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Editorial

This is the second edition of the Irish Probation Journal. We received very positive feedback about the first edition which was published in September 2004 at the launch of the Protect North and South project in Armagh. On that occasion we outlined our hope that the Journal would become an annual record of issues facing probation staff in the two services and would help in the development of professional practice within the overall objective of reducing crime and the harm it does.

The Editorial Committee would like to thank all the contributors as well as the two services for making this Journal possible. Once again we have received sound advice from our Advisory Panel as well as financial support from the NI Statistics and Research Agency to fund this edition. As we noted last year, the two services in Ireland have worked closely together for many years but the impetus for recent initiatives arose from the Belfast Agreement (1998) and the subsequent Criminal Justice Review (2000). In July of this year, that initiative was given added impetus by the signing of the Agreement on Co-operation on Criminal Justice Matters by Minister for Justice, Equality and Law Reform, Mr. Michael Mc Dowell TD and Mr David Hanson MP, Minister for Criminal Justice. This agreement flows from the earlier documents. It provides for further 'enhancement of existing areas of co-operation, and the development of new areas, including exchanges of personnel, joint conferences, research, training and exchange of good practice; as well as increased operational co-operation in criminal justice generally, and specifically in the management of offenders across the two jurisdictions. In this context, we are pleased to see the progress of the Protect N and S project which is covered in this edition.

It is always challenging to produce a second edition of any publication but we have been impressed by the enthusiasm and commitment of our contributors. We are aware that there are currently major policy reviews ongoing in both jurisdictions on the issue of domestic violence and for that reason have featured three separate articles from different perspectives in this challenging area. One criticism often levelled at agencies working with offenders is the lack of consideration given to victims and we are pleased to have two articles from both jurisdictions addressing this criticism. It is also important to consider how others see us and therefore articles on impressions from students and, indeed, from offenders, attempt to address this deficit. In the other articles we have tried to provide a balance of innovative practice, social issues, effective practice and current policy issues. Once again we have also included contributions from outside Ireland and we welcome the articles from David Morran and David Smith et al.

Finally, we would once again ask any potential contributors to submit articles for next year's publication. We want to encourage dialogue both within the Probation Service and also in the wider Criminal Justice arena. This is a rapidly changing environment and we would wish the Probation Journal to reflect ongoing developments in this important area.

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September 2005

*The Irish on probation in England**Sam Lewis, David Loble, Peter Raynor and David Smith***Summary**

The paper presents the findings of research on Irish men's experiences of probation supervision and criminal justice, in the context of a discussion of previous research on Irish people in Britain. The Irish sample was found to have lower levels of criminogenic needs than white British men who received the same sentences, and their orders tended to be longer than average. They reported high levels of personal and social problems, particularly in relation to health. In addition to disadvantages they share with other populations on probation, they also reported being the targets of racial discrimination in the criminal justice system, especially by the police. The special vulnerability of Travellers to discrimination and disadvantage is discussed and its practice implications are explored.

Key words: probation; Irishness; disadvantage; discrimination; Travellers

Introduction

In this paper we present the main results of research on Irish men's experiences of probation, in the context of a consideration of what it means to be 'Irish' in Britain. The research was funded by the National Probation Service and conducted mainly in the Greater Manchester Probation Area (Merseyside was included in the original research design, but very few Irish offenders were identified there). It was commissioned because of concern among staff in the two areas that Irish people (and especially Irish Travellers) might be subject to discrimination in the criminal justice system, and that this problem had not been recognised because of the 'invisibility' of the Irish compared with other minority ethnic groups (Murphy, 1994).

Murphy, like most writers on the Irish in Britain (Hickman and Walter, 1997; Fletcher et al., 1997; Walter, 1999), claimed that the Irish are the largest minority ethnic group in the country. We regard this claim as doubtful, since it requires that everyone with at least one Irish-born parent should be counted as Irish, and the evidence of the 2001 Census is that most people with this ancestry do not see themselves as Irish, or at least do not declare themselves as Irish for census purposes. The 2001 Census, the first to include a question about Irish 'ethnicity' as well as Irish birth, produced a figure of 641,804 'White Irish' (Office of National Statistics, 2003a), well below the figure anticipated by advocates of the inclusion of an Irish ethnicity question in the census, and well below the figures for 'Indians' and 'Pakistanis'.

Nevertheless, as Walter (1999) argues, national level statistics can be misleading because they conceal local concentrations of minority ethnic groups. For example, in Greater Manchester the percentage of 'Irish' people varied from 0.58% in Wigan to 3.78% in Manchester itself (a higher percentage than for London) (Office of National Statistics, 2003b). Furthermore, census returns are vulnerable to problems of definition. For example, people from the Protestant community in Northern Ireland may define themselves as British, while being as liable as any other

Irish people in Britain to discrimination; and some people who in fact see themselves as Irish may have preferred not to declare themselves as such in their census returns. A more important reservation about the census figures is that they undercount some of the most vulnerable social groups - for example, people in institutional or temporary accommodation, and Travellers. Not surprisingly, there are widely varying estimates of the number of Travellers in Britain, and of the proportion of them who are Irish (see Commission on the Future of Multi-Ethnic Britain (2000); Power (2003); Walter (1999)). From these different estimates it is possible to conclude only that there are probably between 40,000 and 120,000 Travellers in Britain, and that between 13,000 and 40,000 of them are Irish. This gives a maximum figure of 6% for the proportion of the Irish population in Britain who are Travellers.

The experience of Irish people in Britain

Discrimination and disadvantage are recurring themes in the literature on the Irish in Britain. For example, the Commission on the Future of Multi-Ethnic Britain (2000) describes (p. 32) 'a continuing pattern of low achievement for young Irish men and disproportionate ill health in the second generation' and says (p. 81) that '[m]ost of the Irish-born population are concentrated among the most deprived social classes and have lower than average rates of upward mobility'. Although the Irish are more likely to be seen as perpetrators of racism rather than victims of it (p. 61), 'their experience is closer to that of black people than to that of other white people' (p. 130). The Commission also suggests (pp. 178-9) that the Irish in Britain have specific health problems, which make them the only emigrant group whose health declines after migration.

Recent research, and the latest census data, suggest that this account of unrelieved gloom is at best only part of the truth. There is evidence of greater than average upward social mobility among second generation Irish people (Irish Project, 2002). In 2001, a higher proportion of Irish than of British people said that they had a higher educational qualification, and they were more likely to be in higher managerial and higher professional jobs (Office of National Statistics, 2003a). These findings reflect both the skilled professional status of many recent emigrants and upward social mobility on the part of children of Irish parents. The finding on mobility means, of course, that there was room to move up the scale of social status – these were children born into lower socio-economic groups, whose parents had emigrated in the 1950s and 1960s. Since then, the number of emigrants has declined dramatically, which helps to explain the census finding (Office of National Statistics, 2003a) that the Irish in Britain are overall older than the white British (and than any other ethnic group). The findings that the Irish in Britain are more likely than other white groups to have no educational qualifications, and to be disabled or in poor health, need to be interpreted in the light of this difference in the age distribution.

In saying this, we do not deny the importance of the long history of anti-Irish (and anti-Catholic) discrimination in Britain (see, for example, Hickman [1998]), or of a stereotypical image of Irish criminality (Foster, 1993). Our point is rather that it is both empirically inaccurate and practically unhelpful to present Irish people in Britain as if their main defining characteristics were failure and disadvantage. The same point applies to Black and Asian experiences

of racism, as Durrance and Williams (2003) have noted in the context of probation practice. They use Maruna's (2001) analysis of desistance (see also Maruna et al., 2004) to argue for the potential of Black empowerment groups, since if people can see their lives as narratives of redemption, not narratives of condemnation, they are more likely to succeed in stopping offending. Probation staff working with Irish offenders should be aware of possible discrimination and disadvantage, but they should not assume that these follow inevitably from the fact of Irish identity.

Irish people and criminal justice

Writers on Irish people in the criminal justice system tend to argue that here too they experience discrimination and disadvantage. The Commission on the Future of Multi-Ethnic Britain (2000) claims that 'Irish people as well as African-Caribbean people are disproportionately affected' by stops and searches by the police (p. 119), and that (p. 126) there is a widespread 'perception in Asian, black and Irish communities that the criminal justice system is not just'. Since arguably the worst miscarriages of justice in Britain in the past thirty years have involved Irish people (the cases of the Birmingham Six, the Guildford Four, and the Maguire Seven), some feeling of special vulnerability in the criminal justice process would be understandable. There is, however, little evidence that the Irish experience of criminal justice is one of general discrimination. Fletcher et al. (1997) claim that Irish people are disproportionately stopped by the police, disproportionately the victims of street crime, over-represented in remands into custody, and more likely to be jailed than other ethnic groups, but the evidence for this comes mainly from one local study in London, and Fletcher et al. themselves conclude (p. 4) that Irish people 'are not over represented among those convicted of more serious crimes'. Probation-focused research on Irish people is also sparse: Devereaux (1999) examined 35 pre-sentence reports on Irish defendants in Greater Manchester, and concluded (p. 80) that 29 contained irrelevant information, which she judged liable to 'trigger prejudice' in 27 cases. Travellers, as highlighted by Power (2003), are especially vulnerable to discrimination, particularly in respect of their supposed unsuitability for community supervision. Overall, however, our conclusion from a review of the literature is that little is known, though much has been asserted, about Irish experiences of criminal justice in Britain. We hope that this paper provides the beginning of a better understanding of Irish experiences of criminal justice and of what would constitute a helpful probation response to Irish clients.

The research project

The aims of the research were:

- To gain an understanding of 'the Irish identity' and explore definitions of 'Irishness'
- To examine Irish offenders' experiences of social exclusion
- To collect systematic information on the criminogenic needs of Irish offenders
- To explore the views of Irish offenders about their experiences of probation supervision
- To study Irish offenders' experiences of the criminal justice system, looking in particular at the possible existence of differential sentencing patterns
- To explore the specific needs of Irish Travellers.

The Irish sample was to be compared with other samples of probation populations, the predominantly (93%) white sample of Mair and May (1997) and the Black and Asian sample discussed by Calverley et al. (2004). The interview schedule for the project was adapted from that used by Calverley et al., and, as in their study, interviewees were to be paid £15 in recognition of the time and effort they had given to the research.

We conducted 48 interviews, 45 of them in Greater Manchester. We had originally hoped for 75, 56 in Greater Manchester and 19 in Merseyside (proportional to the total Irish population in the two areas according to the 2001 census), but we consistently struggled to turn potential into actual interviewees, and came to rely heavily on the enthusiasm for the research of a few probation officers. We did, however, interview nine men who described themselves as Travellers, without having to resort to over-sampling. This figure (19% of the total) is considerably higher than one would expect from our estimate of the number of Irish Travellers in Britain. While there were various reasons why the number of interviews achieved fell short of the target, the most common was that men recorded as Irish were no longer in contact with the probation service. As in other 'consumer' studies of probation, it is therefore likely that our sample is weighted towards those whose supervision was reasonably successful.

We obtained pre-sentence reports on 30 of the interviewees and 30 reports for purposes of comparison from the three offices that produced the largest number of interviewees. The interview and pre-sentence report material was supplemented by interviews and discussions with acknowledged authorities on the experience of Irish people in Britain, including Colm Power, an expert on Irish Travellers.

Characteristics of the sample

Thirty of the Greater Manchester interviewees came from Manchester itself, and the rest from peripheral towns such as Wigan, Rochdale, Oldham and Bolton. The mean age of the total sample at interview was just over 37. Of the 38 who were on community orders rather than post-custody licences, 30 (79%) were aged 30 or over, compared with 39% of the men in Mair and May's (1997) survey, 43% of the sample obtained by Calverley et al. (2004), and 44% of all those who started community rehabilitation orders in 2002 (Home Office, 2004). Twenty-seven interviewees (56%) were born in either the Republic of Ireland (16) or Northern Ireland (11). Twenty interviewees (42%) described themselves as second-generation Irish, and one had been born in Manchester but brought up in Ireland until the age of 13. Twenty-nine (60%) were judged by their interviewer to have a discernible Irish accent. Thirty-eight (79%) described themselves as Catholic, one described himself as Protestant, and nine (19%) said that they were not religious.

Type and length of orders

We compared the lengths of community rehabilitation orders (CROs) given to the interviewees with those given to all offenders starting such orders in 2002 (Home Office, 2004). None of the interviewees was serving an order of less than 12 months, although 11% of the general probation population received orders of this length. At the other end of the scale, 19% of the inter-

viewees were serving orders of 25-36 months, compared to just 3% of the general population. The average length of sentence for the Irish offenders was also higher, at 19.11 months compared with 16.3 months. Calverley et al. (2004) found that the average length of order for male Black and Asian probationers was 16.8 months, slightly longer than the overall average but shorter than the average for the Irish sample.

Previous experiences of probation

Over half (56%) of the whole sample, and 48% of those on CROs, said that they had previous experience of probation supervision. The comparable figure in the study by Calverley et al. (2004) was 56%; the overall figure in Mair and May's (1997) study of 1,213 men and women on probation was 49%, but the figure was higher for men and older offenders. Previous experience of probation cannot, then, explain why both the Black and Asian and the Irish samples tended to have received longer than average orders.

The index (main current) offence

The interviewees had most commonly been convicted of motoring offences (19 men, 40% of the whole sample); sixteen (33%) had been convicted of violent offences, and five of theft and handling. Compared with Mair and May's (1997) sample, a far larger proportion had been convicted of violent offences, and a far lower proportion of burglary. Since the numbers in the Irish sample are small, these figures should be interpreted with caution, but they raise the possibility that Irish men on CROs may be more likely than probationers generally to have been sentenced for violent offences, which could partly explain why their orders tended to be longer.

