Systematic analyses of both primary (research interviews)⁷ and secondary (administrative)⁸ data sources provide substantive evidence that the BSS contributed to positive changes in the participating young people's behaviour.

Using a quasi-experimental design in partnership with the An Garda Síochána Analysis Service (GSAS),⁹ the evaluation evidenced a 72 per cent reduction in reoffending (six months post-BSS compared with six months pre-BSS). The control group (young people outside Court 55 for which the presiding Judge refused bail) experienced a reduction in reoffending of 37 per cent over an equivalent timeframe. As such, **on average the young people enrolled on the BSS had a reduction in reoffending almost twice that of the control group.**

Combining findings from analysis of both Extern's case records and interview data provides evidence that the young people who completed BSS with a planned exit¹⁰ showed marked improvement in adherence to bail conditions as the intervention progressed. Indeed, **the majority of young people who completed the intervention demonstrated full adherence to bail conditions on exit.** In addition, of the 13 young people who completed a full course of MST intervention, 11 **attracted a non-custodial disposal at the sentencing hearing,**¹¹ **thereby avoiding detention.**

WHY DID THE BAIL SUPERVISION SCHEME WORK?

The findings identified several factors at multiple levels that contributed to positive outcomes for young people.

- Governance: The evaluation identified the role of the oversight group as central to **the 'buy-in' of statutory agencies** with the service provider Extern, a non-statutory agency. The evaluation also identified the key role of the 'character' of governance, in particular the **open-door policy and informal communication** between the chair of the oversight group and the BSS manager,¹² in timely and effective problem-solving for the scheme.

⁷ Over 40 stakeholders participated including young people, their caregivers, frontline professionals, management and decision makers. See Table 4 for a full breakdown.

⁸ Data from Extern, the Garda Analysis Service, Multisystemic Therapy (MST) Institute and the Irish Youth Justice Service.

⁹ Located in Garda Headquarters in the Phoenix Park, the GSAS is responsible for providing analytical support to the Garda organisation

¹⁰ Where the discharge of a case occurred by mutual agreement of the MST team and caregiver; and when the MST-defined discharge criteria were met (see Appendix 4 for further details).

¹¹ The hearing where the Judge decides on sanctions for the young person's behaviour (the specific incidence(s) that resulted in contact with the justice system and subsequent referral to BSS).

¹² The Extern service manager and trained MST supervisor who is responsible for supervising the BSS team and the implementation of BSS.

- Court Services: **Positive advocates** from within the court setting (in particular, the Judge and court Garda sergeant) and a **proactive BSS team** contributed to **engagement of legal representatives**, which was necessary to ensure continual referrals.
- Interagency collaboration: The BSS team¹³ developed **purposeful working relationships** with other frontline professionals where **informal communication** was considered key. These relationships, together with accumulating **good news stories** from young people who were enrolled in the scheme, ensured **'buy-in'** to the scheme by collaborating agencies. This practical and proximal evidence of effectiveness ensured the **developing confidence in the scheme** on the part of various agencies, which facilitated continuing interagency collaboration and a referral pipeline.
- Implementation: **Robust adherence** to the nested evidence-based programme within the BSS.
- Ongoing **teamwork** between BSS team members and the external MST consultant enabled the team to **share knowledge and skills** to identify and implement the best strategies for the young people and their families.
- Caregivers appreciated that BSS team members came to their **home**, and **were non-judgemental, empathic and flexible**.
- Likewise, frontline professionals (Garda Case Managers,¹⁴ Court Staff, Probation Officers, Tusla Social Workers and legal representatives) **complimented the work undertaken by the BSS team**.

CONCLUSION

The evaluation found that BSS enabled young people at high risk of bail denial to **adhere to bail conditions** and **reduce reoffending** by effectively supporting their caregivers. This ensured that these young people remained in the community instead of detention during the remand¹⁵ process. The findings also suggest that the progress made by the young people while enrolled on BSS meant that they were better placed to **attract a non-custodial option** at their sentencing hearing.

¹³ The Extern workers responsible for implementing the BSS. All members of the BSS team are also MST therapists. Where appropriate they are referred to as therapists.

¹⁴ Members of An Garda Síochána who case-manage young people targeted as at high risk of offending.

¹⁵ During the period between the initial hearing and final discharge of a case, a young person may be either remanded on bail or detained on remand. Young people enrolled on the BSS are remanded on bail to the BSS.

Introduction

This report presents findings based on a comprehensive evaluation. We have structured the report for a policy audience and for readers with an informed interest. First, we present key findings, followed by an overview of the methodology and a detailed findings section. The reader can consult and examine a detailed methodology in the Appendices at their discretion.

BACKGROUND

In October 2016, following a tender process, the Department of Children and Youth Affairs (DCYA) commissioned Extern, the national voluntary organisation working with children and young people, to provide a Bail Supervision Scheme (BSS) for children at high risk of remand to detention in the Dublin area. DCYA intended the BSS to be a direct alternative offering to the court when considering remanding a child to Oberstown Children Detention Campus (Oberstown).

WHAT IS THE BAIL SUPERVISION SCHEME?

Several jurisdictions have used bail supervision to improve bail compliance by young people, reducing reoffending and thereby reducing the demand for detention during the remand period (Redmond, 2017). However, the BSS in Ireland views the on-remand period as a potentially significant opportunity for behaviour change and differs from other jurisdictions in that it incorporates the evidence-based Multisystemic Therapy (MST) model within normal court processes. MST is an intensive family-based intervention; therapists work predominantly with the young person's primary caregiver to facilitate sustainable pro-social change in the young person's behaviour. MST aims to facilitate change to ensure that the young person remains at home, is in education/training/working, and is not arrested on new charges. The MST model also aims to encourage the young person towards pro-social peers/activities. To ensure that the changes achieved are sustainable, MST aims to improve family functioning and the family's support network. It also facilitates the development of caregivers' skill necessary to generalise the learning and handle future problems. MST aims to be flexible to fit within caregivers' lives; it is delivered to the home and also provides caregivers with on-call support 24 hours a day, seven days a week over a three- to five-month period.

The BSS is supported by an oversight group, which is composed of representatives from: the Irish Youth Justice Service (IYJS), Department of Children and Youth Affairs (DCYA), An Garda Síochána (AGS), Young Persons Probation (YPP), Oberstown Children's Detention Campus (Oberstown), Tusla (The Child and Family Agency) and Extern, the BSS service providers). The oversight group advises on general project governance matters and supports

the programme to negotiate anticipated and unanticipated service related and logistical problems, and, where required, to facilitate changes of tack (Redmond, 2017).

To ensure accurate targeting of the BSS for young people at high risk of bail denial, the scheme was initially confined to referrals from Oberstown of young people detained on remand. It was offered at their second court appearance following the initial remand. In July 2017, as part of the oversight group's role to facilitate the optimum operation of the scheme, a strategic decision was made to extend it to accept referrals of young people at high risk of bail denial from Court 55, at their first appearance. This change ensured a continual source of referrals to the scheme and avoided having to detain young people on remand in the first instance. The pilot scheme was initially confined to a catchment area of within 20 miles of the Children Court in Smithfield, Dublin 7. During the evaluation period, the oversight group altered the referral criteria to facilitate the extension of the catchment area to include one young person from the Navan area.

MST Services¹⁶ eligibility criteria placed certain restrictions on referrals to BSS.

- Age restrictions: to be eligible, young people are required to fall within an age range of 12–17 years (inclusive) with a minimum of three months prior to their 18th birthday.
- Living requirement: to be eligible young people are required to live with a suitable adult who agreed to act as a caregiver for the duration of the scheme.

As MST is incorporated within normal pre-trial¹⁷ court processes, the BSS team were required to liaise with both statutory and non-statutory agencies. Statutory agencies include AGS, Oberstown, YPP, Tusla and Court Service (the judge and staff in Court 55; Dublin District Children Court). Non-statutory agencies include defence and prosecution legal teams and a variety of local agencies, including educational establishments, youth services, community groups, drug counselling services and local sports groups.

AIMS OF THE EVALUATION

The evaluation was designed to examine both outcomes (behavioural changes) and processes (mechanisms that contributed to the outcomes). The outcome evaluation covered the performance of the bail supervision programme from May 2017¹⁸ to June 2018. The process evaluation covered the programme's implementation from commencement.

¹⁶ The international organisation that developed the evidence-based MST model and oversees its implementation.
<http://www.mstservices.com/>

¹⁷ This term is meant in the broadest sense to refer to the court processes that occur in the time period between initial court hearing and the final disposal of a case.

¹⁸ This enabled a bedding-in period when the bail supervision programme was established within the institutional framework that it needed to operate within (e.g. consultations with state agencies and courts). It was accepted that during this period referrals would be low and that it would take a certain period to encourage a pipeline of suitable referrals. However, it is appropriate to evaluate the implementation of the programme (to include bedding-in assumptions) from commencement.

The outcome evaluation included a quasi-experimental element, exploiting the opportunity offered by the limited reach of the bail supervision programme to certain children within the catchment area of the pilot scheme. The quasi-experimental element of the evaluation compared the trajectories of selected young people who were not eligible for BSS because they lived in locations not covered by the scheme (control group) with all children provided with bail supervision over the evaluation period (intervention group). Garda administrative data (PULSE¹⁹) was analysed to identify any distinguishing features in terms of their level of offending between the two cohorts. However, it is important to note that while PULSE crime data is an objective measure of offending, it has limitations. It is dependent on both the detection and recording of specific incidences of crime by An Garda Síochána. Bias could arise given that young people enrolled on the BSS were clearly subject to comprehensive ongoing surveillance. This level of surveillance could logically link to increased detection rates compared to the control group. The relatively small sample size (n=22) was a challenge to the evaluation design. However, adopting a contribution analysis approach, which facilitated the triangulation of multiple methods and data sources, supports conclusions reached.

The outcome evaluation included an examination of the contribution of the BSS to individual behaviour change in young people. Used alone evaluations which employ experimental designs may offer causal connections between intervention and outcome but there can often be a black box effect meaning that it is difficult to know how or why something worked, not just whether it worked. Evaluating contribution is an important balancing enquiry, which attempts to forensically examine multiple data sources to determine how and why certain outcomes were achieved.

The process evaluation examined the implementation of bail supervision against the key assumptions made when the service was commissioned. Assumptions in part relate to assured programme fidelity²⁰ of MST by Extern. However, implementation assumptions also covered external factors, which predict optimum performance but are outside the immediate control of the service providers. This wider examination of programme implementation context considered the performance of stakeholders and support structures for the programme against initial assumptions, often called enabling or critical success factors.

¹⁹ PULSE: Police Using Leading Systems Effectively, An Garda Síochána's IT system used to record crime-related incidents and intelligence reports.

²⁰ A measure of adherence to the criteria/protocols of a programme.

Key Findings: At a Glance

DID THE BAIL SUPERVISION SCHEME WORK? OUTCOMES

- The reduction of offending for young people enrolled on BSS was almost twice that of the control group.
- There was evidence of improved adherence to bail conditions.
- 85 per cent of young people who completed BSS with a planned exit attracted a non-custodial option at their sentencing hearing.

HOW DID BAIL SUPERVISION SCHEME WORK? PROGRAMME THROUGHPUT

- 31 young people referred, 20 enrolled, 13 had a planned exit from BSS.