Criminogenic needs

The study aimed to assess the criminogenic needs of Irish offenders, with a view to informing the development of appropriate services. 'Criminogenic needs' are dynamic risk factors (Andrews and Bonta, 1998) that increase the risk of offending, but are susceptible to change. Such needs – which include those that may arise from social exclusion and discrimination – were assessed by the CRIME-PICS II questionnaire (Frude et al., 1994), which has been widely used in probation research and has been shown to produce results related to reconviction risk (Raynor, 1998). On this measure, the level of criminogenic needs in the Irish sample was close to that of Black and Asian offenders (Calverley et al., 2004) and substantially lower than that of the white British sample used by Frude et al. (1994). The Irish interviewees, however, had higher levels of self-reported problems than either group, particularly in the areas of relationships, mental and physical health, self-esteem, confidence, and worrying. The nine Travellers produced overall scores that did not differ significantly from the majority of the group, but the 27 offenders whose orders required them to attend a programme tended to have higher scores (as one would expect if programme resources were targeted at higher risk offenders).

These results suggest that the Irish interviewees had less crime-prone beliefs and attitudes than comparable white British offenders, but higher levels of personal and social problems. One implication for practice is that supervision of Irish offenders should include attention to such

problems as well as trying to change criminogenic attitudes and beliefs. Another is that Irish offenders may be at risk of receiving higher tariff sentences than they would receive if they were defined as 'white British'. This could help to explain the finding that Irish offenders tended to receive longer than average orders.

Pre-sentence reports on Irish defendants

Thirty pre-sentence reports (PSRs) on interviewees were obtained, and compared with a sample of 30 reports on male, white (non-Irish) offenders from the three offices which had produced the highest numbers of interviewees. The two sets of reports were similar in the range of offence types they dealt with and in their proposals: 25 of the comparison group reports and 28 of the Irish sample proposed a community penalty. Using the Quality Assessment Guide described by Raynor et al. (1995), two assessors independently evaluated the reports and compared their results. The mean combined scores were 34.7 for the Irish sample (the maximum possible score being 40), and 33.9 for the comparison group, so the Irish reports were not judged to be worse overall, although the poorest report was on an Irish defendant. The only aspect of the Irish reports on which they scored significantly worse than the comparison sample was in their tendency to stress background problems unrelated to the offence. Since this is similar to the finding of Devereaux (1999), it suggests that officers writing reports on Irish defendants should pay particular attention to avoiding this kind of irrelevant negative material, which can reinforce the stereotypes and prejudices to which Irish defendants, and especially Travellers, are vulnerable.

Experiences of probation

Asked whether they had seen and agreed a supervision plan, 27 interviewees said that they had not, and nineteen (40%) that they had. Since 66% of Mair and May's (1997) sample and 77% of Calverley et al.'s (2004) said that they had seen such a plan, the figure of 40% is surprisingly low. Apart from this, the evidence of probation practice that emerged from the interviews was mainly positive. The vast majority (92%) said that they had been treated fairly by their supervisor, a result similar to that found by Calverley et al. (2004). In general, interviewees felt they had been helped with needs and problems, that they could talk to their supervisor, and that their supervisor had been helpful and had treated them with respect. There was some indication that Irish offenders were more than averagely likely to have Irish supervisors: ten (21%) were described as white Irish, a figure well above the 5% of probation officers who were Irish according to the area's management statistics. There was some support for such 'ethnic matching' among the interviewees, fourteen of whom said that an Irish supervisor would better understand their experiences, needs, and culture. These findings are similar to those of Calverley et al. (2004) on the views of Black and Asian offenders.

In summary, a good supervisor was someone who was easy to talk to, listened sympathetically, helped with problems, and expressed care and interest. These qualities recall those identified in other research as central to effective helping (Truax and Carkhuff, 1967; Miller and Rollnick, 1991; Dowden and Andrews, 2004) – qualities such as empathy, acceptance and warmth appear to be universally associated with perceived helpfulness: 'It's nothing about being Irish – as long as they

treat you fairly, they care, are understanding...’ A specific awareness of the problems of Northern Ireland or of the meaning of Traveller identity was, however, important for nine interviewees.

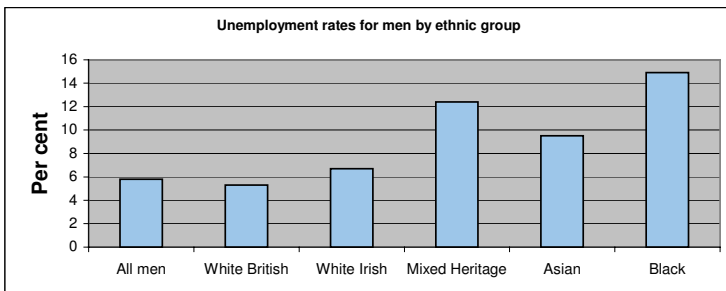
In evaluating their experience of probation overall, interviewees were much more likely to say it had been helpful (69%) than unhelpful (13%) or mixed (18%). ‘Help’ included practical advice and problem-solving, support in staying out of trouble or prison, having a positive PSR, and, once more, having someone to talk to. Among those who had experience of groupwork programmes, there was very little support for the idea of Irish-only groups.

In respect of work with Travellers, Colm Power suggested in interview that probation staff should be aware that Travellers often do not understand the operation of the criminal justice system as a whole, or the part the probation service plays in it. For example, they may not see the importance of the PSR as an influence on sentencing. (Only four of the nine Travellers we interviewed said that they had seen a PSR.) Secondly, probation staff should not assume that a nomadic way of life makes community supervision impossible, particularly in the age of mobile telephony (Power, 2003). Thirdly, Power suggested that it may be helpful for supervisors to show some awareness of the nature of Traveller life and culture. None of the nine Travellers we interviewed said that they had discussed this with their supervisor, and only two thought that such a discussion would have been useful; it may be, however, that some were reluctant to draw attention to their ‘Traveller’ status. The Travellers’ accounts of probation were in any case largely positive: all said they had been treated fairly, and eight had found their contact with probation helpful. Six were on orders requiring attendance at a programme, so it did not appear that they were being excluded from this resource.

Social exclusion

Economic disadvantage

We inferred economic exclusion from unemployment, benefit dependency, and poor health that affected participation in the labour market. The 2001 Census (Office of National Statistics, 2003a) found that Irish men in England and Wales had a slightly higher rate of unemployment than ‘White British’ men, but a substantially lower rate than Asian, Black and Mixed Heritage men. Figure 1 shows the unemployment rates for different ethnic groups.



In our sample, just 27% were in some form of employment, 38% were unemployed, and 35% were unavailable for work. Those with an Irish accent did not seem to be at a greater disadvantage in the labour market: the majority (9 out of 13) of those in work had an Irish accent.

Compared with the samples of Mair and May (1997) and Calverley et al. (2004), the Irish men were much less likely to describe themselves as unemployed and much more likely to say that they were unavailable for work. Given that 11 of the 12 men who were unavailable for work also said that poor health limited the amount or type of work they could do, poor health seems the most likely explanation. Asked about their main source of income, 71% said that they were on state benefits, a figure very close to those found by Mair and May (1997) and Calverley et al. (2004). It is clear that all probationers suffer high levels of disadvantage, as indicated by benefit dependency.

Just under half of those who answered the relevant question said that they had had problems of mental health, of which depression was by far the most common. All had been prescribed medication as a result, and six had been admitted to a psychiatric hospital or similar institution. In contrast, only 14% of Mair and May's (1997) interviewees reported having a long-term mental disorder or depression. The same pattern emerged in relation to physical health: asked whether they had (or expected to have) any long-term physical health problems, half of those who responded, and 63% of the CRO sub-sample, said yes, a figure considerably higher than the 49% reported by Mair and May (1997). Half said that health problems limited the amount or type of paid work that they could do; the comparable figure from Mair and May's sample was 30%. The higher incidence of mental and physical health problems in the Irish sample remains when age is controlled for: 46% of 45-64 year-olds in Mair and May's (1997) sample said that illness limited their capacity to work, compared with 86% of the Irish interviewees in this age group.

Educational disadvantage and exclusion

Twenty-seven (56%) of the whole sample, and 48% of the CRO sample, said they had no educational qualifications, a similar proportion to that found by Mair and May (1997), but higher than the 37% reported by Calverley et al. (2004); many of their interviewees, however, had gained their qualifications after leaving school. In all three samples, qualifications were usually at the most basic level. Asked how they had got on at school, six gave a mainly positive account, 19 a mainly negative one, and ten a mixed account; seven said they did not attend school. Poor educational experiences are strongly associated with an increased risk of offending for all groups, but some Irish people, and especially Travellers, may be particularly disadvantaged:

"Some [Irish people] get a lot of discrimination. Even at school they get called gypsy this and gypsy that. We used to live in Oldham and my little boy had to fight every day. I had to take him out of school because the teachers wouldn't do anything about it. He hasn't been back since."

Nineteen (63%) of the 30 men who had spent some time at school in Britain said that they had experienced racism at school, a higher proportion than that found by Calverley et al.:

"We got called 'gypos' and 'pikeys' by the kids."

"[They said] go on you Irish bastard. I had lots of fights. My dad said I had to stand up to them."

Geographical and environmental disadvantage

Eight interviewees said that they owned or were buying their homes, ten lived in private rented accommodation, 20 were renting from the local council or a housing association, and ten were in temporary accommodation or hostels. The proportion of owner-occupiers (17%) is much lower than for the population as a whole (69%) (Office of National Statistics, 2004), and the proportion in rented accommodation is correspondingly higher (42% were in council or housing association accommodation, twice the national figure). People in hostels or temporary accommodation in effect disappear from the national figures. Thus, on the measure of housing tenure, this was, like other probation populations, a disadvantaged group.

Experiences of criminal justice

Treatment by criminal justice workers

Asked to comment on their treatment by various criminal justice professionals, interviewees were most often critical of the police. Complaints included the use of unnecessary force (15 respondents), using belittling language or an unpleasant tone of voice, and being rude or unpleasant generally (10 respondents). Ten interviewees said that the police had picked on them because they were Irish, and six mentioned the use of racist language. The following quotations illustrate the kind of behaviour complained about:

"The police abuse me because of my accent and nationality. They won't leave me alone. The local neighbourhood cop is always asking me questions."

"The police are very prejudiced and racist – they need some training. They lift an Irish person before they would an English one."

It appears that police racism has not been aimed only at Black and Asian people (e.g. Cashmore and McLaughlin, 1991), but has also affected their dealings with the Irish.

One source of a sense of unfair treatment by the police is being unjustifiably stopped and searched, and according to both The Commission on the Future of Multi-Ethnic Britain (2000) and Fletcher et al. (1997), Irish people are disproportionately at risk. Interviewed for this study, Harry Fletcher argued that the crucial factor was an Irish accent, which increased the likelihood that the police would search someone they had stopped. Thirty-two (67%) of the interviewees said that they had been stopped and searched by the police for no reason, com-

pared with 84% of Black and Asian probationers (Calverley et al., 2004). Interviewees with an Irish accent were slightly less likely than those without a discernible accent to make this claim. We can tentatively conclude that Irish offenders are less likely to be stopped and searched than Black and Asian offenders, and that an Irish accent does not increase the risk of being searched. Political changes may well be relevant here: at the height of Irish paramilitary activity in Britain, an Irish accent may well have been enough to trigger additional suspicion on the part of the police.

A quarter of the sample also said they had been treated unfairly by magistrates, and about a third mentioned unfair treatment by prison staff. The most common complaint about judges and magistrates – not surprisingly – was that they were excessively punitive, as illustrated by the following example:

“I got three months in prison the first time I was done for driving whilst disqualified. A fellow done for house burglary walked out the same day. I had a bit of a record, but he had a record that would go from here to the end of the corridor...”

This interviewee went on to say that he felt he had been treated differently because he was Irish, whilst the other offender was English. Prison staff were also severely criticised: 47% of all those to whom this question was applicable reported unfair treatment:

“I got abuse. One prison officer hit me and my complaint got nowhere. All my kit was taken out of my pad. I broke my finger and it took three weeks before I got taken to hospital.”

Experiences as victims of crime

The majority of interviewees (33) claimed to have been victims of crime. This is to be expected, given that involvement in offending is recognised as one of the strongest correlates of victimisation and vice versa (e.g. Farrall and Maltby, 2003). Interviewees most often reported having been victims of property crime (19) and violent crime (15). The findings from this study do not support the claim of Fletcher et al. (1977) that the Irish are more likely than any other ethnic group to be victims of street crime: the proportion of Irish interviewees reporting victimisation is only marginally greater than that for Black and Asian probationers (Calverley et al., 2004).

The experiences of Travellers

One source of difficulty for Travellers, according to both Colm Power and Harry Fletcher, is the attitude towards them of settled Irish people. Power spoke of the ‘deep antipathy’ towards Travellers in Ireland, and suggested that this had been imported to Britain. He noted that the settled Irish in Britain have gained acceptance and respectability in recent times, which has further distanced them from the Travelling community. In this context, according to Harry Fletcher, Travellers may be viewed as ‘an embarrassment, letting the side down’. This was indeed the view of some of our settled Irish interviewees:

“There are two sets of Irish – Travellers and settled. The majority of Travellers get into trouble and then give us all a bad name. I’ve had English people say ‘are you a Traveller’ and look down on me when they say it.”

Power (2003, p. 254) describes how from the late 1950s Travellers adapted in urban settings to ‘casual building work, tarmac, market stalls, gardening and scrap metal collection’. They typically remained self-employed, so the use of unemployment as an indicator of social exclusion is problematic for Travellers. Of the nine Traveller interviewees, one was in full-time work, two worked part-time, and one was employed on a temporary or casual basis; three were unemployed, and two were unavailable for work. Scrap collection was the type of work most commonly mentioned, both by interviewees and in PSRs, but this did not necessarily entail a negative account of Travellers’ attitudes to work:

“I understand that the defendant has acquired a fork lift truck licence which has assisted his efforts to secure employment in the past. It is to his credit, therefore, that the defendant has a positive work ethic and overall supports himself financially.”

Five of the Travellers were dependent on state benefits. The remaining four said that their income came from some unspecified ‘other’ source, presumably ‘cash in hand’. That none of those who were working said that wages were their main source of income seems to confirm the view that Travellers prefer self-employment to waged labour.

The limited evidence available suggests that Travellers are more likely to be in poor health than other groups in British society, while making less use of health services (South West Public Health Observatory, undated). Three of the nine Travellers interviewed said that they had (or expected to have) long-term health problems; four said that this was not the case, and one refused to comment. Four said that health problems limited the amount or type of paid work that they could do. It is not possible to conclude from these findings, however, that the Travellers in our sample were in worse health than other Irish men on probation.

As with employment, the usual way of treating lack of educational achievement as by definition an indicator of social exclusion may not be appropriate to Travellers. Colm Power said in interview that many Travellers see the value of basic literacy and numeracy, but not of education beyond the primary level. This could put them at a disadvantage in understanding bureaucratic processes, including those of the criminal justice system. None of the Travellers interviewed gave a positive account of their time at school, and three said they had not attended school at all. Those who did attend typically experienced difficulties:

“I went for about four years ... I couldn’t tolerate school and they couldn’t tolerate me. I was always in fights. As soon as they hear the accent they assume you are a tinker, call you names. I would pick up the nearest chair ...”

The meaning of geographical disadvantage is also problematic in relation to Travellers. Many have effectively been forced into settled accommodation as a result of a shortage of officially approved sites for caravans. While enforced settlement could clearly have a negative impact on Travellers' family life and relationships, this did not emerge clearly from our interviews with Travellers. Three were in privately rented accommodation, four were in council housing, one lived on an unauthorised travelling site, and one lived in 'other' accommodation. Most said that they liked their neighbourhood, although five had lived there for less than a year, which may reflect Travellers' tendency to move one from one 'settled' home to another more often than the general population.

According to Power, Travellers often experience particular problems in obeying prison rules, 'which is hardly surprising given the background they come from'. It is also hardly surprising that the Travellers interviewed reported high levels of dissatisfaction in their dealings with the criminal justice system. Eight reported having been stopped and searched for no reason, or having been subject to other unmerited attention from the police:

"If they don't like your face they don't like you and that's it. Where I'm living now I had a breakdown truck outside my house. The police came to the door and asked for my documents. They had no reason. They done the same to my brother."

Such police intervention could certainly increase the likelihood that Travellers will become involved in the criminal justice system as a result of relatively trivial offences which might not attract police attention if they were not associated with a Travelling way of life.

Discussion

The evidence from this study provides no easy answer to the question of whether the experience of Irish people in Britain 'is closer to that of Black people than to that of other white people' (Commission on the Future of Multi-Ethnic Britain, 2000, p.130). Amongst the general population, the unemployment rates of white British and white Irish men are considerably lower than those of Black and Asian men, but among the probation population, levels of being 'unemployed or unavailable for work' are very similar for all ethnic groups. On the other hand, it seems that Irish probationers are disproportionately likely to be in poor health, and that their employment prospects suffer as a result, regardless of age. And although the findings on educational experiences and achievements, and on housing, are fairly bleak for both groups, the Irish probationers painted a somewhat worse picture of their education than their Black and Asian counterparts, and a somewhat better picture of their housing status.

In relation to experiences of criminal justice, Irish, Black and Asian probationers were equally likely to be critical of the police, prison staff and the judiciary, and they gave similar reasons for their dissatisfaction. In this study, however, Irish probationers were less likely to have been stopped and searched for no reason than their Black and Asian counterparts, and having an Irish accent did not increase the chance of this occurring. Irish, Black and Asian probationers seem to be equally likely to be the victims of crime.

Clearly, policies to reduce crime and promote social justice should aim to address the criminogenic needs of probationers regardless of ethnicity. Nevertheless, whilst not automatically conferring victim status on members of minority ethnic groups, criminal justice workers should be aware that minorities might have distinct needs and experiences to which effective practice needs to respond. If the probation service is to take seriously the possibility that Irish offenders may have distinctive needs or problems it must, in the first instance, have an information system which is effective and reliable in identifying Irish offenders. It is also important to consider the implications of the finding that, like Black and Asian men (Calverley et al., 2004), Irish men given community rehabilitation orders tend to receive longer than average sentences. Our findings also suggest that Irish men tend to receive the same (though longer) community sentences as white British offenders with higher levels of criminogenic need, a result that could be explained by differential sentencing. One influence on sentencing is the pre-sentence report, and, while in general PSRs on Irish defendants were not worse than those on the comparison group, they compared badly in their tendency to include material on offenders' backgrounds that was not relevant to an understanding of their offending or a decision on an appropriate sentence. Report-writers need to avoid an irrelevant stress on Irish defendants' 'foreignness' and difference from a supposed 'English' norm.

The accounts interviewees gave of their experiences of probation suggest that their views of what makes a helpful supervisor are very similar to those of the probation population as a whole. Their accounts of disadvantage and social exclusion were also similar in many respects, except that they reported a high rate of mental and physical ill health. This finding, combined with their relatively high level of self-reported problems and experiences of discrimination, suggests that a helpful probation response would be informed by a sense of these personal and social difficulties, and work to alleviate them. In relation to Travellers specifically, it seemed that they were much more likely than other Irish people in Greater Manchester to be subject to community penalties, as one would expect if they are especially vulnerable to police intervention for relatively minor offences (Power, 2003). Travellers if anything reported a more positive experience of probation than did the sample as a whole, and there was no evidence that they were less likely to be proposed as suitable for programmes. It may, however, be useful to explore the potential of ideas on good practice with Travellers such as those suggested by Morran (2001) and Power (2003).

We started by suggesting that it was wrong – and likely to be unhelpful in probation practice – to assume, as many writers have done, that the current – as opposed to the past – experience of Irish people in Britain is predominantly one of deprivation, discrimination and disadvantage. The available evidence does not support this assumption. Instead it suggests that the status of 'Irish in Britain' can mean very different things to different sections of the Irish population. For most, the status is neutral, and for many it may be a positive asset. For Irish men under probation supervision, however, it can sometimes mean exposure to racist discrimination that compounds the disadvantages they share with the probation population as a whole. We hope that this paper will help future discussion of Irish experiences of English criminal justice to be better informed.

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This CRO sub-sample is used for purposes of comparison with studies covering only offenders on probation orders.

Figure 1 was compiled using data from the Office of National Statistics (2003a, p. 134, Table S108, using the International Labour Organisation (ILO) definition of the unemployment rate as a percentage of all those who are economically active. The unemployment figures quoted for the current study give the number of unemployed as a percentage of all interviewees.

This figure is for the whole sample, and includes both male and female interviewees. See note 4.

Harry Fletcher is Assistant General Secretary of the National Association of Probation Officers, and for many years has argued for anti-Irish discrimination to be taken seriously.

Interviewees with an Irish accent were more likely than those without to complain of unfair treatment by the police, but the finding was not statistically significant.

Provisions contained in the Criminal Justice and Public Order Act 1994 make it extremely difficult for Travellers to maintain their nomadic lifestyle. The Act criminalised unauthorised stopping on marginal land and roadside verges, and removed the duty on local authorities to provide permanent sites. The Act also extended police powers to order trespassers to leave if they damage land or have too many vehicles, and gave the police new powers to remove vehicles without a court order.

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Risk in Irish Society: Moving to a Crime Control Model of Criminal Justice

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THIS PAPER WAS DELIVERED BY DR KILCOMMINS AS AN ADDRESS AT THE IRISH ASSOCIATION FOR THE STUDY OF DELINQUENCY CONFERENCE ON EFFECTIVE SANCTIONS FOR OFFENDERS IN NOVEMBER 2004. WE ARE GRATEFUL TO BOTH DR KILCOMMINS AND THE IASD FOR PERMISSION TO REPRODUCE THIS PAPER HERE.

Keywords

Due Process, Crime Control, Public Protection and Security

1. Introduction

David Garland, in his book, *The Culture of Control*, has recently set out the following indices of change which he believes are evident in the criminal justice systems of many western countries. They are as follows:

- the Decline of the rehabilitative ideal
- the re-emergence of punitive sanctions and expressive justice
- changes in the emotional tone
- the return of the victim
- the public must be protected
- the politicization of law and order
- the reinvention of the prison
- the transformation in criminological thought
- the Expanding Infrastructure of crime prevention
- the commercialization of control
- new management styles
- a perpetual sense of crisis

2. Not true of Ireland?

Given that criminology as an academic discipline was not evident in Ireland until relatively recently, it is difficult to be persuaded by the argument that intellectual currents in the criminological arena have helped to entrench the culture of control and re-orientate Irish sentencing practices. Low levels of recorded crime, the lack of resources and data, and difficulties of access to existing data ensured that crime causation in Ireland remained, by and large, a peripheral issue until the 1990s. The Department of Justice, for example, only established a research budget in 1997. Correctionalist criminology, therefore, is not as vulnerable in Ireland today as it might be in other jurisdictions where the discipline has exhausted itself more over the past four decades. This absence of correctionalist criminological debate in Ireland for the greater part of the twentieth century, and government apathy regarding the commission of research, stands in marked contrast

to developments in other jurisdictions such as the US and England and Wales. As a result, the tendency has been for penal policymakers in Ireland to focus more on pragmatism and expediency than on long term criminologically orientated strategy goals. If nothing else, the lack of a commitment to the discipline in Ireland indicates a significantly different energy and momentum being generated between the various jurisdictions. Of course, policy and intellectual transfer can still take place despite the yawning gap in criminological outputs between different countries. For Ireland at least, however, changing sentencing and punishment practices are not by any means attributable to a home based criminological rejection of the 'project of solidarity'.

3. What of Criminal Law

It might specifically be true in respect of the deprioritisation of due process values. The thrust of the current trend in Ireland has, I would argue, very much been towards the crime control model of justice as prescribed by Herbert Packer, with a focus on efficiency and outputs, an instrumental logic that emphasises the repression of criminal conduct as a primary concern, an emphasis on administrative fact finding processes, and a dislike of "*equality of arms*" values such as the presumption of innocence and the privilege against self-incrimination. In particular, where biographical knowledge was employed under the modern penal welfarist framework to socialise the deviant, produce new kinds of knowledge about the origins of crime that would facilitate intervention and displace a "*common law polity which presupposed a homogeneous dangerous class*", now it is increasingly employed, as in the extra-ordinary realm, not to normalise but to neutralize the threat posed. Knowledge is now increasingly premised on the maintenance of fragile borders of exclusion through "risk thinking," disciplinary law, a politics of safety and the management of the dangerous, and the perception that due process standards (such as beyond reasonable doubt) are inconvenient legal mantras. Commitment to justice and due process values is weakening, as law making increasingly becomes a matter of retaliatory gestures intended to reassure a worried public that something is being done about law and order. As some commentators have suggested: "*the values of the unsafe society increasingly displace those of the unequal society.*"¹

The collapse of the Liam Keane murder trial in November 2003 led, for example, to claims about a:

- 'crime crisis'
- *suggestions that the 'fabric of society was at risk'*
- calls for more '*anti-terrorist type laws*'
- *and a recognition by our Taoiseach that the Gardaí cannot 'take on a crowd of gangsters with their peann luaidhes'*

Yet the perception presented by those involved in crime control is very different. The President of the Association of Garda Sergeants and Inspectors attended a meeting of the Joint Committee on Justice, Equality, Defence and Women's Rights where he stated: "*the overwhelming feeling of members is that the criminal justice system has swung off balance to such an extent that the rules are now heavily weighted in the favour of the criminal, murderer, drug trafficker and habitual offender. At the same time, the system is oppressive on the victims of crime, the witness who*

¹ R Ericson and K Carriere, 'The Fragmentation of Criminology' in D. Nelken, ed., *The Futures of Criminology* (Sage, 1994), pp. 102-103

comes to the defence of the victim and the juror whose role it is to ensure justice is done and seen to be done. Much of the blame for this can be laid at the door of the system. The State has an equal duty of care to the victim, witness and juror as to the accused.”² The President went on to call, *inter alia*, for the removal of the right to silence in relation to the investigation of serious crimes. Equally telling is the suggestion in April 2003 by the Minister for Justice, Equality and Law Reform, Michael McDowell, that Ireland was the only “member state of the EU in which individual citizens are guaranteed the constitutional right to due process, exclusion of illegally obtained evidence, to trial by jury in all non-minor cases, to fair bail, to the presumption of innocence, to habeas corpus, and the right to have any law invalidated in the courts which conflicts with his or her rights - and the right not to have any of these rights altered except by referendum.”³

4. The Irish experience of control culture

Many of the ‘structural properties’ identified by Garland vis-à-vis sentencing are discernible in Ireland. To begin with, as the level of recorded crimes has increased, Irish society has experienced bouts of anxiety about insecurity and disorder. Such a phenomenon is also facilitated and shaped by the progressively politicised nature of law and order and the employment of sound-bite criminal discourse. The outcome of such dynamics in the penal field - in broad terms - has been a series of increases: in the strength of attitudes to crime; the use of imprisonment; the sentence lengths for serious crimes; the commitment to prison expansionism; the targeting of the poor, disorderly and homeless; and in the maximum penalties allowed by statute for various types of offences.