WHY DID THE BAIL SUPERVISION SCHEME WORK? PROCESS

- Strong governance, advocates and 'good news stories' laid the foundations for 'buy-in' and interagency collaboration.
- Governance was flexible, effective and efficient.

Implementing Multisystemic Therapy nested within the Bail Supervision Scheme

- MST was implemented with fidelity.
- MST analytical model described as a basic model that afforded the flexibility to adapt to individual family's needs.
- BSS team's skills, strong teamwork and problem solving together with external MST input contributed to successful outcomes.
- Family Engagement in BSS was vital to obtaining positive outcomes.

Challenges in adapting the MST model to fit the Bail Supervision Scheme's requirements

- BSS requirement to report breaches in bail compliance hampered family engagement in the scheme.
- Perceptions of inadequate treatment duration by caregivers and frontline professionals existed. However, these perceptions were countered by the statistical data indicating little or no further benefit from extending planned scheme duration.
- MST eligibility criteria effectively excluded those living in residential care, those outside the acceptable age range and those presenting with complex mental health needs.

REPUTATION

- Stakeholders within the justice system reported confidence in the Bail Supervision Scheme.

Methodology

Our evaluation strategy was significantly informed by Contribution Analysis²¹ (Mayne, 2008), and incorporated a quasi-experimental design. Contribution Analysis, a step-by-step approach ensured a rigorous, systematic and feasible evaluation which provides plausible evidence that the intervention contributed to the documented outcomes.

Several issues, including ethical considerations and the limited numbers of young people enrolled on the scheme prohibited the use of a randomised controlled trial design in the evaluation. However, the research team utilised a naturally occurring control group – young people remanded to detention from non-pilot areas – in a quasi-experimental design to analyse changes in re-offending. Importantly our evaluation design provided triangulated evidence²² from multiple data sources and methodologies, which enabled us to conclude that the scheme made an important contribution to the documented outcomes. A detailed methodology can be found in Appendix 1.

OVERARCHING RESEARCH QUESTIONS

1. Did the Bail Supervision scheme (BSS) work? More specifically, did the BSS contribute to changes in the young person's behaviour including reduced re-offending and adherence to bail conditions?
2. How did the BSS work? More specifically how many young people were referred to, enrolled on and completed the BSS during the evaluation period and what were the factors that facilitated or acted as a barrier for referrals?
3. Why did the BSS work? More specifically, how did the BSS processes facilitate or act as a barrier to obtaining the observed outcomes?

AREAS EVALUATED

1. If the BSS worked: Outcomes for the young person, changes in behaviour including:
 - Re-offending patterns
 - Bail compliance
 - Sanction applied by the courts at sentencing hearings.

²¹ A realist methodology proposed by Mayne (2008), which follows a six-step process based on a theory of change to provide plausible evidence that an intervention contributed to the documented outcomes.

²² The incorporation of data from multiple sources and comparison of findings from multiple methods to ensure consistency of findings and therefore strengthen the evidence obtained.

- 2 How the BSS worked: Programme throughput:
 - The BSS referral
 - Enrolment
 - Scheme exit patterns
3. Why the BSS worked: Processes
 - The underlying mechanisms, which contributed (either facilitated or acted as a barrier) to the observed outcomes
 - Implementation of the MST model (fidelity)
 - The operating environment (how the MST model fitted within BSS)
4. Reputation: Confidence in the scheme (by collaborative agencies)

Findings

In this section, we present detailed findings identified from analysis of multiple data sources in relation to 'If (Did)' 'how' and 'why' the BSS worked. In 'Did the BSS work', we present findings on outcomes. We also provide an overview of the context of the young people referred to the BSS. In 'How the BSS worked', we outline throughput (inputs and outputs) and factors, which facilitated or acted as a barrier to these processes. Finally, in 'Why the BSS worked', we present findings on the processes which contributed to the observed outcomes.

Did the Bail Supervision Scheme Work? : Outcomes

In this section, we initially present findings in relation to behavioural change. First, we compare levels of reoffending for young people who were enrolled on the BSS to a control group (quasi-experimental design). We then summarise the context for the five young people who were chosen as case studies for the evaluation. Next, we present the findings in relation to young people's compliance with their bail conditions, behavioural changes and sanctions delivered by the court at sentencing hearing.

REDUCTION IN LEVELS OF RE-OFFENDING

The Garda Síochána Analysis Services (GSAS) compared Garda PULSE crime detection data for the young people who received bail supervision (intervention group) to young people who were remanded to detention (control group) over an equivalent timeframe (see Appendix 1, page 38).

- **Intervention group:** The average offending rate for 6 months pre-BS was 6.3 offending days while the offending rate 6 month post-BS was 1.8 offending days, a decrease of 72 per cent (see Figure 1 and Table 1 below).
- **Control Group:** The average offending rate for 6 months prior to an equivalent BS start date was 5.5 offending days while the offending rate 6 months post an equivalent BS completion data (including a period of pre-sentencing detention) was 3.5 offending days, a decrease of 37 per cent (see Figure and Table 1 below).

Young people who received BS had on average a higher offending rate (6.3 offending days) pre BS compared to the control group (5.5 offending days). Offending reduced for this group by 59 per cent during the intervention and continued to reduce by another 13 per cent in the 6 months after the intervention.

This amounts to a total reduction of 72 per cent in the average offending rate from 6 months post BS when compared to 6 months prior to BS.

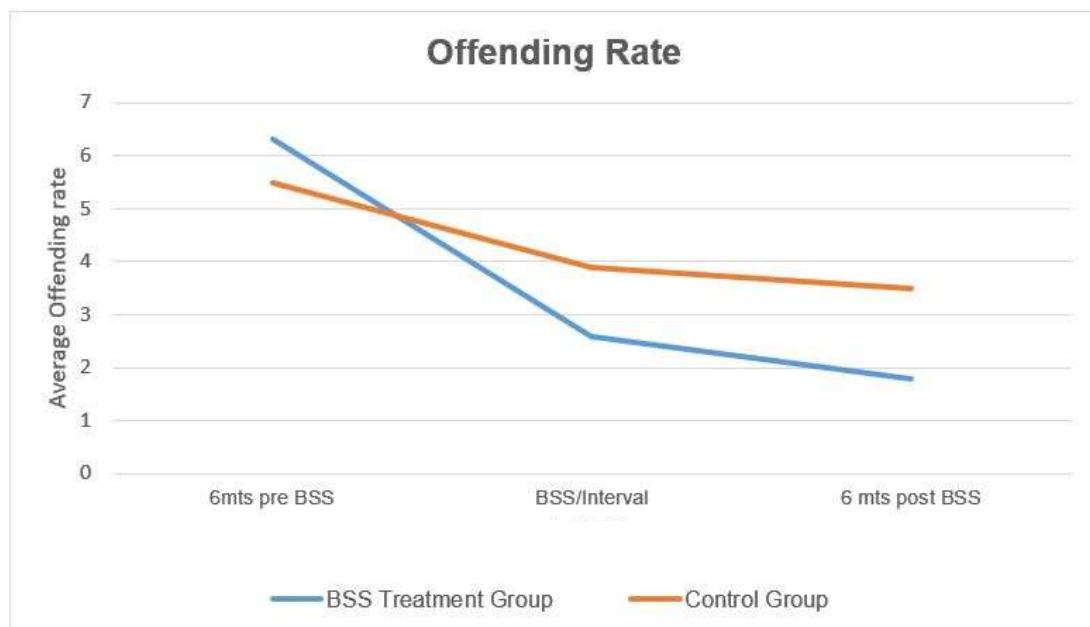
The young people in the control group experienced a reduction in offending rate of 29 per cent following detention on-remand. This trend reduced further by 8 per cent in the (6 month) period equivalent to the intervention group. The control group therefore experienced a total reduction of 37 per cent in the average offending rate 6 months post equivalent interval when compared to 6 months prior to remand.

Therefore, the average reduction in offending rate for young people who received BS was almost twice that of the young people in the control group.

Table 1: Average-offending rates for the intervention (BS) and control groups six months pre, during BS/equivalent interval and six months post BS

	Offending Rates (Number of days an offence was recorded on PULSE)			
	Pre-BS	BS Interval	Post BS	Pre vs Post
Intervention (BS)	6.3	2.6	1.8	72%
Control	5.5	3.9	3.5	37%

Figure 1: Average-offending rates for both intervention (BS) and control groups six months pre, during BS/equivalent interval and six months post BS.



Who were the young people referred to the Bail Supervision Scheme?

Case Studies

We planned to select five representative case studies for closer and focused examination of both outcome (behavioural change) and the BSS processes. We invited all caregivers and young people enrolled on the BSS during the evaluation period to take part in the evaluation. Six caregivers attended interview. As these families were deemed representative of the more challenging cases, we selected five of the six attendees as case studies. During interview, the Judge acknowledged that all five young people had very problematic offending behaviour, and the BSS manager described them as some of their more challenging cases. The five case studies selected therefore highlight the complex contexts of the young people enrolled on the BSS.

In this section, we present a summary of the five case studies based on a synthesis of the analysis of Extern's case summaries for these five young people and interview data. Interview data consisted of the interviews with the young people themselves, their caregivers and frontline professionals who had direct experience of working with them and their families (see Figure 5 and Table 4 in Appendix 1). We also refer to the PULSE crime detection data for these five young people. As the sixth young person was not selected as one of the five case studies, we did not incorporate the data from the interviews with his caregiver or BSS therapist in this section but it was included within the process evaluation.

First, we outline the young people's contexts, demographics, behavioural challenges and home environment. Next, we outline behavioural changes including adherence to bail conditions and court outcomes.

THE YOUNG PEOPLE

When enrolled on the BSS, the young people, all boys, were aged between 16 and 17 years. All presented as early school leavers, associated with anti-social peers and were not engaged in pro-social activities. These young people were recorded on the PULSE system for an average of 3.8 offences (minimum two, maximum 13) in the six months prior to enrolling on the BSS (see Table 2). The young person who had two recorded offences differed from the other four young people in that the seriousness of his first offences meant that he bypassed the Garda Diversion system.

Frontline professionals described one young person as experiencing suicide ideation and attributed this to his chaotic home life. Respondents described two other young people as

presenting with developmental delay. For one such young person his developmental delay was linked to the malign influence that his anti-social peers had on both his drug use and his criminal behaviour. Frontline professionals and caregivers also linked four of the young people's problematic drug use to their criminal activity. Consistent with this, two of the young people described the negative influence their peer group had on their behaviour and linked their problematic substance use to their offending. Three of the five caregivers described how the young people's offending was negatively influenced by peers. To highlight the complexity presented by the young people, another caregiver described their young person as quiet and lacking in confidence; however, frontline professionals described him as a leader among his peers.

HOME ENVIRONMENT

All the young people lived in areas of economic deprivation. During the intervention, only one young person lived in a two-parent household. Both parents were in employment and the family lived near a supportive extended family. Two of the young people lived with their biological mother, while the remaining two young people lived with extended family for the duration of the BSS. At enrolment, only one young person had contact with his biological father. Four of the young people had family histories of crime; for example, one young person's father was in prison while his older brother was subject to a probation bond.²³ Respondents described that four of the mothers had problematic substance use; one mother was also described as presenting with mental health challenges. This specific family was described as in a 'constant state of crisis'. Family violence was a major issue for another family.