More specifically, the dynamics have begun to alter relations in the sentencing domain, changing the settled modern paradigm. For example, in 1996 the Law Reform Commission recommended that sentencing policy should be founded upon a policy of just desserts, citing its influence in jurisdictions such as the US and the UK. Such a coherent and reasoned strategy would operate in marked contrast to the disjointed ‘instinctive synthesis’ approach utilised in many Irish criminal courts. This demand for fixity of purpose in sentencing requires that the severity of the punishment match ever more closely the seriousness of the offence, which would in turn be determined by two factors - the level of harm caused by the offender and his or her degree of culpability.

A scheme of presumptive sentencing in Ireland has been provided for under the Criminal Justice Act 1999. The Act, *inter alia*, created a new offence, the possession of controlled drugs worth €13,000 or more with intent to supply. Any person convicted of the new offence, other than a child or young person, shall have a term of at least imprisonment of 10 years imposed on him or her unless there are exceptional circumstances that would permit a derogation.

In addition, section 4 of the Criminal Justice Act 1994, as amended by section 25 of the Criminal Justice Act, 1999, imposes what is effectively a mandatory requirement on judges to

² (Joint Committee on Justice, Equality, Defence, and Women’s Rights 8 December, 2003, per Mr Dirwan, President of the Association of Garda Sergeants and Inspectors.)

³ The Irish Times

follow a particular investigative procedure for confiscation of an offender's assets in circumstances where the offender has been convicted on indictment and sentenced for drug trafficking offences. The standard of proof required in any such proceedings is based on the balance of probabilities. There is also a statutory rebuttable presumption under section 5(4) of the 1994 Act that any property appearing to the court to have been received by the offender within a period of six years prior to the proceedings being instituted constitutes proceeds from drug trafficking offences. Section 9 of the Criminal Justice Act 1994 extends this procedure to all serious crimes. In such circumstances however, an application must be made by the Director of Public Prosecutions stating that the person in question has benefited from the crime before the court can determine whether or not to make a confiscation order.

A number of other subtle, but significant, alterations in specific sentencing practices have also occurred in recent years which fit, or have the potential to fit, into the more punitive trajectory depicted by Garland. First, section 2 of Criminal Justice Act 1993 empowers the Director of Public Prosecutions (DPP) to appeal to the Court of Criminal Appeal against unduly lenient sentences imposed on conviction on indictment. Though intended to be used sparingly, particularly given the provision's potential capacity to be utilised to pander to populist and emotive sentiment, one commentator noted that, by early 1999, such appeals "*were coming forward at a rate of one a week.*"⁴

Secondly since 2000, the practice of inserting review dates into sentences has been stopped. Prior to this, it was common for a trial judge in imposing a custodial sentence to insert such a date. On this date, the balance of a custodial sentence could be suspended provided sufficient progress, from a rehabilitative perspective, had been made by the offender. In the *People (DPP) v. Sheedy*, for example, Denham J noted:⁵

"The review structure is a process by which a judge is able to individualise a sentence for the particular convicted person. It is a tool by which the judge may include in the sentence the appropriate element of punishment (retribution and deterrence) and yet also include an element of rehabilitation. For example, it may be relevant to a young person or a person who has an addiction or behavioural problem and at least some motivation to overcome that problem, it may well be appropriate as part of a rehabilitation aspect of the sentence to provide for a programme or treatment within the sentence as a whole and then to provide for a review of the process at a determinate time".

The Supreme Court, however, in *Finn* suggested that the practice was in conflict with the power of the executive to commute or remit sentences under section 23 of the Criminal Justice Act 1951.⁶ Furthermore it was suggested that the practice breached the constitutional doctrine of separation of powers. Though such curtailment was founded on a juristic rather than a punitive logic, one of the unintended consequences may have been to restrict offenders' opportunities

⁴ T O'Malley, *Sentencing Law and Practice* (Roundhall, 2000), p.384.

⁵ (2000) 2 IR 184.

⁶ (2001) 2 IR 25.

to have their rehabilitation facilitated, individualised, assessed and encouraged.

More generally, the Sex Offenders Act 2001 exemplifies the priority currently given to the control of groups of offenders and the discourse of risk. This is evident in the increase in the maximum sentences available for sexual assault offences, the introduction of a tracking system with notification requirements, provisions for the making of sex offender orders where *reasonable grounds* exist for the protection of the public, mandatory obligations to provide employers with information on previous sexual offence convictions in certain circumstances, and the lack of treatment programmes or places.

In holding that the registration requirements under the Sex Offenders Act 2001 are constitutional, Geoghegan J., delivering the judgment of the court in *Enright*, stated the following: *"The undisputed evidence was that sexual offenders present a significant risk to society by reason of their tendency to relapse. The statistics suggest that the rate of relapse in the year after release from prison is a little higher than later. Also that the currently widely held international view as expressed in the literature is that it is a condition which in general cannot be cured. Further, as a consequence, it is not appropriate from a therapeutic point of view to think in terms of curing but rather risk management of the condition and the putting in place of measures which facilitate personal control and social control. The further undisputed evidence was that from a therapeutic point of view a commitment to register was the lowest level of any interventional programme in relapse prevention. It was stated that sexual offenders thrive on secrecy and have a propensity to move around. The commitment to registration by an individual may have the effect of facilitating personal control and in providing the Garda Síochána with knowledge of the persons whereabouts is a first step in social control."*⁷

The inclusion of post-release supervision orders in the Act, in particular, is of interest from a sentencing perspective. Such an order provides that a sex offender may be required after release from prison to remain under the supervision of the Probation and Welfare Service and comply with such conditions as are specified in the sentence. The combined duration of a custodial term and the period of supervision may not exceed the maximum sentence applicable to the offence in question. However, and echoing the felt societal need for more protection and more control, the custodial term should not be less than the term the court would have imposed if it had determined the matter without considering the order. In other words, no allowance for the secondary supervisory punishment should be made when considering the primary custodial sanction, albeit that the maximum sentence for the offence cannot be exceeded. Indeed, O'Malley has suggested that the constitutionality of the order, specifically having regard to its proportionality, might be in doubt given that it is a 'collateral hardship.' Such a provision together with the others cited - which are often justified and reinforced by archaic images of 'otherness' - bear testimony to Garland's notion that there is no such thing today as an 'ex-offender'. For sex offenders in Ireland, at least, the following sentiments appear to ring true:

⁷ *Enright v. Ireland* and the Attorney General (Unreported, Supreme Court, 18 December, 2002).

⁸ T. O'Malley, 'Principles of Sentencing: Some Recent Developments' *Judicial Studies Institute Journal* (2001) 1 (1): 55-56

“Today the interests of convicted offenders, insofar as they are considered at all, are viewed as fundamentally opposed to those of the public. If the choice is between subjecting offenders to greater restriction or else exposing the public to increased risk, today’s common sense recommends the safe choice every time. In consequence, and without much discussion, the interests of the offender and even his or her legal rights are routinely disregarded.”⁹

In addition, and as part of this reorientation in sentencing practices, a growing consciousness has emerged in Ireland of the need for victims of crime, and witnesses, to be more prominent actors in the theatres of prosecution and sentencing. This nascent pro-victim/witness momentum has ensured a more responsive support structure preceding crimes, more empathetic treatment by criminal justice agencies in the detection and prosecution of crimes, and a more conducive courtroom environment regarding the provision of information on crimes. All of the following relatively recent occurrences assist in rotating the ‘axis of individualisation’ in Ireland to a plot which is more victim orientated:

The establishment of Victim Support in 1985 and the publication of a Victim’s Charter in 1999. Statutory provision for victim impact statements.

The abolition of a mandatory requirement on judges to warn juries of the dangers of convicting on the basis of uncorroborated testimony.

The increased use of victim surveys that bring attention to bear on typologies of crime and victimhood.

The employment of intermediaries, live television links and video testimony for witnesses and victims.

Separate legal representation for rape victims under the Sex Offenders Act 2001.

Provisions for greater participation under the restorative justice model embodied in the Children Act 2001.

As a result, the Irish criminal process is increasingly having to accommodate the voices of victims/witnesses within a complex matrix of competing tensions that include the state, society and accused/offenders. Of course, upgrading the status of the victim from ‘nonentity’ to ‘thing’ is a laudable and necessary tactic. The danger is, however, that the momentum of this more inclusionary strategy will contribute to a reprioritisation of commitments, to a ‘pendulum swing’ between offender oriented and offence oriented sentencing policies.

In September, 2003 Mr Justice Hugh Geoghegan, a Supreme Court judge, noted: “*it is an absurd idea that because a judge or other powers-that-be, demonstrate concern for the rehabilitation of the criminal, they are thereby showing lack of respect or lack of concern for the victim.*”¹⁰

The possibility of such a recalibration in the scales of justice is illuminated by Fennell in the

⁹ D Garland, *The Culture of Control* (Oxford University Press, 2001), p.180

¹⁰ *The Irish Times* September 8, 2003.

context of the prosecution of sex abuse cases where there has been a delay in making the complaint.

Such cases often reveal a competing dynamic: on the one hand, the right of the victim to pursue justice in circumstances where the delay was attributable to the alleged dominion exercised by the accused; on the other, the right of the accused to a fair and expeditious hearing. In a thorough trawl through the cases, she cogently argues that the decisions reveal an accommodation, and pursuit, of victims' interests over the competing interests of the accused to a fair trial: *"The triumphing of victims rights on almost every occasion transposes the previous position of non-belief of victims to absolute and automatic belief."* In addition, she suggests that the judgments reveal an alignment of society's interests with the victims. In effect, the criminal process is witnessing the emergence of a society/victim coalition ranged against the increasingly dissociated accused whose rights are not identified as societal interests. She quotes the following passage delivered by Keane J. in *E.O'R v. DPP*: *"Whatever decision a court arrives at in a case such as this, there is the possibility of injustice; injustice to the complainants and the public whom the court must protect if the proceedings are stayed where the accused was indeed guilty of the offences, and injustice to the accused if he is exposed to the dangerous ordeal of an unavoidably unfair trial."*

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To some extent, the wheel in such emotive cases has turned full-circle, from non-recognition of victims in the past, to greater facilitation today, but with the consequence that, in some instances, the rights of the accused are de-prioritised. This very point was picked up upon by McGuinness J in *P.C. v. D.P.P.*: *"In years gone by, accusations of rape or any kind of sexual assault were treated with considerable suspicion. The orthodox view was that accusations of rape and sexual assault by women against men were 'easy to make and hard to disprove' and judges were required to give stern warnings in their charge to the jury of the need for corroboration and the dangers attached to convicting on the evidence of the complaint alone. No one today would support the orthodoxy of the past and there has been a great increase in the psychological understanding of sexual offences generally. Nevertheless it would be unfortunate if the discredited orthodoxy of the past was to be replaced with an increasingly orthodox view that that in all cases of delay in making complaints of sexual abuse the delay can automatically be negated by dominion."*

5. From an adversarial to inquisitorial model of criminal investigation

In recognising the practice of sentencing to be part of a wider trial process, it is possible to unearth further evidence of this changing trajectory. The ratification of increasingly coercive tactics in information gathering techniques? what Keane refers to in Ireland as the movement from an adversarial to a more inquisitorial model of criminal investigation? and the de-prioritisation of the fairness of procedure rights of accused persons also signpost this more punitive 'logics of action.' Indeed the strongest evidence of the possibility of a drift towards a control model of justice in Ireland is manifest in the dissolution of fairness of procedure safeguards.

11 C. Fennell, "The Culture of Decision-Making: A Case for Judicial Defiance Through Evidence and Fact Finding Judicial Studies Institute Journal (2001) 2 (1), p 54

12 (1996) 2 I.L.R.M. 128

13 (1999) 2.I.R. 25.

If anything, it could be said that in terms of a devaluation in due process values, Ireland is now a lodestar for other jurisdictions. This marks a complete reversal in Ireland's usual practice of criminal justice policy imitation from other western countries. Much, though not all, of the impetus for the tooling down of accused/offender rights must be construed against a backdrop of the "extra-ordinary" circumstances posed by the conflict in Northern Ireland. The "proportionate", "emergency" legal responses drawn up to combat the threat posed by paramilitaries have proved remarkably malleable in adjusting to more normal circumstances.

6. The normalisation process of a culture of control

(i) Wider use of extraordinary powers of arrest and detention

This overspill from the paramilitary realm into the ordinary realm is evident in the Supreme Court's sanctioning of the wider use of the extra-ordinary powers of arrest and detention permitted under section 30 of the Offences Against the State Act 1939. Under section 30 of the Act, a member of the Gardaí is authorised to arrest any person suspected of the commission of an offence under the 1939 Act or an offence which is "scheduled." Section 36 of the Offences against the State Act 1939 empowers the government to declare offences to be scheduled whenever it is satisfied that the ordinary courts are inadequate to secure the effective administration of justice. As noted, a suspect arrested under section 30 may be detained for an initial period of 24 hours followed by a further 24 hours provided a certain direction is given.

(ii) The Retention of the Non-Jury Special Criminal Court for non-paramilitary activities

Further support for this normalisation process can also be gleaned from the retention of the non-jury Special Criminal Court (re-established in 1972) and its use for non-scheduled, non-terrorist offences. The introduction of the Court in 1972, at the height of "the Troubles in Northern Ireland", was justified on the basis that juries were likely to be intimidated by paramilitaries. It continues to be employed today despite little in the way of a risk assessment as to whether or not there was a possibility of continued paramilitary intimidation. Moreover, the Special Criminal Court is increasingly being employed to try cases that have no paramilitary connections. Offences without subversive connections which have been tried in the Special Criminal Court include the supply of cannabis, arson at a public house, theft of computer parts, kidnapping, the murder of Veronica Guerin, receiving a stolen caravan and its contents, the unlawful taking of a motor car, and the theft of cigarettes and £150 from a shop. Such cases appear to verify Mary Robinson's concern, made in 1974, that the continuation of the Special Criminal Court would abolish the "jury trial by the back door."

Perhaps even more alarmingly, the decision to have such offences tried before the non-jury Special Criminal Court are not subject to any checks or safeguards. Under sections 46 and 47 of the Offences Against the State Act 1939, the DPP has the power to have any case heard in the Special Criminal Court where s/he is of the opinion that the ordinary courts are inadequate to secure the effective administration of justice.

(iii) Supergrass testimony

A witness protection programme was set up following the murder of Veronica Guerin, to assist the Gardaí in the fight against organised crime. The type of witnesses protected by the programme are not simply run-of-the-mill self-confessed accomplices, but fall into a definitional category more in keeping with supergrass testimony, a term made infamous following a series of paramilitary trials in the Diplock Courts in Northern Ireland in the 1980s. The damning information which such witnesses have provided has been utilised by the State to apprehend and prosecute a series of high profile individuals operating in the world of organised crime. In return for such information, the witnesses, who themselves had also repeatedly partaken in criminal activities, were given the opportunity of an improved lifestyle.

For example, one witness, Charles Bowden, in return for information on members of the so-called Gilligan gang and their alleged involvement in the murder of Veronica Guerin and drug trafficking, was given a series of privileges. They included: an undertaking from the DPP that he would not be prosecuted for his part in the murder of Veronica Guerin; a very modest prison sentence having pleaded guilty to serious drugs and firearms charges; special concessions while serving the sentence; his wife and children all received the benefit of the witness protection programme and were completely dependent on the State for financial support while Bowden served his sentence; and, it was promised that he and his family would be set up with new identities in a foreign country on his release from prison. All of these tactics - immunity from prosecution, lenient sentences, and resettlement under new identities - were also very evident in the supergrass trials that took place in Northern Ireland.

In *The People (DPP) v. John Gilligan*,¹⁵ it was pointed out that these witnesses, who were later referred to in court as “perjurers and self-serving liars”, were often interviewed by the Gardaí without any record being kept as to the contents of the interviews. Moreover, it was also alleged that payments were made to the same witnesses by the Gardaí, which purported to belong to the witnesses, but which, to all intents and purposes, appears to have been the proceeds of crime. On appeal, McCracken J. noted the following about the witness protection programme:

“There are certainly some very disturbing factors in the way in which the authorities sought to obtain the evidence... This was the first time that a witness protection programme had been implemented in this State, and one of the most worrying features is that there never seems to have actually been a programme. There ought to have been clear guidelines as to what could or could not be offered to the witnesses. This was not done, and instead there was an ongoing series of demands by the witnesses, most of which, it must be said, were rejected, but the position was kept fluid almost right up to the time when they gave evidence... [T]he authorities appeared at all times to be open to negotiation, but is something which certainly ought not to have been allowed to happen.”¹⁶

¹⁵ Unreported, Special Criminal Court, March 15, 2001.

¹⁶ *John Gilligan v DPP* (Unreported, Court of Criminal Appeal, 8 August, 2003).

In the same court it was noted: “A further worry arises from the evidence of...an official in the Department of Justice who wrote a memorandum in relation to granting overnight temporary releases to the witnesses which included the following: *“The question of an overnight TR was also discussed. And this was not ruled out by the Gardaí. The granting of an overnight would only be considered for a very special occasion and would be dependent on his performance in court.”* He gave that memo to an Assistant Secretary in the Department to be shown to the Minister and the memo came back with the words *‘and would be dependent on his performance in court’* crossed out.”

Current ambivalence about such testimony and the “fluidity” in the operation of the programme is even more surprising when one considers that only 20 years ago Irish politicians and the general public condemned with gusto the adoption of similar extraordinary practices in Northern Ireland. For example, on 17 May 1984 Fianna Fáil TD, Ben Briscoe, stated in the Dáil: *“The whole concept of the supergrass seems to go against human rights...It is important that we are seen to be on the side of justice.”* In the same sitting, another Fianna Fáil TD, Gerry Collins, referred to the supergrass system as “not only a travesty but a corruption of justice.” Similarly, the Minister for Foreign Affairs in 1986, Mr Peter Barry, in response to a question in the Dáil about the supergrass system in Northern Ireland, could suggest that he was committed, through inter-governmental conferences, to seeking the *“introduction of measures to increase public confidence in the administration of justice in Northern Ireland.”*¹⁷

In the space of two decades, however, arguments about the right to a fair trial, the protection of the innocent, transparent management, and basic human rights have been displaced by the need for a more efficient “truth seeking” criminal justice system.

7. Moving into the wider criminal justice system

More generally, and in the ordinary criminal justice realm, the past 20 years have witnessed increased powers of detention for the Gardaí and a substantial growth in their powers of stop, entry, search and seizure. It has also witnessed modifications on the right to silence and presumption of innocence. In respect of the right to silence, sections 18 and 19 of the Criminal Justice Act 1984, for example, allow adverse inferences to be drawn from an accused person’s failure to account for objects, marks, or substances in his or her possession, and a failure to account for one’s presence at a place at or about the time a crime was committed. Similarly, section 7 of the Criminal Justice (Drug Trafficking) Act 1996 enables inferences to be drawn from a failure to mention certain facts when questioned which are later relied upon in defence at trial. All of these inferences have corroborative value only.

The ordinary criminal justice realm has also recently witnessed judicial validation for shifting the legal onus of proof in criminal trials. Indeed it has led one commentator to suggest that it can no longer *“be confidently asserted that the burden of proof rests with the prosecution or that criminal trials proceed on the basis that the accused enjoys a presumption of innocence.”*¹⁸ In addition, the

¹⁷ See Kilcommins et al, *Crime, Punishment and the Search for Order in Ireland* (IPA, 2004), p.172.

¹⁸ A Ryan *The Sriminal Justice (Drug Trafficking) Act, 1996: Decline and Fall of the Right to Silence* *Irish Criminal Law Journal* (1997) 7 (1), p.22.

system has witnessed restrictions on the right to bail, non-recognition of the right of the accused to confront his or her accuser in court, and, an increasingly complacent attitude towards the right of a detained suspect to access to a lawyer. This right of access is worth further consideration, given that it is one of the most basic of all procedural fairness rights. The legal and constitutional right of access to a lawyer is well established in Ireland. It is not, however, absolute and is limited to 'reasonable access'. This has been interpreted by the Gardaí to mean that a detained suspect has a right of access to his or her solicitor for one hour during every six hours of detention.

Moreover, and provided the Gardaí have made *bona fide* attempts to contact a solicitor, they are entitled to proceed to question the detained suspect. Given that no duty solicitor scheme operates in Ireland, and given that there is anecdotal evidence to suggest that the Gardaí arrest suspects during weekends in cases where it may have been possible to effect the arrests during 'office hours', securing the services of a solicitor may be more difficult than would otherwise be expected. Even if contact is made with a solicitor, and assuming he or she is available to come to the station, there is nothing to prohibit the Gardaí questioning the detained person until such time as the solicitor arrives. Furthermore, even when the solicitor presents himself or herself at the station, he or she is not entitled to sit in on the interrogation – the right to reasonable access does not extend to having a solicitor present during the interrogation. Nor is the solicitor entitled to have an audio-visual recording of the interviews or to see the interview notes during his or her client's detention. The stark lack of protection afforded to a detained person regarding access to a solicitor - and narrow judicial and Garda constructions as to what constitutes reasonable access - raises, as one commentator noted, questions about the commitment of the institutions of the Irish State *'to the protection of basic human rights and to the dignity of its citizens as human persons.'*¹⁹

Though the fairness of procedures provisions inherent in the Constitution can act, to some extent, as a counterpoint to the rising tide of punitiveness, increasing authoritarianism and a swingeing disregard for procedural safeguards are also palpable in Ireland. Encroachments into the right to silence and presumption of innocence, restrictions on the right to bail, the virtually unchecked ability of the Director of Public Prosecutions to have ordinary crimes listed in the non-jury Special Criminal Court, the capacity of the Gardaí to employ emergency provisions in the ordinary criminal justice realm, the state's seeming indifference to international human rights provisions and decisions, increased powers of detention, search and seizure for the Gardaí, and illiberal interpretations of what constitutes reasonable access to a lawyer, all facilitate the reconfiguration of power relations between the State and the accused. This overspill from the subversive domain into the ordinary criminal justice realm and the expanding powers of law enforcement and prosecutorial agencies is part of a long-term, often unnoticed, shift in the civil liberties landscape, to one more closely aligned with the state's result oriented needs and its desire to control more effectively. As one of the leading commentators on criminal procedure in Ireland recently noted:

17 JPM White, *The Confessional State - Police Interrogation in the Irish Republic* *Iris Criminal Law Journal* (2000) 10(1), 17-20.

“The heavy emphasis on due process values which imposed a heavy burden on the State to prove guilt against a passive defendant has been replaced by a model in which, at the very least, the State can coerce a much greater degree of co-operation from the suspect, both directly and indirectly, in the investigation of his or her own guilt than had been the case previously.”²⁰

Perhaps nowhere is this results orientated penchant more palpable than in relation to the enactment of measures by which the proceeds of crime can be confiscated. The Proceeds of Crime Bill was mooted in Ireland in the mid 1990s to combat the dangers posed to society by drug-related crime. The current Act was initially proposed as a private member’s Bill, one week after the assassination of Veronica Guerin. Five weeks later, the normally sluggish and consultative legislative process was complete and the Proceeds of Crime Act was law. The Act’s cardinal feature permits the Criminal Assets Bureau to secure interim and interlocutory orders against a person’s property, provided that it can demonstrate that the specified property - which has a value in excess of €13,000 - constitutes, directly or indirectly, the proceeds of crime. If the interlocutory order survives in force for a period of seven years, an application for disposal can then be made. This extinguishes all rights in the property that the respondent party may have had.

The speed with which the legislation was introduced is a cause of concern, not least because of the manner in which it seeks to circumvent criminal procedural safeguards guaranteed under Article 38 of the Constitution. In particular, the legislation authorises the confiscation of property in the absence of a criminal conviction; permits the introduction of hearsay evidence; lowers the threshold of proof to the balance of probabilities; and, requires a party against whom an order is made to produce evidence in relation to his or her property and income to rebut the suggestion that the property constitutes the proceeds of crime. This practice of pursuing the criminal money trail through the civil jurisdiction raises all sorts of civil liberty concerns about hearsay evidence, the burden of proof, and the presumption of innocence. Moreover, and given the revenue producing capacity of the Criminal Assets Bureau, the temptation, as Lea notes, “*to displace concerns of justice with those of revenue flows cannot be ruled out.*”²¹ Indeed, and in something of a reversal of the established position in Ireland of political imitation and policy transfer from other jurisdictions, the “*structure and modus operandi of the Criminal Assets Bureau have been identified as models for other countries which are in the process of targeting the proceeds of crime.*”

8. A more variegated approach

What appears to be emerging is the increasing adoption of a more variegated approach - straddling both civil and criminal jurisdictions - to the detection, investigation and punishment of offences. For example, the organisational make-up of the Criminal Assets Bureau comprises Revenue Commissioners, Department of Social Community and Family Affairs officials and Gardaí, all directing their respective competencies at proceeds from criminal activities.

²⁰ D Walsh, *Criminal Procedure* (Roundhall, 2002), p. xii

²¹ J. Lea ‘Crime Control and Civil Liberties’ available at <http://www.bunker8.pwp.blueyonder.co.uk/>.

Moreover, the number of agencies with the power to investigate crimes in specific areas and to prosecute summarily has increased dramatically in recent years and now includes the Revenue Commissioners, the Competition Authority, the Health and Safety Authority, and the Office of the Director of Corporate Enforcement.

Alongside this multi-agency approach, greater levels of responsibility are being assigned to a variety of agencies and institutions to report criminally suspicious conduct and activities. Under the Company Law Enforcement Act 2001, for example, an auditor who unearths information during the course of an audit that reasonably leads him or her to believe that an indictable offence may have been committed under the Companies Acts is mandatorily required to notify that information to the office of the Director of Corporate Enforcement, which in turn can refer it to the Director of Public Prosecutions (DPP). Similarly, the Criminal Justice Act 1994, as amended, provides that designated bodies such as banks and building societies are obliged to prepare reports for the Gardaí and the Revenue Commissioners where they suspect that offences of money laundering or offences dealing with customer identification or record retention have been committed.