On average the young people were enrolled on the BSS for 146 (maximum 195, minimum 49) days. Four of the five families completed the BSS with a planned exit (see Table 2 below).²⁴ Two young people were on their second referral to the BSS, which they completed with a planned exit.²⁵ Interventions undertaken with the five families are outlined in the section on Intervention below.

Table 2: Length of the BS and pre, post and during BS Offending Rates (based on PULSE data), Bail Compliance and Court Sanctions for the five case studies

²³ Once a young person is found guilty of a crime, a judge may choose to place them on a probation bond. This sanction means that the young person remains in the community while under the supervision of the Probation Service.

²⁴ The young person who had an unplanned exit from the BSS was enrolled for 49 days.

²⁵ One young person had an early exit from his first referral to the BSS as there was a fear that if he waited he would be sentenced to adult prison (as opposed to detention to Oberstown). He received a three-month sentence. After a post-release period of about four months, he reoffended and was brought back before the Courts. A second young person was remanded to Oberstown during the intervention; this resulted in an early exit (the case was discharged), and he was later referred to BSS. Following a second referral both cases were reassessed to ensure there was a change in circumstance to warrant another course of MST treatment before re-enrolment on BSS.

Case	Offences recorded PULSE				Bail Adherence	Court Sanctions
	Length of BS (Days)	Pre-BS	BS	Post-BS		
YP1	187	13	2	2	Curfew Restricted peers Arrest: RTO ²⁶	Probation Bond
YP2	128	2	2	1	Curfew Restricted peers	Probation Bond
YP3	195	8	1	0	Curfew Restricted peers Failure to sign in Arrest 3 breaches	Detained to Oberstown
YP4	49	4	1	0	Restricted area Restricted peers Arrest: week 8	Detained to Oberstown
YP5	169	6	2	0	Restricted area Restricted peers	Probation Bond
Average	146	3.8	1.6	0.6		

IMPROVED ADHERENCE TO BAIL CONDITIONS

A key objective of the BSS was supporting caregivers to encourage young people to observe their bail conditions. An indication of bail compliance for young people who are repeat offenders is offence reduction. As we report, the quasi-experimental design evidence demonstrates a significant positive difference in offending rates between the intervention and control groups during the intervention period. Reporting performance more specifically on bail compliance is problematic. While there were references to the challenges the young people faced in maintaining their bail conditions prior to the BSS within the interview data, we did not have Garda administrative data to validate findings in the same way as validating offending patterns.

²⁶ Road Traffic Offence.

During interviews, frontline professionals, caregivers and young people all acknowledged that four of five of the young people breached their bail conditions during the initial stages of intervention and this is consistent with the documentary analysis of the Extern case summaries. Breaches of bail conditions referred to associating with restricted peers, being present in restricted areas and breaking court-imposed curfew (see Table 2 above). Indeed, one young person was remanded to Oberstown due to persistent breaches during his first referral to the BSS. However, a clear pattern of greater bail compliance emerges as the families sustained their engagement with the BSS. Four of the young people were recorded as compliant with their bail conditions and this was sustained for a minimum of five weeks and maximum of 10 weeks before planned exit from the BSS.

Conversely, one young person was compliant with his bail conditions for the first six weeks, after which his behaviour rapidly deteriorated. This young person reconnected with his problematic peer group and resumed drug use. He committed a serious crime, which resulted in his arrest and remand to Oberstown.

OTHER BEHAVIOURAL CHANGES

Respondents reported reduced levels of drug use and aggressive behaviour as the intervention progressed for three of the young people. However, frontline professionals described that for one of these young people these advances 'collapsed' after his planned exit from the BSS. On completion of the BSS, two of the young people were engaged in a community work placement. Another young person described how he engaged in a community work placement until an incident resulted in a threat to his life. At the time of interview, he was afraid to leave the house because of this incident; however, his BSS therapist recently reported (August 2019) that this young person was successfully engaging in an apprenticeship.

SANCTIONS AT SENTENCING HEARING

All five young people chosen as case studies were convicted for their referral offence.²⁷ Three young people attracted a non-custodial option at their sentencing hearing (see Table 2 above).

Analysis of Extern's documents for all young people enrolled on the BSS during the evaluation period identified that of the 13 young people who completed the BSS with a planned exit, 11 (86 per cent) attracted a non-custodial option at their sentencing hearing (see Figure 3 below).

²⁷ The offence for which the young person was remanded on bail to the BSS.

How did the Bail Supervision Scheme work? Programme throughput

In this section, we present data from an analysis of Extern's documents. During the evaluation period (May 2017 to June 2018), 31 young people (but 30 referrals, as two siblings were counted as one referral²⁸) were referred to the BSS (16 from Oberstown and 14 from Court 55). Of the 31 young people referred, the BSS team enrolled 20. Of the 20 enrolled, 13 completed the BSS with a planned exit (see Figure 2 below)²⁹.

In the following section, based on an analysis of Extern documents,³⁰ we expand on the various stages of the referral pathways for referrals from both Oberstown and Court 55 (see Figure 3 below).

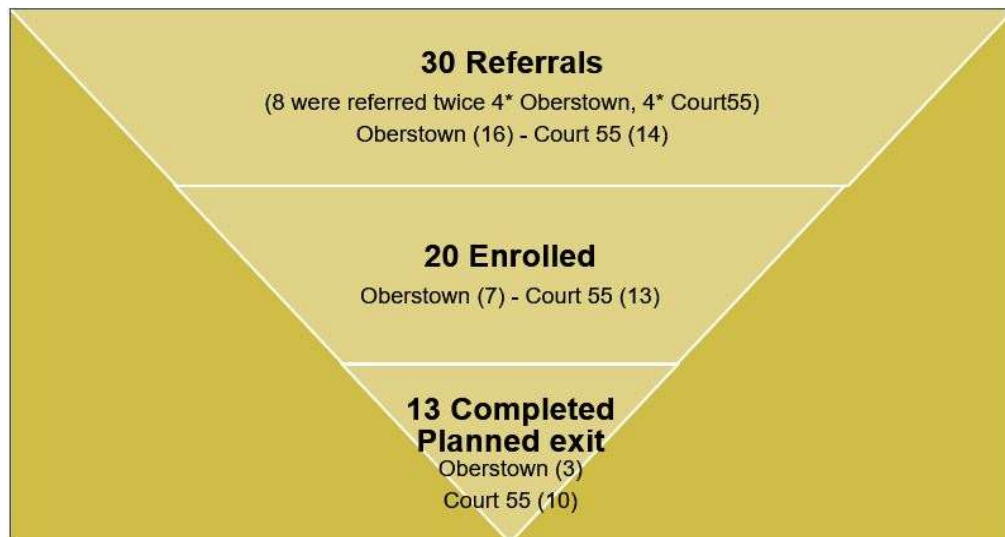


Figure 2: Summary referral pathway from referral to discharge from the Scheme

²⁸ Neither sibling was enrolled on the BSS (no parental consent received).

²⁹ The referral related to the young people referred after 1 May 2017 and before 31 June 2018.

³⁰ To ensure accuracy, clarity on the Extern documents was obtained from the BSS manager when necessary.

REFERRALS FROM OBERSTOWN

1. Of the 16 young people referred from Oberstown, four did not meet the BSS inclusion criteria³¹ (two were within three months of their 18th birthday and two were in residential care).
2. Of the 12 young people who met the inclusion criteria, three were not accepted on the scheme (parental consent was not received for one, another was engaged on another home support programme and the third young person's case was moved to a higher court and therefore outside the remit of the pilot scheme).
3. Of the nine young people accepted for the BSS, two were refused bail.³²
4. Of the seven who enrolled on the BSS, three completed the BSS with a planned exit. Two of whom attracted a non-custodial option at sentencing hearing.
5. Of the four young people who exited early from the BSS, one was remanded to Oberstown (one of the case studies), two received detention orders and the outcome for the fourth was unknown.

REFERRALS FROM COURT 55

1. All 14 young people referred from Court 55 were deemed eligible for the scheme.
2. Of the 14 young people 13 met the inclusion criteria; one was not accepted on the BSS as parental consent was not received
3. All the 13 young people accepted were granted bail and enrolled on the BSS
4. Of the 13 young people enrolled, ten completed the BSS with a planned exit; of these nine attracted a non-custodial option (including three of the case studies), while one (one of the case studies) received a detention order at their sentencing hearing.
5. Of the three young people who had an early exit³³ from the BSS, one was at large at the time of evaluation, a second young person was detained³⁴ and the third young person was transferred to secure care.³⁵

It was evident that referrals directly from Court 55 were more likely to be enrolled on the scheme (13 of the 14 referred) compared to referrals from Oberstown (nine of the 16 referred).

³¹ For inclusion and exclusion criteria see Appendix 3.

³² BSS manager reported that bail was refused due to seriousness of crime and high probability of sentence.

³³ Where a young person is discharged from the MST programme before the recommended timeframe and the discharge criteria have not been met (see Appendix 4 for further details).

³⁴ For offences prior to enrolment in BSS (BSS Manager).

³⁵ Parent withdrew consent to engage with MST as she felt secure care was a more suitable option for her child (BSS Manager).

In summary, 19 per cent (three of 16) of the referrals from Oberstown and 71 per cent (10 of 14) of the referrals from Court 55 had a planned exit from the BSS (completed a full course of MST intervention). In addition, 10 of the 13 referrals from Court 55 who were enrolled on the BSS completed the BSS with a planned exit, compared to three of seven referrals from Oberstown.

An analysis of the PULSE crime data suggests that there was no significant difference in terms of level of offending by the young people referred and enrolled from Oberstown (offended on average on 8.5 days) and Court 55 (offended on average on 8.8 days).

A secondary comparative examination of the profiles of the young people from the two referral sources may reveal significant and relevant factors that explain the differences in attrition rates.