The Criminal Justice Act 1994 Regulations of 2003 provide that solicitors are also bound by the provisions. They too are now required to take measures to identify new clients and maintain records of their identities; maintain records of all relevant financial transactions of clients; and report suspicious transactions to the Gardaí and Revenue Commissioners. This latter obligation strikes at the very heart of the solicitor/client relationship. Indeed so great is the infringement of this relationship that the Law Society of Ireland recommends that solicitors who make such reports should immediately cease to act for the clients in question for any purpose. Obliging professionals and institutions to become “information reporters”, is, as Lea has noted, all part of an emerging “continuum of surveillance” in which there is “increasingly a need perceived by the authorities to *proactively establish* forms of surveillance and communications under *their direction and control*.”²²

Many of the phenomena highlighted point to a “downwards pressure” on standards of proof, indicative perhaps of increased support for a risk management standard as opposed to the more traditional criminal standard that was designed to afford accused persons every possible benefit of law. This criminal standard, which imposed a rigorous burden of proof on the state, was traditionally justified on the basis of the great disparity in resources between the state and the accused. Today the gap in state-accused relations has grown ever wider, whilst burdens and safeguards which were designed to remedy the imbalance are increasingly being dismantled. Provisions for the imposition of sex offender orders where there are *reasonable grounds* for believing that they are necessary; refusal of bail where it is *reasonably considered necessary* to prevent the commission of further offences; confiscation of a criminal’s assets post-conviction on the *balance of probabilities*; seizure of the proceeds of crime in the absence of a criminal conviction on the

²² Ibid

balance of probabilities; and the imposition of an obligation on a variety of institutions and professions to report *suspicious* financial transactions are all designed to identify and manage perceived crime risks. Such measures are no longer driven by respect for due process values and civil liberty safeguards that guarantee some element of parity between the state and the accused. Instead, they are organised around a desire to maximise efficiency, enhance control and minimise risk. Moreover, the sanctions referred to - such as sex offender orders, confiscation orders, and injunctions to seize assets thought to be the proceeds of crime - are not designed to re-orientate human behaviour or to reintegrate those that are deviant. Instead, they employ techniques which will neutralise rather than alter deviant behaviour.

9. Conclusion

Public protection and security are, as commentators like Andrew Ashworth have noted, extremely important and are essential goods in a society. What we want for ourselves, our families, our friends and wider society is to be able to flourish in our lives without risk of assaults on our persons or property. This is clear. But in a society premised on respect for human rights and civil liberties, a reasonable balance must be maintained between the individual's right to liberty and freedom and society's right to protection. As Garland has noted:

“We allow ourselves to forget what penal-welfarism took for granted: namely that offenders are citizens too and their liberty interests are our liberty interests. The growth of a social and cultural divide between ‘us’ and ‘them’, together with new levels of fear and insecurity, has made many complacent about the emergence of a more repressive state power. In the 1960s, critics accused penal-welfare institutions of being authoritarian when they wielded their correctional powers in a sometimes arbitrary manner. Today’s criminal justice state is characterised by a more unvarnished authoritarianism with none of the benign pretensions.”

We also allow ourselves to forget that the appeal of risk thinking in relation to due process values often underplays the problems of effectively identifying and dealing with risk and has also led to a neglect of discussions of values and principles. In focusing on the technologies of protection, we tend to forget that this highly pragmatic risk thinking is also value laden – we tend to ignore the moral dimensions of the debate. Even if risk thinking was neutral and apolitical in design, it has not been established that there is a simple hydraulic effect between toughening the rules against the accused and better protection for victims: any curtailments and restrictions should be evidenced based, but they are not at present. What does appear to be clear today is that the old adage that it is better that 10 guilty persons should go free than for one innocent person to be convicted seems to have very few adherents now.

23 Op. cit., pp. 181 - 182

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*Art of the Possible:
The Place of Art Therapy in Work with High Risk Offenders*

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Summary

The paper outlines the aims of art therapy in relation to working with high-risk offenders acknowledging the need for research to establish whether and how it can impact upon re-offending behaviour. A short vignette of practice is provided followed by a discussion of the necessity to find a language which is understood by all practitioners. It concludes with further information on the possibility of links between art and probation practice. In the article, the offender is referred to as “he” and the Art Therapist as “she”. The principles of Therapeutic practice are equally applicable in the case of male therapists and female offenders.

Keywords Art therapy, symbolic communication, research, effective practice.

Introduction

Offending can be seen as a destructive and habitual response – a known method of finding relief from conflicting feelings. If commitment can be secured to explore other aspects or parts of what the personality has to offer, a different kind of experience is then met, one which confirms change and adaptability. To make a sustained change, the offender requires a degree of flexibility – the ability to meet the demands of situations in life in a new and responsive way instead of reverting to a rigid set of rules, habits, attitudes and behaviours.

When direct, verbal communication seems insufficient or is of limited worth, an alternative is the visual and nonverbal method of art therapy.

Art therapy has been available within Probation Board for Northern Ireland since 1987 when a seconded probation officer returned from full-time training as an art therapist. Although the service was available to all categories of offenders over the years, it is now targeted at high-risk and potentially dangerous offenders. For an art therapy service to develop within the context of the probation service, it is imperative that practice is research-led, evidence-based and that it is seen as a method which can contribute towards reduction of offending behaviour through being able to affect criminogenic needs ie, those factors which have a direct link to re-offending. These include anti-social attitudes, beliefs and values; anti-social associates; lack of pro-social role models; dependence upon alcohol and drugs; a sense of achievement and community integration; employment; social isolation and mental health.

In their listing of these Chapman and Hough (1998) state: ‘Drama, art therapy if purposefully and carefully designed and delivered can address criminogenic needs ... These activities should be carefully marketed and evaluated to convince the public that they are effective in reducing re-offending’ - (emphasis added by author).

Aims Of Art Therapy

Therapy indeed may appear to outside perceptions as a 'soft option' but the process can involve facing up to painful and distressing aspects of oneself with the consequent need to withdraw projections, repair damage and take personal responsibility for future behaviour. Art therapy in any context involves the use of art materials to communicate visually ie, create symbols, in order to express internal experience – thoughts, feelings or ideas.

The role and function of the arts therapies in working with offenders is delineated by Cordess in McMurrin (2002). He writes: "It is the task of the therapeutic relationship, by achieving a therapeutic alliance, to understand this propensity to destructive acting-out, and to be able to get it into words and to discuss it rather it needing to be endlessly actually repeated. It is also the case that many offender patients find talking, rather than acting, either difficult or quite beyond their capacities. There may be relative degrees of incapacity to symbolise and a 'concretisation' of thought. In these cases the arts therapies – whether art, music or drama – may be particularly helpful in allowing a therapeutic alliance to grow 'without words' ". (pp 82 – 83).

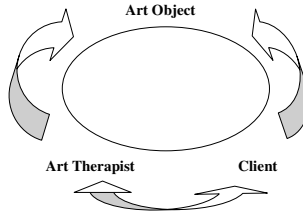
Art therapy offers an opportunity to communicate symbolically – to use art materials to represent thoughts, feelings or ideas. This occurs in the presence of a trained art therapist whose role it is to receive and value the individual's visual expression as well as the verbal expression which might arise within the session. The process of creating involves both conscious and unconscious activity – the therapist's work is to make the therapeutic situation safe enough so that unconscious processes may arise. Thus external form or shape is given to the individual's internal world by being projected onto or into basic art materials. A boundary for this previously unexpressed material is provided by the consistent regularity of the therapeutic contract.

The art therapist takes cognizance of both content and style in the client's art work: content is what is held within the art object whereas style (or form) refers to the manner in which it is approached. For example, a landscape drawn precisely and with deliberate care would indicate a very different mood than one created with strong colours using paint and a large paintbrush. Ideally over a period of time previously inaccessible parts of the personality become freed for expression through the safety afforded by the therapeutic situation. The innocuous nature of the art materials allows a different arena for communication than the verbal. As shape or form is given to what was previously unexpressed, so distance is achieved and there is an opportunity to reflect on the image. What can be seen can be talked about, thus its power is reduced and some modification in behaviour is possible as a result of an acceptance and re-integration of previously denied thoughts, feelings or ideas.

In practice terms, how does this theory apply to the client in the room and how does it affect the therapist's behaviour? From the point of entry into the room (and even before this) the therapist will note the language used, attitude towards art materials, evidence of receptivity to a symbolic form of expression – eg the use of metaphor and simile. Her musings will be of the following nature:

- Can this person make a symbol?
- What kind of symbol does he need to make?
- How can he be helped to do this?

The three-way relationship always present in the art therapy session may be shown thus:



In the author's view, the process of creating in itself forms the basis of the possibility of change. All her behaviour will encourage the client's discovery and consolidation of the process. Personal experience as a therapist would indicate that a reluctance to make marks is borne out of fear – the fear of risk, of a derisory response, of loss of control. This is not solved by providing a theme or suggestion about how to begin, but rather by the therapist's behaviour and attitude which gives room and time for potential creativity to show itself.

After the making of the first mark, the page is no longer blank and the first risk has been taken – the story unfolds! The therapist calls upon the nature of the mark-making, the creator's attitude to it and all other verbal and non-verbal cues to help her to attend to and receive appropriately the communication. Appropriate in this context suggests a response which encourages the client to connect himself to the work to whatever degree and level he is able at that stage.

Application To Practice

B. was referred to art therapy by his Probation Officer who felt that he 'needed a therapeutic outlet for anger and depression' The referral followed an overdose and admittance to psychiatric hospital and it was indicated that he had major problems regarding separation from his wife and children. It was felt that a non-verbal method could help contain his strong feelings, which if not managed would break out into acts of violence. A 45 year old male who was placed on probation for disorderly behaviour and later was arrested for threats to kill, he was a rigid man with fundamentalist views in terms of relationships, having experienced a difficult upbringing with a father who drank heavily and was violent towards the family. He had weekly art therapy sessions over a long period of time, continuity being maintained during a period in prison, psychiatric hospital and throughout a pre-release scheme, as well long periods in the community. He was obsessed with his marital situation and with his desire for his wife to return. He seemed to veer between the possibility of doing harm to his potential victim, his estranged wife's new partner, and harming himself, the latter at periods when he could accept that his wife would not return. At some stages, his anger was so great that members of the public who confronted him represented the victim.

B. immediately accepted the offer of a contract of six weekly sessions, saying with great consideration at the end of the first, "I don't know where it will lead to. I don't know what I'll get from it", which spoke of his willingness to enter a process without the guarantee of a particular outcome. His self-directed work over a number of months (the initial contract having been extended) portrayed visually his feelings of being restricted (by probation conditions), his vengeful wishes about 'the enemy', his desire to do harm 'when the climate is right' to the new relationship. He saw art therapy as being about 'my ideas, my thoughts, down on paper'. His fear was that some day he would be at boiling point, that he wouldn't be able to do this. His being 'almost at boiling point' in one session resulted in a huge sheet of paper painted in layers and layers of black. His style gave way to a more representational one where pencils were used to portray tender reminiscences of family life before the marriage break-up. B. eventually found that he liked to work with clay, initially in its soft form, thereafter utilizing hardened blocks or pieces of clay.

During these initial stages, he continued to be pre-occupied with planning revenge and depending upon his mood also considered suicidal ideas. Both of these potential acts of aggression seemed subtly intertwined. B. ensured that he was protected from actually carrying out his threat to kill by alerting all professionals involved to his intention. His suicidal ideation occurred in relation to it happening after the intended killing – which essentially delayed the suicidal act.

Art therapy provided B. with the opportunity to connect his past and current experience, to reach behind his everyday mode of self-understanding and attempt to explore the origins and effects of his rigid attitudes. He talked in terms of black and white, how there were no greys, no middle ground, no meeting place. The hope was that in being creative, this inflexibility could be left aside for a period since the creative process involves a risk-taking which goes beyond the familiar and leads to the possibility of a synthesis – a different constellation.

B.'s use of the hard clay seemed like 'a whole new world', representing a 'challenge' for him. As he chiselled and bored holes in the material, he seemed to be testing how far he could act upon it without it breaking up, exploring how much impact it could withstand while remaining intact. At other times, he used smaller pieces of clay juxtaposed with each other to represent the delicate balance of relationships. A contrast in his verbal and non-verbal expression was the idea of opposites – good and evil, holding out and surrendering, hard and soft, weak and strong. The clay became his battleground upon which he played out his conflicting moods and attitudes, struggling to find a balance between his rage and hatred and his intermittent acknowledgement that he had to let go of his desire for revenge. He talked of the 'good part' of himself being in conflict with the vengeful, hate-filled part. 'The hatred – it's awful'. He spoke wistfully of how he'd like to capitalize on and encourage the good so that it could win. The art therapist's role was to encourage expression of emotion within the art rather than description and reiteration of familiar thoughts and attitudes. At times, B. was able to approach his emotional side, it being expressed forcibly within the clay object; this was often followed by a more linear expression, a retreat to self-indulgence and self-obsession.

It was essential that the probation officer and art therapist maintained frequent contact to

match their perceptions of B.'s moods and to ascertain the probability of his acting on his feelings. This contact, by telephone or in person, occurred after B.'s weekly appointments and was another 'safety net' to hold his volatile nature and to allow ongoing assessment of risk. The art therapist needed to convey to her colleague the significance of the art work – its content, style or indeed both – in relation to its helpfulness or likelihood of interrupting the destructive behaviour which is 'endlessly actually repeated' – not an expectation of 'diagnosis' but rather the development of a common language which indicated connection between what appeared in the art (and how it appeared) and the external life of the offender. Here, the important aspect was how and whether B.'s art work showed an emotional component. During the periods when this style was predominant, there seemed to be some possibility of him withdrawing his projections and owning some personal contribution to the situation in which he found himself.