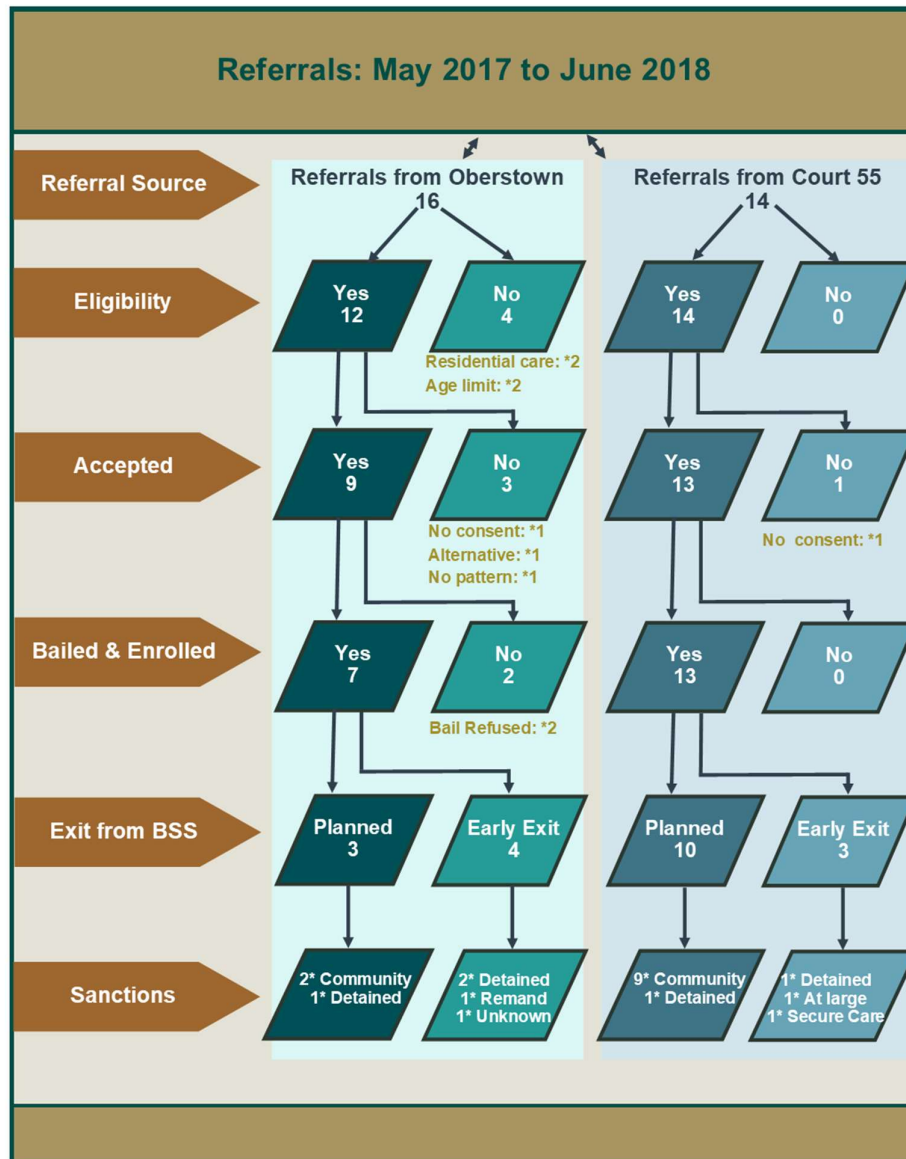


Figure 3: Summary referral pathway from referral to discharge from the Scheme

REFERRAL PROCESSES

Given the importance of referrals to the success of the BSS, we believe it is important to give additional attention to this area. We outline findings from the analysis of the interview data to provide further understanding of the referral processes.

Oberstown staff described how young people on remand who met the inclusion criteria³⁶ for referral to the BSS were identified as they arrived in Oberstown. Once verbal assent³⁷ was obtained from the young person, a suitable caregiver was identified and contacted to obtain their verbal consent to proceed. The referral form was then completed and sent to the BSS team. The BSS manager completed a court report³⁸ before the young person's next court appearance (typically one week for a first remand). The young person remained in Oberstown during this process. Conversely, with young people referred from Court 55, families were able to receive information about the BSS and to provide verbal assent (young person) and consent (caregiver) within the court setting as the young person's case was being processed. In practice, the judge indicated the referral; the defence solicitor completed the referral form and submitted the referral to the BSS team. The BSS manager then prepared a court report for the next court date. The young person remained in the community during this process.

As outlined earlier, to ensure the optimum operation of the scheme, the oversight group made changes to the referral procedures to facilitate referral from Court 55. During interview, Oberstown staff raised several issues surrounding the referral protocol in relation to (1) altered referral criteria, (2) additional work burden and (3) false hope.

ALTERED REFERRAL CRITERIA

Staff described how 'the guidelines were fairly specific [initially], there were just three items of criteria that needed to be met, but I have found that the goalposts have been adjusted according to individual cases ...³⁹ those boundaries have become blurred now'.

Oberstown staff also described how some of their referrals could be 'a waste of time' when young people were not enrolled. This opinion resonates with the finding that about half (nine of 16) of the young people referred from Oberstown were not enrolled on the BSS. Analysis of Extern's documents identifies that four of the referrals were inappropriate; two of the young people did not meet the age criteria and two had been in residential care.

ADDITIONAL WORK BURDEN

Oberstown staff identified concerns around the real-time element of the referral process, for example 'if the child is admitted today the referral has to be done tomorrow'. They described how this placed additional time burdens on the Oberstown administration staff.

³⁶ Detained from Court 55, living within 20 miles of Smithfield and have a suitable caregiver who will agree to partake in the scheme.

³⁷ Young people under 18 cannot give consent but can give assent.

³⁸ The BSS Standard Operation Procedure outlines the process from receipt of a referral form to preparation of a court report.

³⁹ To ensure clarity, some text from the original quote is replaced by '...'; the context of the quote is unaltered.

FALSE HOPE

There was a requirement to obtain the young person's assent prior to contacting their parent/caregiver. Oberstown staff described this as giving false hope to young people adjusting to life in Oberstown if the young person was subsequently not enrolled on the scheme. An example was given of a caregiver refusing to engage with the scheme after assent had been obtained from the young person.

At the time of interviews, the BSS team was engaging with Oberstown staff to put procedures in place to minimise the referral of ineligible young people and to reduce the administration burden for the Oberstown staff. This solution included phone calls from Oberstown administration to the BSS manager to check the suitability of the young people for referral.

Referrals from Court 55 were not without challenges; analysis suggests that referrals were dependent on the engagement of a small group of solicitor's firms. Continuous awareness building on the part of the BSS team and positive advocacy by the court staff with legal representatives new to Court 55 were necessary to ensure continual referrals.

Given the importance of referrals to the operation of BSS, barriers to appropriate referrals should be monitored going forward.

Why did the Bail Supervision Scheme work? Processes

In this section, we present findings from a thematic analysis of the interview data. Analysis identified 'buy-in' as a major theme. Processes at three levels of operation – governance, Court 55 and the BSS team – that promoted 'buy-in' and facilitated interagency collaboration are presented.

GOVERNANCE

Governance of the scheme by the oversight group was flexible, effective and efficient. The oversight group, as intended (Redmond, 2017), provided *scaffolding* for the BSS, facilitating buy-in of statutory bodies with the non-statutory provider, Extern. As previously discussed, the oversight group engaged in ongoing problem-solving processes to ensure the optimum operation of the scheme. The open communication policy between the chair of the oversight group and the BSS manager facilitated timely and flexible problem-solving.

COURT 55

Strong advocates, in particular the Judge and the Court Sergeant in Court 55, contributed to buy-in to the scheme by members of An Garda Síochána and defence solicitors. The BSS team described the Court Sergeant as 'essential in the whole thing ... one of the first points

of call'. The Court Sergeant promoted the scheme among Gardaí, identified case contacts for referred young people within An Garda Síochána, provided information and highlighted any safety concerns on referrals to the BSS team. The Court Sergeant also identified suitable referrals and advocated for the scheme with legal representatives who were new to Court 55.

BSS TEAM

The BSS team was proactive in obtaining referrals and engaging the support of new legal representatives. The BSS team attended court hearings with the young people enrolled on the scheme. Stakeholders in the criminal justice system described this presence as helpful in building awareness and promoting the scheme to various stakeholders including legal representatives and families who may benefit from the BSS.

INTERAGENCY COLLABORATION

'Buy-in' facilitated interagency collaboration and this contributed to successful outcomes. For example, one solicitor described how all agencies were 'on the same page', which provided a 'joined-up approach' where 'all of those things just all lined up together', resulting in positive outcomes for the young people.

Frontline professionals described how informal, open and regular communication between agencies benefited practical and reciprocal interagency collaboration. For example, a Garda Case Manager described how there was a 'two-way street and that when they 'have any inkling ... [young person] is up to no good ... give [BSS team] the heads up'. Frontline professionals also described informal communication as important for the efficient transfer of essential yet sensitive information. The BSS team were proactive; they actively followed up contacts, identified barriers to engagement by agencies and brokered relationships between agencies and families.

The BSS team initially exploited the established MST brand and reputation (as an evidence-based model) to encourage 'buy-in' and interagency collaboration. However, they replaced product-related branding with more proximal *good news stories* as the scheme progressed and developed its own performance record.

Implementing Multisystemic therapy nested within the Bail Supervision Scheme

In this section, we present findings about the implementation of MST. This includes fidelity, application, teamwork, engagement of families in the scheme, interventions undertaken with the five case studies and benefits for the families beyond the young person. We also outline

challenges to implementing an MST model within the confines of requirements of the BSS. We have based all findings in this section on the analysis of the interview data (including focus group data, see Appendix 1) and the MST comprehensive fidelity report.

FIDELITY

MST conducts ongoing fidelity measurements. We relied on these routine measures for the evaluation period to assess both therapist and supervisor fidelity to the implementation of the MST model. Two distinct measures captured both therapist and supervisor fidelity. These reported strong adherence to the MST model. Therapists' adherence was an average of .86 (adherence is achieved for scores greater than .61) and supervisor adherence was .92 (>.80 is considered high average).⁴⁰

How was fidelity measured?

All caregivers completed a self-report measure, which captured the caregiver's perception of their therapist's compliance with MST principles. These included the therapist's communication skills and ability to understand their situation. It also captured the degree to which their therapist took a strength-based and problem-solving collaborative approach to the young person's behaviour challenges including reducing the young person's access to problematic peers and promoting educational/vocational placement attendance. It also captured the degree to which the therapist engaged in relationship building within the family and brokering relations beyond the family. All therapists completed a self-report measure, which captured the therapist's perceptions of their supervisor's (BSS Manager) performance in relation to (a) structure and process, (b) adherence to principles, (c) analytical process, and (d) clinician development.

APPLYING MST PRINCIPLES

The BSS team described that while it was 'hard to make the shift' from an individual client-based model to the MST holistic family model, once the therapists had adjusted to the MST model, they found this approach effective. For example, one therapist described how '100 per cent I wouldn't go back to the other way of working'. The BSS team described MST as an analytical model;⁴¹ for example: 'It's a basic process ... what's causing this problem, what are we going to tackle first, let's do something about it, did it work, back to the start and following it around'. Analysis suggests that this process afforded flexibility in problem-solving

⁴⁰ The maximum adherence score is 1.

⁴¹ Referred to as the 'do loop'.

and adaption to individual families' needs.⁴² The model was also described as goal-focused; for example: 'there's no random acts ... everything had a purpose' (BSS team).

TEAMWORK

Strong teamwork between the BSS team members facilitated access to collective knowledge and skills. Weekly team supervision meetings ensured all team members were familiar with the progress of each case and any challenges that had arisen. This, together with input from the external MST consultant, ensured a sharing of practice wisdom and adherence to the model. The BSS team also described the benefits of 'continuous booster' training sessions, chosen by the team to target specific problem areas: for example, contingency management to tackle drug use and techniques to manage violent and aggressive behaviour.

ENGAGEMENT OF FAMILIES

The engagement of families with the BSS and their buy-in to the MST model were vital to successful outcomes. For example, a BSS team member described how 'if you don't have that [engagement] nothing else is going to work'. The families involved in the scheme tended to have histories of involvement with multiple agencies. For example, a member of An Garda Síochána described how the referred families tended to be 'super-saturated families with every service under the planet'. However, the prior engagement for these families was characterised by poor relationships with both statutory and non-statutory bodies. Due to their circumstances, the families were very marginalised. To overcome potential barriers, the BSS team were flexible and worked around the caregivers' lives. For example, a caregiver described how 'it was great they came to my home'. The BSS team described how they built strong relationships with the caregivers with a non-judgemental, strengths-focused approach, which empowered the caregiver by positioning them as experts in dealing with their situations. As such, a solicitor described how the BSS 'wasn't about wagging a finger at parents, but it was about actually real on-the-ground support ... the first time ever that people have actually said *how can we help?*'. The process was collaborative; caregivers were central to all decision-making and development of the intervention. For example, a caregiver described a collaborative decision-making process: 'it worked for a while ... but then I had to go back and say to [BSS therapist] "we have to look at this a different way as regards to reward scheme",⁴³ so we did and then we worked another scheme out'. The BSS team also described how they placed priority on the 'practical things that parents can take control of first'. The BSS team provided support at multiple levels – practical, informational

⁴² The BSS team described how flexibility around the implementation of the model improved when the MST consultancy moved from an American to a UK-based consultant.

⁴³ 'Reward scheme' refers to the original plan identified through discussions between the BSS therapist and the caregiver.

and emotional – that built caregivers' skills and confidence necessary to ensure sustainability of changes. For example, one caregiver described how BSS gave her 'a lot more confidence in dealing with services'.

Descriptions from the young people and their caregivers indicate their experience of engagement with the scheme. For example, a young person described how the BSS 'helps with my ma ... [the therapist] was giving my ma tips on how to deal with problems ... she picked up on it like she did'. While one caregiver described how she 'wouldn't change any of it like, I got, like I got perfection didn't I, like getting [BSS therapist] as well as the all the benefits', another simply stated that the BSS was 'the best thing that ever happened to us.'

Indicating the potential consequences of poor engagement, one caregiver repeatedly described how their family did not need the intervention that was on offer. For example: 'No I didn't need to ring Extern, we don't need Extern, we didn't need Extern'. While initially compliant with bail conditions, this specific young person's behaviour rapidly declined; he reoffended and was arrested and detained to Oberstown.

INTERVENTION

In general, at the onset of the BSS, priority was given to securing educational placements for the young people. The BSS team supported caregivers to overcome any barriers to attending such placements, for example by establishing a morning routine. However, for one young person the initial intervention focused on stabilising his home environment by supporting his caregiver in her recovery from addiction and improving the young person's living conditions. The BSS team, together with the young person and his caregiver, explored reasons behind the young person's offending behaviour and a plan was developed to intervene. For example, when a young person identified boredom as a motive, they developed a plan to increase the young person's pro-social activities. These were in line with the young person's interests, for example attending a gym or the local youth club.

The BSS team members supported caregivers in understanding the unintended consequences of their current parenting practices and suggesting suitable alternatives. Examples of inappropriate practices included the exclusion of the young person from the home (so that he became temporarily homeless) when he misbehaved, providing the young person with the means to purchase illegal drugs to facilitate his sleep or the practice of giving in to the young person's demands and aggressive behaviour to temporarily appease him. Caregivers were provided with skills to reduce the young person's drug use and to manage his aggressive behaviour in the home. Caregivers were also encouraged to provide appropriate incentives for positive behaviour.

The BSS team together with the caregiver identified procedures to support the young person's adherence to their bail conditions, including ways to increase surveillance. The

BSS team also worked with one young person to help him manage his own exposure to family violence in the home. Indeed, the BSS team provided safety plans for two of the young people to enable them to manage adverse situations in their homes. The BSS team intervened to reconnect two of the young people with their biological fathers; one young person went to live with his reconnected father after the BSS.

While BSS therapists highlighted obvious benefits of how a positive relationship between the young person and supervising officers (including Garda case manager and probation officers) would be viewed by the court, to the families, there was evidence of the development of genuine relationships. Indeed, all probation officers described how the five young people had increased attendance at probation meetings. This extended beyond the five case studies. The probation officers described how the engagement of young people enrolled on the BSS was in general better than that of the young people who were not enrolled.

To facilitate sustainability, the BSS team continually monitored progress with all interventions, explored barriers to progress and developed procedures to ensure that the caregivers could overcome these. For example, a member of the BSS team described how they monitored 'the barriers that you're working on to make sure that they [can] do it themselves'.

ADDITIONAL BENEFITS

Analysis of the data also suggests that engagement in the scheme had generalised benefits beyond the young person. For example, one caregiver described how engaging in the BSS 'has made me a lot better as a person, stronger' while another caregiver described how 'it's not only helped me and helped [young person] and [it's] helped [other members of the family]'. One young person described his mother as 'a new woman' and suggested that this had benefits for his younger brother. A probation officer described how the skills gained by the caregiver during the BSS also benefited younger members of that family. For example, 'for the next boy that's coming because he's 12 ... the stuff that they were learning to try and manage [young person] ... going to be more helpful for the younger brother ... be able to implement those things at an earlier stage'.

Challenges in applying the MST model to fit BSS requirements

The BSS was designed to embed MST, an evidence-based model, within normal pre-trial court processes. Analysis identified some challenges to fit the MST model within the BSS. These include the requirement of the BSS to report breaches to bail conditions, the perception of an inadequate duration of the BSS and the MST inclusion criteria for referrals.

REPORTING BREACHES

The BSS team were required to report all breaches by the young people of their bail conditions to An Garda Síochána.⁴⁴ On the ground, this hampered trust and engagement with families. The BSS team described how they took the approach of being 'honest and up-front with families'. They also worked to counteract perceptions of negativity by highlighting the positives gained by the families through their engagement with the BSS and other services: for example, their access to additional resources and, importantly, receiving positive court reports from the BSS, probation and the Gardaí which may influence the young person's outcome post-trial. The BSS team worked to broker relationships between the families and An Garda Síochána, highlighting the benefits to the families of working with the young person's Garda case manager. Indeed, analysis suggests that An Garda Síochána case managers played an important role in the case studies where there were positive outcomes.

THE BSS TIMEFRAME

The BSS intervention period is prescribed by MST guidelines, which recommend intervention durations of 120 to 150 days. The average BSS duration for the 22 young people enrolled on and discharged from the scheme during the evaluation period was actually 146 days, and this rose to an average of 165 days for the 15 young people who completed the intervention with a planned exit.

Despite this, all caregivers expressed concerns about what they considered to be the short length of the programme. For example, one caregiver described the length of intervention as 'its only downfall'. Analysis suggests that another caregiver's motivation for taking part in this research study may have been to voice her perspective that the scheme was too short and that there should be a follow-on programme. This caregiver repeatedly returned to this point during interview; for example, 'they need to spend a little bit more time ... when the six months is up, they're just gone' and 'I really really think they do need that aftercare, they can't just leave the kids like that'.

There was also a perception among frontline professionals, given the chaotic nature of the marginalised families recruited for the BSS, that the interventions were too short. For example, a probation officer queried '15 years of dysfunction and five months to put it right'.⁴⁵ A solicitor stated that 'sometimes unfortunately with the time limits, they [BSS] stop at a crucial stage'. Other frontline professionals voiced concerns around sustainability. For example, a probation officer described her reaction on hearing the scheme was ending:

⁴⁴ Bail Supervision Scheme, Standard Operating Procedure (dated 10 December 2018).

⁴⁵ MST intervention provides caregivers with skills to improve family functioning.

‘don’t withdraw, they’re just at the pinnacle, they’re just there, they just need to be sustained now’.⁴⁶ Continuing this theme of a perception of premature programme termination, a social worker described how for one young person there was ‘a huge gap so when it finished ... he slid down ... once [BSS therapist] stopped going in there was no dinner ... there was no washing ... there was no organisation’.

As reported above, BSS team members described how they prioritised intervention tasks that they considered sustainable. In another example, one BSS therapist stated that ‘the focus should never be just me trying to have that relationship with the young person because it’s not sustainable’. A therapist said that they found completing a specific case ‘very very difficult’; another described how ‘I think it’s [duration] perfect ... the intensity that we work with [families] ... the chaos ... burned out ... I’ve come to saturation with the families after five months and the families 100 per cent have come to saturation with me.’ Consistent with this, the manager of the BSS team stated, ‘there’s no evidence to say in MST that if you keep it open for another six months you’re going to get a better outcome’.

To further examine the relationship between treatment length and improved outcomes, we examined the available quantitative data. Our analysis of the post-intervention PULSE crime data from An Garda Síochána indicates that while this is possibly counterintuitive, there is no relationship between extending MST and reduced reoffending. Analysis of the data (n=18)⁴⁷ that examined the relationship between days of intervention and offending (PULSE crime data) shows no relationship ($r = .09$, $p = .73$).⁴⁸

The evidence presented therefore clearly indicates that extending the intervention did not appear to benefit the young person in terms of reducing their reoffending behaviour.

THE BSS INCLUSION/EXCLUSION CRITERIA

The primary eligibility criterion for the BSS was that the young person must be at risk of bail denial. The BSS Programme designers based additional eligibility criteria for the scheme on established MST criteria.⁴⁹

Clause 1 of the inclusion criteria states: ‘Young person aged 12–17* years (*must be at least three months prior to 18th birthday).’ This excluded young people approaching their 18th birthday but who were remanded to Oberstown. Examination of Extern records (referral

⁴⁶ Sustaining behavioural change is a specific goal for MST and includes measures to facilitate sustainability such as providing the caregivers with skills and tools, and increasing families’ support networks are in place.

⁴⁷ We excluded the young people who were in custody for greater than 140 days.

⁴⁸ 13 of the 15 young people who completed intervention had an intervention duration in excess of the recommended minimum 120 days. While a 14th young person was on his second referral, taking his first intervention into account he had received a total intervention in excess of the recommended duration.

⁴⁹ For a full list of inclusion and exclusion criteria see Appendix 3.

pathway) also identified a young person enrolled on the BSS who was discharged early⁵⁰ from the scheme because he was remanded to detention for a period. This young person could not be re-referred to the BSS because following the period of remand as he was outside the age restrictions.⁵¹

Clause 4 of the inclusion criteria states: 'Young person must have an identified primary caregiver who they can live with.' This in practice excluded young people in residential care,⁵² and a lack of access for these young people was raised by multiple stakeholders during interview, including the Judge, the oversight group, An Garda Síochána, the BSS team and defence solicitors. For example, a member of An Garda Síochána stated that the BSS 'can't deal with kids in [residential] care which would be a huge one'. A defence solicitor questioned whether the BSS 'could be tweaked somewhat to meet their [young person in residential care] very specific needs' and stressed that this was 'not as the replacement for that [current] system but to complement it'.

Clause 3 of the exclusion criteria renders ineligible a 'young person whose psychiatric problems are the primary reason leading to referral, or who have severe and serious psychiatric problems'.⁵³ While there was no evidence to suggest that mental health challenges were the primary reason for referral to the BSS, analysis of the interview data suggests that at least one young person with complex mental health problems was referred to the scheme from Oberstown. He had an early exit from the scheme to facilitate residential treatment for his mental health needs. Following stabilisation, the young person was re-referred to the BSS and had a successful outcome. This case further highlights the complex needs of the young people referred to the BSS.

Reputation

A fundamental assumption for the successful development of the BSS was that developing confidence of stakeholders in the scheme would contribute to increased referrals (Redmond, 2017). As mentioned above, *good news stories* – success stories of existing and previous participants in the scheme – trumped the initial prestige of MST being one of an elite range of *evidence-based programmes*, in the promotion of the BSS. As the BSS became

⁵⁰ In line with MST Services guidelines.