B. ended his probation period without carrying out his threats and to the knowledge of all involved has not offended. The art therapy component of his supervision allowed a broader perception of the complex relationship between his thoughts, feelings and behaviour through their visual representation. The processes involved in B.'s creative activity were at the basis of any therapeutic encounter – e.g. capacity to trust the therapist, the risk-taking involved in making marks, the existence of both conscious and unconscious activity, the ability to develop a symbolic language and the use of such in everyday life. Referral to the art therapy service for this highly defended individual recognised the fact that growth and change can occur not only through cognitive means e.g. problem solving but through an engagement with the imagination. Here both conscious and unconscious processes combine to give form or shape to the offender's internal world and provide a visual representation from which talking and 'thinking about' can arise. B.'s rigid views, historically formed and affecting his current relationships needed the wider arena of symbolic activity where he could 'play out' their various facets. The art therapy service, offered and operating within the probation framework of assessment and management of his high risk behaviours, supported the creative expression of the feelings underlying these behaviours. Such expression delayed or inhibited their direct or concrete discharge through the distancing which symbolic activity allows – a chance for perspective rather than overwhelming involvement.

Implications For Research

Any art therapy practitioner has both quantitative and qualitative information within her caseload which can be given a research frame. If the effects of art therapy are to be measured, the processes outlined above have to be investigated in relation to their potential to affect behaviours. In 1999, the author attended a course entitled 'Measuring the Immeasurable' (1999). An art therapist and music therapist presented to a panel consisting of a drama therapist, music therapist, a psychiatrist and a researcher who commented on both clinical and research aspects of the presentation. Searching questions were asked of both professions. In relation to art therapy: what are we looking for in the art work? Why is particular behaviour happening and how can it be presented to other team members? How does what is happening relate to other people? An important question was – how can the specific be generalised into a client's life? The

psychiatrist posed what he called 'the radical doubt' – is one just seeing the potential in a client or is there a real capacity to create internal change? Some conclusions reached included the need to explore ways of standardising the content or the nature of extracts from pieces of practice – this then is a basis for research. If there are others who can look at and score the same piece of work, then reliability occurs – this further affirms the need to find a language which is accessible to other professions. An important point was made about the need to look not just at the pathological but also the functional aspects of the individual's personality. If a base-line can be created then we know where change starts from. Some information may be offered in relation to the above questions:

What are we looking for in the art work? We look for some evidence that there is a capacity to use a symbolic language - colour, shape, form - to express and communicate. We look for whether the way (or style) in which this presents over a period, changes and how it changes. For example, can emotion be expressed whereas formerly it was avoided?

Why is particular behaviour happening and how can it be presented to other team members?

One can point here to the conditions which are necessary for creativity to occur and also take cognizance of the detail of the session and indicate which marks followed particular interventions (or non-interventions) by the therapist. The significance of changes in content or style can be communicated to one's colleagues e.g. a shift from self-preoccupation to even the slightest hint of empathy for others as shown by a variation in the nature of the marks made.

Can the specific be generalised into other aspects of life?

Any change likely to be permanent takes a lengthy period of time. In art therapy, changes in the style of work are often involuntary and unconscious but can be affirmed and reinforced in reviews of the art work over a period. As one offender said 'If I can make changes here (on paper) where I don't know what I'm doing, I can surely make changes in other parts of my life that I'm familiar with'.

Thus, some factors to be considered in relation to research formulations are whether the offender has the capacity to find and develop a visual and symbolic language which he can use in exploring different aspects of relating to self and others to reduce the risk of offending behaviour; the significance of changes in style of work which can be aligned with and complement probation officers' supervision plans; methods of reinforcing those emergent aspects of the personality which are pro social.

Conclusion

The challenge for art therapy's practice with high-risk offenders is to produce evidence for the validity of the method in terms of observable changes in behaviour. However the ongoing necessity is to observe and define the particular contribution which art therapy can make to behaviour change and translate this in intelligible terms to other disciplines in offender services. In the present political and social climate, therapeutic involvement needs to be couched and re-framed in language which emphasises its outcome in terms of reduced risk of offending and increased public protection. The world of symbolic communication needs to meet (and greet) the world of assessment and management of risk and earn its place there without losing its creative and ethical base.

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The Introduction of Family Conferencing to the Probation and Welfare Service.

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Summary

This article describes the introduction by the Probation and Welfare Service (PWS) of family conferencing. It begins by outlining perceived weaknesses in the present retributive justice system in meeting the needs of young offenders and their victims. It identifies family conferencing, which focuses on making amends to the victim rather than punishing the offender, as an aspect of restorative justice and as another way of working with young people who have offended.

This article describes the concept of 'cross grade groups' within the PWS. It explains how this mechanism was used to interpret best practice for family conferencing, applying it to the Irish context and developing policy and procedures which allowed for the commencement of Part 8 (Section 78-86) of the Children Act 2001. It describes the roles of participants involved in family conferencing, the preparation and chairing of the family conference and outlines the decision making process. The article also offers some facilitation techniques that may help practitioners to make best use of the process.

Keywords Restorative Justice, responsibility, diversion, negotiation, facilitation, family conferencing

Introduction

Within the prevailing retributive system of justice a young offender must adapt to the legal process and depend on many professionals who decide the consequence of his/her offence...

'From the point of view of the consumer of juvenile justice the defendant's role under the justice model is increasingly one of observer rather than participant. (Atkinson in Jackson 1998:34)

This exclusion of the offender can lead to a reduction of his/her sense of responsibility for the offence. He may also have difficulty understanding the language used in court and the reasons for decisions, which further alienate him from the process.

Within the Irish court system considerable time could elapse from the detection of the crime to the final decision of the court. It can be argued that even following a plea of guilty; adjournments to facilitate reports from psychiatrists, social workers or probation officers may prolong the decision making process even further. Maxwell and Morris (1992) writing about the New Zealand system state that "time frames should be realistic so that young offenders can associate the punishment with the offence, repay their debt quickly and proceed with their lives putting the past behind them." (Maxwell and Morris 1992:15). Long court procedures may serve to minimise the offence in the mind of the young person and so increase the possibility of further involvement in crime.

The victim of the offence can also play a marginal role in court proceedings. If the offender

pleads 'guilty' the victim will probably not get any opportunity to present his/her version of events. If the offender pleads 'not guilty' the state may call the victim to give evidence in order to support the case for the prosecution. The victim is then open to a possible intimidating cross-examination by the defence.

The

'gulf in relevance between the punishment and the crime when the state rather than the victim is the prime focus is often so large as to make the experience meaningless in accountability terms.' (Zehr 1994 cited in Jackson 1998:40)

In this adversarial atmosphere the victim and the offender do not get an opportunity to hear and understand the full experience of the offence for the other.

Children Act 2001

Much of the legislation relating to the area of youth justice was encapsulated in the Children Act 1908. The Children Act 2001 sets out a comprehensive modernisation of the legislation dealing with offending by children with an emphasis on differing pathways for offending and non-offending children. This included the introduction of a range of options, new structures and sanctions in order to meet a child's needs.

The spirit underpinning the Children Act includes the diversion of children and young people from the court, conviction and custody. There is an emphasis on the role and responsibility of parents and the rights and interests of victims. All these principles are incorporated in the family conference convened by the Probation and Welfare Service. The overall implementation of the Children Act 2001 is the responsibility of three separate government departments: Department of Health and Children, Department of Education and Science and the Department of Justice Equality and Law Reform. Implementation is co-ordinated by the National Children's Office.

The Probation and Welfare Service has an important role in the implementation of the Children Act 2001. In particular the PWS is responsible for the delivery of a range of community sanctions and other interventions, including family conferencing, contained in Parts 8, 9 and 10 of the Children Act 2001.

Family conferencing is a significant option within the Children Act. There is provision for conferences convened by three different agencies. Part 2 of the Act relates to the Health Board convened family welfare conference, where it appears that the child may require special care. Part 4 relates to the Garda Conference under their diversion programme and the third agency designated to convene a family conference is the Probation and Welfare Service.

Restorative Justice

Family conferencing can be placed within the restorative justice paradigm. (Polk, 1994) Restorative justice is an alternative to the traditional approach of retributive justice, which, it argues, is failing to have any significant impact on crime in society. Within the retributive justice court system the state is perceived as the prosecutor. The victim may be asked to act as a witness for the state. The court will usually punish the offender with the aim of reducing the possibility of a re-occurrence of the crime and in the hope of deterring others from committing a similar act.

In contrast, restorative justice aims to make amends for the crime committed rather than punish the offender:

'Restorative justice seeks to redefine crime, interpreting it not so much as breaking the law, or offending against the state, but as injury or a wrong done to another person or persons. It encourages the victim and the offender to be directly involved in resolving any conflict through dialogue and negotiation.'

(Dept. of Justice, New Zealand 2000 (Cunneen, 2002:8))

This new focus on healing and the related empowerment of those affected by a crime has potential to enhance social cohesion in our increasingly disconnected societies (McCold and Wachtel, 2004:2). Family conferencing is a procedure, which meets the criteria for consideration as a restorative justice outcome as it seeks to empower the victim, the young person and his family.

The Family conference

A key principle of family conferencing is the involvement and empowerment of families. The family conference is designed to create a forum, which empowers families to have a meaningful voice, exercise responsibility and take a lead in decision making over their own affairs. In addition the family conference aims to engage the victim, the young person and his/her family, and appropriate professionals, and others who can contribute to the conference. The process of sharing ideas about the young persons offending behaviour and how this has affected the victim helps the family construct a resolution and plan that will be acceptable to the court. Family conferencing provides significant opportunities to work systemically as it allows us to ask questions that can broaden the awareness of participants, explore how their actions are affecting each other and help them uncover what will resolve their difficulties.

Court Referred Family Conference

The Children Act 2001, Part 8 (Sections 78-87) outlines the arrangements pertaining to the court referred and PWS convened family conference. When a young person is charged with an offence and

- a. Accepts responsibility;
- b. The Court considers an action plan desirable; and
- c. The child and child's family agree to participate.

The Court may direct the PWS to arrange for the convening of a conference rather than proceed with the Court case. The Court may also direct the conference to address matters it considers appropriate.

The conference will be held within 28 days of the Court's referral.

The family conference shall endeavour to formulate an action plan that should be agreed unanimously. The action plan may include:

- An apology to the victim;
- Financial or other reparation to any victim;
- Initiatives within the child's family and community that might help to prevent re-offending;
- An activity that might help the child understand the consequences of his offending.

The action plan should be written in a way that the child understands and signed by the child, the convenor (Probation and Welfare Officer [PWO]) and one other person who is usually a family member. The PWO then submits the action plan to the Court.

The Court can:

- Approve the plan or amend it.
- Order the child to comply and be under the supervision of the PWS.

The Court then adjourns the case for six months when a review will take place. If the Court is satisfied at the review that the child complied with the plan the charge can be dismissed.

If the PWS is unable to convene the family conference the Court can resume proceedings and reach a decision of guilt or innocence in the case. If the family are unable to formulate an action plan the Court might decide on a plan and order the child to comply and be supervised by a PWO. The Court has also the option to resume court proceedings if a plan is not formulated. If the child fails to comply with the action plan the PWO can apply to have the case returned to court again leading to the resumption of proceedings.

The Youth Justice Cross Grade Group

In 2003 the Principal Probation and Welfare Officer established thirteen cross grade groups, chaired by the relevant Assistant Principal Probation and Welfare Officer with responsibility for the area. Membership was selected from those who volunteered to participate in these groups which aimed to include all grades and regions within the service.

The cross grade group with responsibility for Youth Justice focused on The Children Act 2001 and in particular family conferencing. The group explored the literature and examined advantages and disadvantages of family conferencing as it is currently delivered in countries such as New Zealand, Australia, United Kingdom and Norway. The cross grade group consulted with

a number of other services, including Juvenile Liaison Officers involved in the Garda restorative conference, Victim Support, staff involved in existing restorative justice projects in Nenagh and Tallaght and Health Board funded family conference projects.

A number of factors influenced the thinking of the cross grade group in exploring the best approach for the PWS in implementing family conferencing. These included the 28-day time frame within which the family conference must be convened, the issue of neutrality central to the process and the potential number of referrals the Service might get from the Courts.

Following consultation and gathering of information the cross grade group concluded that the preparation and chairing of the family conference could be separated. Further consultation took place on potential family conference configurations. Consideration was given to; Senior Probation and Welfare Officers (SPWOs) chairing all conferences, specialist staff designated as family conference convenors, or outsourcing the preparation of family conferences. The Service decided that it was most feasible for family conferences to be prepared and chaired by two PWOs from each team while the SPWO would substitute for a PWO if required and monitor the quality of the Service.

Training of staff to convene family conferencing was integral to the success of its implementation. Some training had been provided in 2000 mainly to SPWOs by trainers from New Zealand. This training in conjunction with the cross grade group was built on by staff development sections of the PWS who were given the challenging task of devising and presenting a training programme for staff members involved in the implementation of family conferencing.

Preparation for the Family Conference

The Children Act 2001 legislation specifies that the conference shall be held within 28 days of the court referral. It allows an extension of time up to a maximum of a further 28-days in exceptional circumstances. This is in contrast with the usual time taken to deal with a young person within the alternative juvenile court system

The PWO who prepares for the conference must ensure that the family and young person understand the procedure and what will be expected of them at the family conference. Bearing in mind that non-participation will lead to a court case and probable conviction, it appears that there is a certain level of pressure on the family to participate. They need to understand that they will be required to have a genuine discussion with the victim in order that the young person can understand fully the harm he/she has caused. Prior to the conference the family will be asked their views on inviting appropriate professionals to the conference. They will then have an opportunity to listen to the observations and suggestions of the professionals attending the conference before the family formulates their own action plan which will then be considered by the court.