⁵¹ Analysis also suggested that the age restriction impacted on families completing intervention, for example 'he was coming up to the age limit . . . isn't it best that he does the sentence now in Oberstown rather than [taking the risk of] going to adult prison' (The BSS team).

⁵² This did not include young people in foster care, specifically if a foster carer agreed to engage with BSS, or young people with social work involvement and young people on secure care waiting lists and being transitioned home from secure care (2 cases during evaluation period) (The BSS manager).

⁵³ There is no evidence to suggest that MST is effective in treating serious psychiatric problems and that specialised services may be required in these cases (the BSS manager).

established, direct experience of its operation of the BSS and/or accounts of real-life outcomes appeared to be very important in terms of sustainable positive branding.

While the premise of MST is to work predominantly with the young person's primary caregiver, analysis identified that the BSS team also developed transformative relationships with the young people. For example, a Garda case manager stated that 'the therapist was one of the few people who'd reached him [young person]'.

Other findings from analysis of the interview data suggest a growing confidence in the BSS. A member of An Garda Síochána described a change from initial concerns over 'another agency, more bureaucracy' and 'more do-gooders' to Gardaí on the ground 'sing[ing] their praises', with recognition that the BSS team were 'fabulous in respecting the Guards and the Guards' duties'. Frontline professionals described the BSS as 'an extra eye'; for example, one solicitor said that rather than more bureaucracy, the BSS was 'like CCTV, it's an independent witness like ... [this] alleviate[s] the concerns of the Guards and the judge'. Frontline professionals also described the dedicated work by the BSS team; for example, a Tusla social worker stated that 'it was the whole putting plan in place and the extra mile with the bail supervision that worked'. A probation officer stated that 'honestly I don't know how much more that therapist could have done without moving in with the family ... they did really amazing work and are very in touch'.

A solicitor described a representative stakeholders' perception of the BSS as 'a really wonderful experience actually to be involved in as a practitioner because you could see the potential', while a young person described the benefits of the BSS more personally and no less significantly as 'it's worked out grand for me'.

Conclusion

This report presents the findings of an evaluation, which combines multiple methods and data sources. Findings indicate positive outcomes for the young people enrolled on the scheme as follows:

1. The evaluation found a 72 per cent reduction of average offending rates in the six months post-BSS (when compared to offending rates six months pre-BSS) for the young people enrolled on the BSS. This represents a net reduction of reoffending for the BSS group almost twice that of the control group.
2. During the intervention period, the BSS cohort had an average reduction in criminal detections twice that of the control group (39 per cent and 19 per cent respectively). When discharged from the scheme, the four selected subjects of case studies who had a planned exit from BSS were compliant with their bail conditions.
3. Of the 13 young people enrolled during the evaluation period and who completed the intervention, 11 attracted a non-custodial disposal at their sentencing hearing, thereby avoiding detention.

Analysis of interview data with over 40 stakeholders provides substantive assurance that the BSS contributed to these documented positive outcomes. The importance of engagement or 'buy-in' from all levels of stakeholders to achieving the positive outcomes was apparent.

- At a management level, findings suggest that the oversight group, composed of members of each stakeholder agency, promoted investment in the scheme by the members of their respective agencies. Informal communication with the chair of the oversight group and the BSS manager contributed to timely problem-solving strategies.
- At an interagency level, positive advocates within the court system, and a proactive BSS team, contributed to the 'buy-in' necessary for efficient collaboration. The informal reciprocal communication between the BSS and agencies/services contributed to the successful implementation of BSS and referrals to the scheme.
- On the ground, engagement of the caregivers in the MST model was promoted by the strengths-based collaborative approach of the BSS team.
- Findings suggest strong adherence by the BSS team to the MST model.
- The dissemination of emerging positive outcomes or *good news stories* along with a growing appreciation of the work of the BSS team contributed to a growing confidence in the scheme. This confidence supported the operation of the BSS and continual referrals to the scheme.

In brief, the body of evidence presented suggests that the BSS contributed to:

- a) Changes in the young person's behaviour including reduced reoffending and adherence to bail conditions.
- b) Gaining the confidence of the judicial system (courts, An Garda Síochána).

Glossary of Terms

Justice related terms

Garda Case Manager: A member of An Garda Síochána who case manage young people targeted as at high risk of offending.

Garda Síochána Analysis Services (GSAS): Located in Garda Headquarters in the Phoenix Park, the GSAS is responsible for providing analytical support to the Garda organisation.

Pre-trial: This term is meant in the broadest sense to refer to the court processes that occur in the time period between the initial court hearing to the final disposal of a case.

Probation bond: Once found guilty of a crime a judge may choose to place a young person on a probation bond. This sanction means that the young person remains in the community while under the supervision of the Probation Service.

PULSE: Police Using Leading Systems Effectively, An Garda Síochána's IT system used to record crime related incidents and intelligence reports.

Remand: During the period between the initial hearing and final discharge of a case a young person may be either remanded on bail or detained on remand. Young people enrolled on the BSS are remanded on bail to the BSS.

Sentencing hearing: The hearing that occurs post-conviction when the court imposes a sanction on the young person.

MST related terms

BSS manager: The Extern service manager, trained as a MST supervisor, who is responsible for supervising the BSS team and the implementation of BSS.

BSS team: The Extern workers responsible for implementing the BSS. All members of the BSS team are also MST therapists. Where appropriate they are referred to as therapists.

Caregiver: The relevant adult who has agreed to take on the caregiver role and work directly with the BSS team for the duration of the scheme (this term may include for example; the young person's parent, an extended family member, foster carer).

Early exit: Where a young person is discharged from the MST programme before the recommended timeframe and the discharge criteria have not been met (see Appendix 4 for further details).

Extern: A social justice charity that works with young people to promote change. DCYA commissioned Extern to implement the BSS in September 2016.

MST Services: The international organisation, which developed the evidence based MST model and oversees its implementation. <http://www.mstservices.com/>

MST Therapist: The term used by MST Services to describe the frontline staff that work directly with the families.

Planned exit: Where the discharge of a case occurs by mutual agreement of both the MST team and caregiver; and when the MST defined discharge criteria were met (see Appendix 4 for further details).

Referral offence: The offence for which the young person was remanded on bail to the BSS.

Methodology terms

Contribution analysis: A realist methodology proposed by Mayne (2008) which follows a six-step process based on a theory of change to provide plausible evidence that an intervention contributed to the documented outcomes.

Fidelity: A measure of adherence to the criteria/protocols of a programme.

Quasi-experimental design: A method that uses a pre-existing group for comparison against a treatment group to estimate the causal impact of an intervention on a target population. It is an alternative to a randomised control trial (experimental) where random assignment of individuals is not feasible.

Theory of Change: An ex-ante statement proposing a causal chain whereby bail supervision will contribute to impact. The evaluation tested this theory of change.

Triangulation: The incorporation of data from multiple sources and comparison of findings from multiple methods to ensure consistency of findings and therefore strengthen the evidence obtained.

Appendices

Appendix 1: Methodology

We used a contribution analysis (Mayne, 2008) which incorporated a quasi-experimental design to evaluate the BSS. Contribution analysis consists of six sequential steps. We briefly outline each step together with the methods used to address specific research questions in Appendix 2 (See pages 46 to 49). We received ethical approval from AHSS⁵⁴ Research Ethics Committee before commencement of the research.

OVERVIEW OF DATA SOURCES AND METHODOLOGIES

In line with contribution analysis, our evaluation of the BSS incorporated diverse methodologies and diverse sources of data as presented in Table 3 below.

Table 3: List of Data Sources, the method used to analyse and the evaluation type

Data Sources	Methodology	Evaluation
PULSE Extern Admin Data Oberstown Admin Data	Quasi Experimental	Outcomes-Re-offending
PULSE Extern Case Files Interview Data	Case Profile analysis Documentary analysis	Outcome: Behavioural changes
Extern Admin Data	Analysis of Referral patterns	Programme throughput
PULSE Extern Admin Data	Correlation Analysis	Relation between length of intervention and reoffending
MST Services Data	Synthesis of MST Report	Process: Fidelity
Interview Data	Thematic analysis	Process: Implementation
Interview Data	Thematic analysis	Reputation: Confidence in the BSS

⁵⁴ Faculty of Arts Humanities and Social Science, University of Limerick.

PULSE crime data: Quasi-experimental

The Garda Síochána Analysis Services (GSAS) conducted a quasi-experimental analysis to compare Garda PULSE crime data for the young people on the BSS (intervention group) with a matched group of young people outside the pilot area who were detained on remand to Oberstown during the evaluation timeframe (control group).

SAMPLING

- Intervention group: Extern provided GSAS with the relevant information for the 22 young people enrolled on the BSS for the evaluation period (intervention group).
- Control group: Irish Youth Justice Service provided GSAS with the relevant information for the 98 young people⁵⁵ who were detained on remand during the evaluation period, from courts outside the pilot area (control group).

The design faced several challenges. Over the evaluation period the intervention group had varied start dates and durations on the BSS. However, the control group also had varied start dates and duration for their period of remand on detention. To enable the comparison of equivalent intervention and control groups, a Monte Carlo (Smith, 2013) simulation was used to calculate appropriate start dates, and equivalent (to the BSS duration) intervals to determine an equivalent post-intervention start date for the control group. This enabled the comparison of offending rates for the two groups over three time points: six months (180 days) pre-BSS, interval (intervention duration) and six months post-BSS.

First, GSAS⁵⁶ calculated the distribution of start dates, the BSS durations and non-detention days for the intervention group. Second, GSAS randomly applied the equivalent start dates and interval durations to a random sample of the 98 individuals in the control group. In line with Monte Carlo stimulation, GSAS applied the random distribution of start dates and interval durations across the control cohort: this process was repeated 60,000 times to ensure the best fit between the intervention and control groups.

Figure 4 below shows an example of where there was a good fit between the intervention (BSS) and control (non-BSS) groups for start dates, interval (time lapse between the six months pre- and six months post-BSS intervention) and non-detention days. In the example below, there was a good match between the two groups (correlation of 0.93 for start date, 0.99 for BSS/interval duration and 0.97 for non-detention days). Of the 60,000 stimulations,

⁵⁵ This included information that enabled access to PULSE crime data.

⁵⁶ Barry Coonan (GSAS), third author, conducted the quasi-experimental analysis.

1,000 random samples had similar patterns to the intervention group so were considered a good fit and used for further analysis.

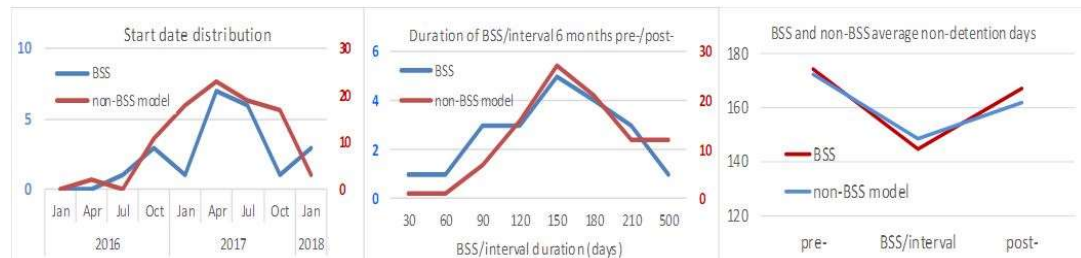


Figure 4: Plot of the start dates and BSS/interval durations (by number of young people) and average non-detention days for the BSS (intervention) and non-BSS (control) groups

OFFENDING RATE

The number of offences recorded in the PULSE crime data was adjusted (standardised) to account for two varying factors: (a) number of days a young person was detected for an offence and (b) number of days detained in Oberstown.

- Young people may be involved in spates of offending with more than one offence occurring on a particular day; however, the research team proposed that consistent involvement in crime over time (persistence) was more representative of problem offending behaviour. Offending days scores were calculated to reflect the number of days the young person committed a crime (as opposed to number of crimes committed). For example, in the six-month period, a young person had seven offences recorded on the PULSE system. Three of those were committed on a single day therefore the young person is said to have five offence days.
- Young people who are detained have reduced opportunity to offend. Offending rate scores were calculated to reflect the number of days detained⁵⁷ as follows:

$$[\text{Number of offence days/number of days not in detention}] \times 180 \text{ days}$$

Continuing the example, during the 180 days (six months), the young person spent 80 days in detention. The young person's offending rate is $[5/(180 - 80)] \times 180 = 9$ offending days for the six-month period.

Of the 22 young people enrolled on the BSS (intervention group), four had fewer than 35 non-detention days during the six months post-BSS. As this significantly influenced their opportunity to offend, they were excluded from final analysis. Final intervention sample = 18

⁵⁷ IYJS supplied information on the period of detention (remand and committal) necessary for calculating offending rates.

young people. They had a mean age of 15.78 years (min 13, max 17 years) on enrolment, an average of 172 non-detention days in the six months pre-BSS (min 112, max 180 days), an average bail supervision intervention of 152 days (min 75, max 291 days) and an average of 162 non-detention days in the six months post-BSS (min 62, max 180 days).

CHANGE IN OFFENDING RATE

- Intervention group: Total rate of offending (n=18) pre-BSS (six months) compared to their total rate of offending post-BSS (six months).
- Control group: Average total rate of offending (random samples of 98 young people × 1000) pre-remand start date (six months) compared to their average total rate of offending post equivalent BSS duration (six months).

Analysis of Referral pathways

We examined administration data recorded by the BSS team (Extern) to estimate the number of young people who were referred to the BSS from both Court 55 and Oberstown from May 2017 to June 2018. We examined the numbers and context of young people accepted, enrolled and discharged types (planned or early exit) and attrition at each stage of the pathway.

We would like to clarify that this referral list differs from the enrolment list (used for the quasi-experimental design and the documentary analysis of the case summaries) (see Appendix 5).

Synthesis of MST Fidelity Report

MST management provided a fidelity report, which included both the programme implementation data report and the supervisor adherence report.

The programme implementation data report included the therapist adherence measure. A total of 28 questions captured caregivers' perceptions of the therapists' adherence to MST principles. All caregivers completed the measure (two weeks after enrolment, then monthly) (completed measures = 74). Scores were averaged to give an average adherence score for each therapist. A score of .61 was considered adherence to the MST model.

The supervisor adherence measure consisted of 36 questions, which captured therapists' perceptions of their supervisor's performance. Therapists completed the measure every two months (completed measures =11). Scores were averaged to give an average adherence score for all four subsections.

Documentary analysis

The BSS team provided redacted case summaries for the 22 young people enrolled on the BSS during the evaluation period. Research Evidence into Policy Programmes and Practice (REPPP) researcher John Reddy independently reviewed and summarised the case files for each of the five young people selected as a focus for the research interviews. We triangulated the summaries with the findings from the case study analysis and PULSE crime data to provide the synthesised case summaries presented in the findings.

All case summary documents were also analysed for evidence of compliance with bail conditions.⁵⁸ These findings were then triangulated with both PULSE crime data and the findings from the case studies analysis to examine young people's adherence to bail conditions.

⁵⁸ We acknowledge the work of research assistant Mr Tony O'Leary on the analysis of the case summaries.

Thematic and Case study Analysis

DATA COLLECTION

To facilitate a focused analysis and the triangulation of findings, the research team centred the process evaluation on an analysis of five young people's journey through BSS. The BSS team invited all 22 primary caregivers and young people who had been enrolled on the BSS during the evaluation period to take part in the evaluation. Six caregivers and five young people volunteered to be interviewed. Two of the young people did not attend interview (see Table 4 below). The BSS manager described this selection of families as representative of the more challenging young people enrolled and the Judge confirmed that the young people presented in court with very problematic behaviour.

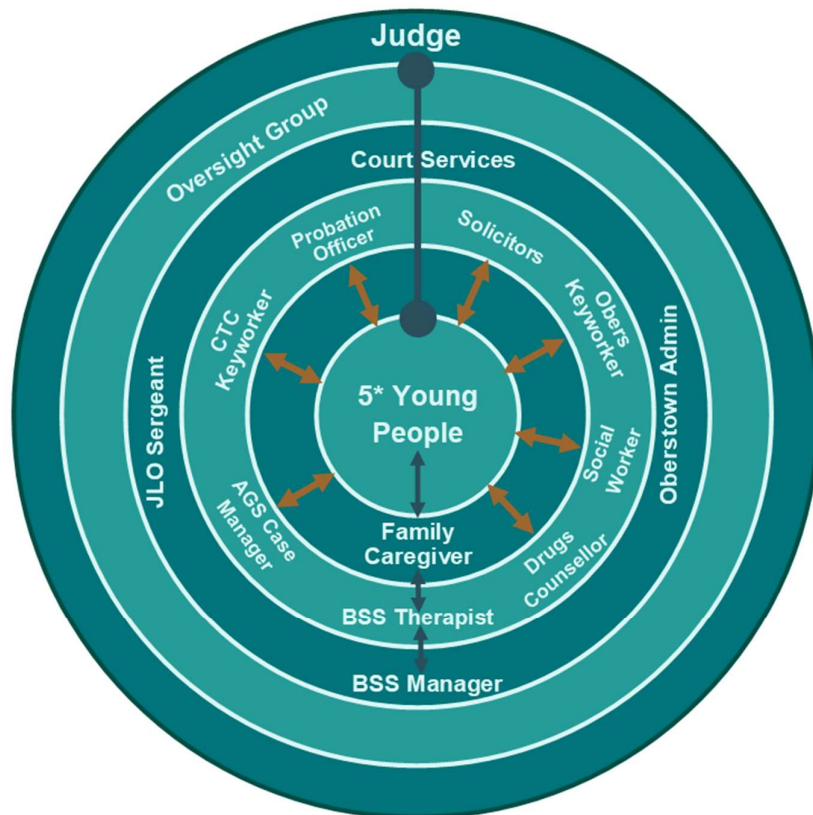


Figure 5: Interview structure centred on five young people, their caregivers, MST therapist, frontline staff, administration, management and the Judge from Court 55.

We took a bottom-up approach by interviewing the young person (where available) and those closest to them first (see Figure 5 above). This ensured that their views informed the interviews with the frontline professionals, which subsequently informed interviews with members of management. The research team felt that this would facilitate the collection of comprehensive data, which would provide a targeted 360° view of the BSS process (see Figure 5 above).

In total, we interviewed 35 people, while six members of the oversight group took part in a focus group (n=41) (see Table 4 below). Initial interviews were with the young people's caregivers followed by their BSS therapists. Then, to seek diverse perspectives, we interviewed additional frontline staff who worked directly with each young person, including the young person's Garda case manager and probation officer. We also interviewed a purposeful⁵⁹ selection of other frontline stakeholders who had worked directly with the young person. These included two defence solicitors, one Tusla social worker, three Oberstown case managers, two community-training centre (CTC) caseworkers, and a community drugs counsellor (see Table 4 below). Some of these professionals worked with more than one of the five young people (to insure anonymity, we have not identified these). Next, to give a wider overview of the processes involved, we interviewed administration staff from Oberstown, the Court Sergeant and the BSS manager. We then conducted a focus group with the BSS oversight group. Finally, we interviewed the Judge who had presided over Court 55 during the evaluation period. To ensure confidentiality, the young people are referred to as YP1 to YP5.

The lead researcher conducted the majority of interviews, with the exception of the focus group and the final interview with the Judge, which were conducted by both the principal investigator and the lead researcher. Participation was voluntary and all respondents provided informed consent (or informed assent where under 18)⁶⁰ prior to interview. We conducted the interviews from November 2018 to March 2019. We interviewed four of the caregivers in Extern's offices and two in their own homes. We interviewed one young person in a joint interview with his caregiver, one in Extern offices after his caregiver's interview, and the third young person in Oberstown. We conducted all other interviews either in the respondent's own office/station/court or in Extern's office. We present interviewee details in Table 4. We interviewed 35 people in 32 interviews (three interviews with two interviewees). These were audio recorded and lasted an average of 61 minutes (minimum 19 minutes and

⁵⁹ Frontline professionals who the BSS team identified as having played a significant role in the young person's experience of the BSS and who volunteered to be interviewed. Of the five legal representatives contacted, two responded to requests to be interviewed.

⁶⁰ All respondents were fully informed about the purpose of the study, and their right to withdraw at any stage before they signed consents/assent forms. They were also informed of their right to review their transcript.

maximum 237 minutes; total of 33 hours of audio). We also conducted a focus group with members of the oversight group (n=6) of one-hour duration.

Table 4: Interviews conducted with the young people, their caregivers, frontline staff, administration and management

Case	Young Person	Caregiver	MST Therapist	Probation Officer	An Garda Síochána	Additional Professionals	Defence Solicitors
Kevin	YP1	CG1	MST1	PO1	AGS1	WP1	-
Max	-	CG2	MST2	PO2	AGS2	WP2	LR2
Gareth	-	CG3	MST3	PO3	AGS3	SW3	LR3
Eddie	YP4	CG4	MST4	PO4	AGS4	DrugC4, Obkeyworker4	-
Zach	YP5	CG5	MST5	PO5	AGS5	WP5	-
YP6	-	CG6	MST6	-	-	-	-
			MST7				
BSS Manager			MST10				
Oberstown keyworkers						ObKeywork7,8	
Oberstown Admin						OberAdmin	
Court Sergeant					AGS6		
Focus group oversight group			MST 8,9	PO6	AGS7	TUSLA6 IYJS6	
Judge						Judge	

INTERVIEW DATA ANALYSIS STRATEGY

We transcribed audio-recorded interviews and the focus group and imported the transcripts into NVivo 12 Pro software.⁶¹ We adopted the analysis approach developed by the REPPP research team for the Greentown Project (Naughton, Redmond and O'Meara Daly, in press). The analysis consisted of two parts: case profile analysis and thematic analysis.

CASE PROFILE ANALYSIS

Case profile analysis provided a thorough analysis of the five young people. In NVivo, we systematically, line by line, coded transcripts to developing categories, which were subdivided by case. Here we followed the same order as the interview (starting with the transcripts from the inner layer and proceeding outwards) and commenced coding prior to

⁶¹ NVivo 12 Pro is computer assisted/aided qualitative data analysis software.

completion of data collection. We compiled detailed reports based on the diverse perspectives for each young person grounded in the data (illustrated with extracts from the data). We paid particular attention to changes in the young people's behaviour and factors (contexts) that influenced these changes.

THEMATIC ANALYSIS

During analysis we identified, interpreted and synthesised patterns within the data to form themes (Braun and Clarke, 2006). Precedence was given to the quality of data (its relevance to the research questions) over the quantity (how many respondents said something) (Braun and Clarke, 2006) and was grounded in specific incidence as opposed to opinion (Redmond, 2016). Here we paid particular attention to the BSS processes, reputation building and factors that influenced observed changes.

For both case profile and thematic analysis, the process was iterative, repeatedly returning to the original text to ensure context, and reflective to mitigate the impact of researchers' biases and views on the interpretation of the data. In addition, to ensure validity, meetings between the lead researcher and principal investigator took place throughout the analysis process where we discussed the coding frame, analysis, interpretations and theme development in detail.⁶² The lead researcher sought clarification from the BSS team where required; for example, one professional described a young person as highly intelligent, and another as having intellectual difficulties. Clarification was sought from the BSS therapist, who confirmed that the young person had a mild developmental delay.

⁶² Although frequent team meetings were held, the lead researcher conducted coding, analysis and reported writing.

Appendix 2: Overview of contribution analysis

STEP 1: IDENTIFY THE QUESTIONS TO BE ADDRESSED

The aim of the evaluation was to identify the contribution of the BSS to identify:

1. Did the BSS work? More specifically, did it contribute to changes in the young person's behaviour including reduced reoffending and increased adherence to bail conditions?
2. How did the BSS work? More specifically, how many young people were referred to, enrolled and completed the BSS during the evaluation period and what were the factors that facilitated or acted as a barrier for referrals?
3. Why did the BSS work? More specifically, how did the BSS processes facilitate or act as a barrier to obtaining the observed outcomes?

STEP 2: DEVELOP A THEORY OF CHANGE BASED ON THE RESEARCH QUESTIONS IDENTIFIED IN STEP 1

The research team developed a theory of change prior to the evaluation; this is illustrated in Figure 6 (Redmond, 2017).

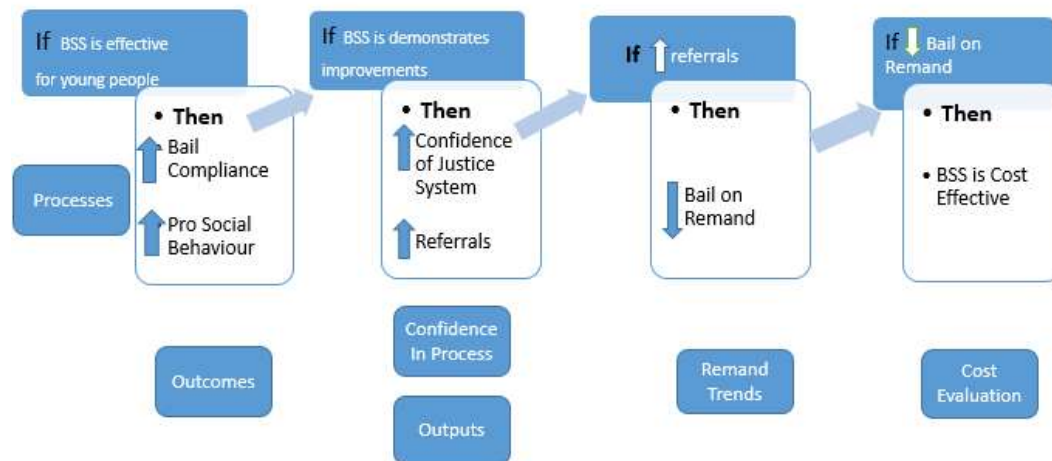


Figure 6: Proposed theory of change for the Bail Supervision Scheme

In brief, this if–then logic model proposed that if the BSS was effective, there would be evidence of (a) increased bail compliance and (b) pro-social behaviours by the young people enrolled in the scheme. Observed positive behavioural changes would then result in (c) the justice system gaining confidence in the scheme, therefore increasing its referrals to the

scheme. If there were continual referrals to the scheme, then there would be a reduced number of young people remanded to detention. If the cost evaluation shows the scheme to be cost-effective, then there would a reduction in costs to the state.

This report focuses on the first two steps on the theory of change (a to c). The remaining steps or long-term impact should be monitored over time.

STEP 3: GATHER EVIDENCE TO EXAMINE THE THEORY OF CHANGE

In this section, we outline the methodologies used to address the first three questions identified in the theory of change during the evaluation:

- a. Was there evidence of increased bail compliance?
- b. Did the BSS contribute to behavioural change?
 - o Method: Case profile analysis and documentary analysis
- c. Did the justice system gain confidence in the scheme?
 - o Method: Thematic analysis

STEP 4: ASSEMBLE AND ASSESS THE CONTRIBUTION STORY, AND CHALLENGES TO IT

At Step 4 we investigated (a) if MST was implemented as planned; (b) the processes, including implementation, which facilitated or acted as barriers to the operation of the scheme. We examine if (c) prior assumptions were met and (d) if BSS was more effective than existing arrangements.

- a. Did the BSS team implement MST as planned?
 - o Method: Fidelity evaluation (synthesis of MST fidelity report)
- b. What mechanisms contributed to or acted as a barrier to the operation of the scheme?
 - o Method: Thematic analysis
- c. Were key assumptions met on the presence of an environment that facilitated the operation of BSS?
 - o Method: Thematic analysis
- d. Was the BSS more effective than existing arrangements in relation to offending behaviour?
 - o Method: In partnership with the Garda Analysis Service, we designed and conducted a quasi-experimental design, which analysed and compared Garda PULSE crime data for the young people on the BSS (intervention group) to a matched group of young people who were detained on remand

over a similar timeframe (control group) over three time points (six months pre-BSS, during the BSS and six months post-BSS).

STEP 5: SEEK ADDITIONAL EVIDENCE TO TRIANGULATE AND STRENGTHEN FINDINGS

We interrogated the interview data to gather various stakeholders' perspectives on the implementation of the BSS and the mechanisms that contributed to observed outcomes with particular interest in:

1. Implementation of the BSS
2. Mechanisms that contributed to observed outcomes
3. Problem-solving strategies
4. Interagency co-operation
5. The performance of programme support structure (internal & external) against initial presumptions
6. Confidence in BSS
 - Method: Thematic analysis of interview data

STEP 6: REVISE AND STRENGTHEN THE CONTRIBUTION STORY

Our final step produces a report, which includes policy recommendations.

Appendix 3: The BSS Exclusion/Inclusion Criteria⁶³

INCLUSIONARY CRITERIA

1. Young person aged 12–17* years (*must be at least three months prior to 18th birthday).
2. Young person on remand* from Oberstown (*changed July 2017 to include referrals of young person from Court 55 who are at high risk of remand and clear bail objections).
3. Young person living within a 20-mile radius of Dublin.
4. Young person must have an identified primary caregiver who they can live with. Informed consent received from primary caregiver to engage in the programme.
5. Absence of all exclusionary criteria.

EXCLUSIONARY CRITERIA

1. Young person living independently, or for whom a primary caregiver cannot be identified despite extensive efforts to locate all extended family, adult friends and other potential surrogate caregivers.
2. Young person who is actively suicidal, homicidal, or psychotic.
3. Young person whose psychiatric problems are the primary reason leading to referral, or who has severe and serious psychiatric problems.
4. Juvenile sex offenders (sex offending in the absence of other delinquent or antisocial behaviour).
5. Young person with moderate to severe difficulties with social communication, social interaction, and repetitive behaviours, which may be captured by a diagnosis of autism.

⁶³ Taken from the Bail Supervision Scheme Standard Operating Scheme.

Appendix 4

Appendix 4 is taken directly from the 'MST Goals and Guidelines: Program Goals, Case-Specific Intervention Goals, Case Discharge Criteria, and Outcomes' document.

LENGTH OF INTERVENTION

Typical duration of intervention is three to five months. From the first meeting the therapist is planning for discharge by establishing overarching goals with clear criteria for success and by facilitating interventions that are carried out, as much as possible, by family members and other key participants.

The therapist needs to gauge decisions about discharge based on achievement of overarching goals. The therapist needs to end intervention when:

- there is evidence **at any point in the intervention** that overarching goals have been sustained over a period of three to four weeks, or
- overarching goals have not been met and intervention has reached a point of diminishing returns.

DISCHARGE CRITERIA

The determination to discharge a young person from MST is based on evidence of intervention effectiveness as evaluated from multiple perspectives (e.g. youth, parent, school, probation officer) indicating that:

- a majority of the overarching goals for the case have been met and sustained;
- the young person has few significant behavioural problems;
- the family is able to effectively manage any recurring problems and functions reasonably well for at least three to four weeks;
- the young person is making reasonable educational/vocational efforts;
- the young person is involved with prosocial peers and is not involved with, or is minimally involved with, problem peers; and the therapist and supervisor feel the caregivers have the knowledge, skills, resources, and support needed to handle subsequent problems.
- Discharge from MST may also occur when few of the overarching goals have been met but, despite consistent and repeated efforts by the therapist and supervisor to overcome the barriers to further success, the intervention has reached a point of diminishing returns for the additional time invested.

Appendix 5

The data in relation to the young people referred and enrolled on the BSS consists of two overlapping lists

- List 1: Contains all referrals from May 2017 to June 2018 – 30 young people
- List 2: Contains all young people who were enrolled between May 2017 and May 2018 – 22 young people

There were two notable differences between the composition of the lists:

1. Two of the young people enrolled during the evaluation period were referred prior to May 2017, so are included on List 2 but not on List 1.
2. Two of the young people referred from Court 55 in June 2018 (on List 1) were not included on List 2 as they had not been enrolled on the programme for a sufficient time.

All analyses using the PULSE crime data were based on List 1; all analysis of the referral pathway was based on List 2.

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DX No. 22003

Our ref : KWC/at

2 July 2025

Mr. Locan Staines SC
Law Library
Four Courts,
Dublin 7
DX 301036 Dublin

Re : Applications in to Bail Legislation

Dear Lorcan,

I refer to my recent telephone call to you and as advised I have been practising in the Courts for five decades and a lot of the work was criminal cases. You take it I have quite an extraordinary knowledge of the bail system in Ireland.

Also approximately 15 years ago in South Tipperary here we have a most dreadful assault on an innocent family by a Dublin gang, all who were on bail at the time and as a result of this an association was set up here in County Tipperary called Victims of Crime and indeed I was appointed President of the Association.

There was one common denominator in every county and every criminal offense, of the Accused 90% were on bail.

There is only one way to control this and that is to immediately set up a tagging or monitoring system of people on bail.

It is a simple solution in that any person who has a previous conviction for a similar offense will be allowed bail but must wear the tagging / monitor device.

I have done a study in other jurisdictions and it does work, that is if the Minister for Justice wants it to work.

Kieran W. Cleary
Principal

Ann Tobin
Legal Secretary

Roger Cleary
Senior Associate Solicitor

Fiona Conway
Legal Secretary

I wish you well in your submission and earnest wish is that this Minister for Justice will finally make a decision that will control the criminals in this Country.

Yours faithfully,



Cleary & Co.