Preparation also involves inviting the professionals identified by the family to the conference. Professionals invited should be reminded that they are not attending a case conference where

they are the decision-makers. They will need to understand that a family conference involves a handing over of the decision making power. They are acting as a resource to the victim, young person and his/her family who are working towards their own resolution. Professionals may find it uncomfortable to hand over power in this way. Considerable discussion may be needed to clarify their roles prior to the conference. Concerned people in the young person's life such as a favoured relative or sports coach may also be asked to attend if they are considered helpful to the process.

The officer preparing for the case conference has also the responsibility of engaging the victim in the process, explaining the concept and inviting him/her to attend. The situation of the victim is quite different to the family of the offender in that, despite the apparent benefits of taking part, there is no obvious consequence if he/she decides not to participate. If the victim is unable to attend he/she may send a representative or may wish to express his/her feelings by way of letter or tape. However the quality of the conference and the restorative possibilities are greatly enhanced when the victim participates. Given the requirement that the conference must be convened within 28 days there is a little urgency in engaging all participants.

The Family Conference

Prior to the conference the PWO 'chairing' will have discussed the case with the PWO 'preparing' but will not have any contact with participants. The PWO preparing will act, as an observer at the conference while his/her colleague will chair the meeting. A family conference can be broken into four stages.

1) Introduction: Participants introduce themselves and describe their relationship to the young person. Following introductions the PWO chairing reminds participants of the task at hand, the nature of confidentiality and the importance of hearing every ones point of view. Clarifying the role of participants may help understanding at this stage.

2) Restoration: This involves an objective presentation of the offence and an exploration with all participants of how this behaviour has affected the victim, the young person and his family. The young person might first be asked to respond to the charge and encouraged by the chair to explore his attitude to the offence. He/she might also be asked to consider what the experience might have been like for the victim. The victim would then be asked to respond to what the young person has said. The chair can allow this exchange to take place between victim and young person for some time to allow a greater understanding of each other's point of view. The chair is expected to mediate between the parties. Members of the family and then professionals might then be asked to respond to what they have heard. Discussion should focus on the offending behaviour and how the young person can put things right. Participants should be encouraged to give a balanced response looking for positives in the young person's behaviour and possible explanations for his action. Negative criticism of the young person is unlikely to help in finding a resolution.

3) Family Time: The young person and his/her family then move to another room where they formulate their action plan. The family will need to address how the young person can 'make up for' the harm he/she has caused the victim. The chair will usually drop in during family time to answer questions and encourage progress but not to influence the content of the plan.

4) Conclusion: The family then presents their action plan to the full conference. Following feedback the family may choose to make alterations.

The plan will then be presented to Court on the Court date specified and if accepted the court will adjourn the case for six months for full implementation of the plan

An actual family conference is a once off event and success will depend on an open, honest and respectful sharing of feelings and a successful expression and appreciation of different perspectives. Careful mediation and facilitation techniques are required of the officer chairing to ensure that all participants are fully understood and can work towards a common view on how restoration can take place. Some facilitation techniques may be helpful to this process.

Facilitation of the Family Conference

The use of circular, curious, reflexive questions and the use of a reflecting team approach (Selvini Palazzoli et al 1980, Cecchin 1987, Tomm 1988, Anderson 1987) developed by family therapy practitioners are among the techniques can be used and adapted to help explore different attitudes and perspectives thus increasing understanding among participants in family conferencing.

The PWO chairing meets all participants for the first time at the conference. Thus the chair will be seen to begin this process from a position of neutrality where he/she can best engage all participants.

The process of circular questioning, as demonstrated by the Milan team (Selvini Palazzoli et al 1980), the conference begins with the chair engaging the victim and offender in exploring the differences and similarities in their stories. Both would be asked to share their understanding of the offence and to respond to the others comments. The family can also be engaged in this way. Circular questioning involves the therapist conducting:

'his investigation on the basis of feedback from the family in response to the information he solicits about relationship and therefore about differences and change.'
(Selvini Palazzoli et al 1980:8)

The chair responds to what participants say rather than with a question he/she has previously prepared. This allows a greater exploration of the family's position and allows them reflect on their understanding and the understanding of the victim and find new meanings. New meanings allow family members to understand the problem and possible solutions in a different way.

Peggy Penn (1982) has outlined a number of categories of circular questioning. Of particular interest to family conferencing might be 'a tracking of a sequence of behaviour around a problem.' (Penn, 1982:273) A question about what different members of the family do when the problem occurs may uncover a sequence of behaviour in the family of which the offending behaviour is a part. Parents for example may be asked to consider what they do when their son stays out until 4 a.m. They might then decide together to respond differently by perhaps insisting on a consequence if the young person persists on staying out on his late night escapades.

In the context of family conferencing a dyadic question, can also track the circularity process. In this case the circularity of questioning might involve asking one family member what he/she thinks another member's view is on a topic. A teenage offender may feel threatened by this assorted group of adults and may not be engaging verbally in the session. The chair could ask the parents how they think their son understands the offence. Following their response the young person would then have three interpretations of his action, his own understanding and what his father and mother believe is his understanding. If there are sufficient differences in the interpretation of his actions the young person may wish to clarify and so become involved in dialogue. Regardless of the effect of these questions, significant perspectives of relationships within the family and between the family and the victim will have been explored.

Use of reflexive type questions by the chair may also be helpful to participants involved in the family conference. Questions are considered reflexive when they 'trigger family members to reflect upon the implications of their current perceptions and actions and consider new options.' (Tomm, 1988:9) These questions are designed to mobilise the family's own problem solving resources. An example of this type of question might be 'If Johnny was to sort out his problems with the court and stay out of trouble, how life would be different for the family?'

The PWO previously involved in the preparation of the conference, though present, does not take an active part in the conference. This helps to maintain neutrality in the facilitation of the conference. This PWO could have a useful role acting as observer during the conference. He/she could be given an opportunity to share his/her reflections on what has been said prior to the family taking time out to prepare their action plan. Members of the Milan team (Selvini Palazzoli et al, 1980) would have appreciated this concept of second order cybernetics which 'Conceptualises the treatment unit as consisting of both the observer and the observed in one large bundle.' (Boscolo et al, 1987:14) Tom Anderson has developed this idea and has called it 'a reflecting team', where the observer discusses his/her observations with, in this case the chair, and in the presence of the participants. (Anderson, 1987: 415-428) This discussion may be helpful in clarifying issues, which the family may wish to address in their action plan.

Conclusion

It is suggested in this article that the retributive justice system does not fully meet the needs of young people who have offended, or their victims. International experiences point to the impor-

tance and value of restorative approaches in dealing with young offenders. In this regard the Children Act is progressive legislation with an emphasis on diversion and focusing on the rights and responsibilities of parents and the involvement of victims. The Probation and Welfare Service family conference embodies all these principles.

Court referred family conferencing under the Children Act is an alternative restorative justice approach in working with young people, which allows their diversion of the offender from court conviction and custody. This is a new intervention for the Probation and Welfare Service and with the emphasis on empowerment of the family and the involvement of the victim it can be considered a radical change to the traditional Probation and Welfare Service response to young people who offend. Maintaining a truly restorative approach will be a challenge for an organisation that operates primarily within the retributive system of justice. Good facilitation is crucial to a truly restorative family conference outcome. Some facilitation techniques have been suggested when chairing a family conference.

The cross grade group, a new consultative structure within the PWS was significant in the implementation of family conferencing by the Probation and Welfare Service. It will continue to have an ongoing role as a steering committee to oversee the development of family conferencing. Already a number of challenges are arising for the Service; including liaison with Courts to inform Judges about this new option in dealing with young offenders and exploring how more victims can be involved in the process.

Probation and Welfare Officers who have had the opportunity so far to prepare or chair family conferences are positive about the benefits of this type of intervention with young offenders and the victims of their crimes. They increasingly appreciate the value of a restorative justice approach when working with offenders. The Service is well placed to steer this innovative aspect of the Children Act 2001 offering a systemic, restorative and client directed option, and empowering families whose children offend.

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***The View of Victims of Crime on
How the Probation Board for Northern Ireland
Victim Information Scheme Might Operate***

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Summary

In 2003-2004, on behalf of The Probation Board for Northern Ireland (PBNI) this author completed a piece of exploratory qualitative research on “The Views of Victims of Crime on How the PBNI Victim Information Scheme (VIS) might operate.” The purpose of the research was to inform the development of this proposed new scheme as the organisation had not provided a direct service to victims of crime before. The present paper is a summary of that research.

Keywords Victims, Probation Victim Information Scheme, criminal justice system, research to inform practice development.

Introduction

In an adversarial system of criminal justice, victims of crime have rarely felt that they have a voice, or are kept informed about their case (Zedner 1995; Shapland et al 1985). Consequently they often feel that the system is not geared to their needs. In Northern Ireland the Criminal Justice Review (2000) has been seen as the most important survey of Criminal Justice in the last thirty years. It had a central focus on addressing and meeting the needs of victims.

Recommendation 233 (provision of information) of the criminal justice review outlines that:

‘... Where a non-custodial sentence was imposed and the victim has an interest in being kept informed, the Probation Board would take the lead.’ (Para. 13.42)

This recommendation has led to the development of the PBNI VIS. Historically, the Probation Board’s main legislative functions have been the rehabilitation and resettlement of offenders. Public protection and management of risk have increased as priorities in recent years as more serious offenders are supervised. Whilst working directly with offenders, PBNI has always prioritised victim aspects of work in relation to Pre-Sentence Reports, offence-focused programmes, supervision of Probation Orders/Licences and through multi-agency risk management plans. However, PBNI has not to date provided information directly to victims.

Research Aim

“To explore the views of victims on how the PBNI VIS might operate.”

Research Objectives

- To determine the views of individual victims and representative organisations to inform the establishment of a PBNI VIS.

- To review relevant literature/ research and victim services.
- To allow the PBNI VIS to be meaningfully evaluated in the future by establishing a base line of the current views of victims.
- To make practice and policy recommendations in relation to victim aspects of all PBNI work.

Literature Review

Zedner (1995) has commented that studying victims has become a growth industry within criminology from 1980. The primary needs of victims to have their experience heard and respected and to receive information, practical help, compensation and support / counselling are now recognised widely (Home Office 1996; Victim Support 1995; Department of Justice USA 2001; Northern Ireland Criminal Justice Review 2000; Maquire and Corbett 1987; Shapland et al 1985). Some feel that restorative justice is more likely to meet these needs. Provision of information to victims is often the first step in any restorative justice practices.

Crime in Northern Ireland

In 2000/2001 about 20% of Northern Ireland households had experienced crime, of which 80% was property related and 20% violence related. The 1998 Northern Ireland Crime Survey found that younger people are more likely to be a victim of a violent crime than older people (11% of 16-29 year olds and 1% of over 60 year olds).

The Research

Research participants were accessed through victims' organisations (Nexus Institute, Victim Support and Women's Aid). Any necessary support, which participants requested following the research interviews, could be appropriately provided by these organisations. Ethical issues in relation to sensitive research were prioritised at all stages. It was essential to become appropriately acquainted with the subject area and advised by victim experts. The research methodology was primarily six in-depth qualitative, semi structured interviews. The interviews were audio taped and thematically analysed.

The main offence / crime types, of which the six participants had been victims, were: domestic violence; sexual offences; burglaries and violence against the person. Five women and one man were interviewed. Four of the participants were in the 26-55 age group and two were 56 years old or over. Interviews were not carried out with people representing all the major offence groups for PBNI. It was however important that those who had suffered the most serious offences were interviewed, as experience of victim contact work by Probation in England and the operation of the Prisoner Release Victim Information Scheme in Northern Ireland (2003) confirm that, inevitably, these victims are most keen to be kept informed about their case. All participants valued the opportunity to "tell their story" and to contribute to improvements in how the criminal justice system treats victims.

Findings

The findings from the interviews were:-

- The experience of crime often leads victims to feel vulnerable and nervous.
- They experience the criminal justice system as unsupportive.
- Victims have a range of needs.
- They have little or no knowledge of the role of PBNI.
- All participants welcomed the development of the PBNI VIS.
- The traditional criminal justice system does not always answer basic questions a victim may have.

Some significant comments from across the range of those interviewed included:

- ‘When you’re a victim, you feel as if everything has gone wrong for you.’
- ‘My tongue was stuck to the roof of my mouth, I was so frightened.’ (in relation to attending court as a witness).
- ‘It’s not the people who do things to you that you get really angry with, it’s the authorities.’
- ‘I know very little about probation to be absolutely honest.’
- ‘I want him to get repaired because I don’t want this to happen to someone else or me when he gets out.’
- ‘Really that’s what most victims want, factual information.’
- ‘I didn’t think you’d be interested in the victim since you work with the offender.’

Discussion and conclusion

The findings from this research are significant for PBNI, the criminal justice system and victim organisations:-

- Participants confirmed that crime often leaves people feeling vulnerable and that the criminal justice system is regarded as unsupportive. These findings have been recorded by others including; Zedner 1995; Zehr 2002; Northern Ireland Criminal Justice Review 2000 and NIO Research 2003. The range of needs consistently reported by all participants requires an integrated response by relevant agencies.
- Local research, confirming the perceived usefulness of Probation providing information to victims when their case results in a Probation supervised sentence is significant. As the Home Office indicated in 2003, victim services must not be determined by agency priorities, but by victims understanding of their own needs.
- Particularly those research participants who had been the victim of an unknown

offender expressed the need for answers to questions which the traditional criminal justice system does not always provide. These questions included why the offence occurred against them. Assurances that the victim would now be safe were also sought. Victim-led restorative justice could, when appropriate, be considered by Probation and other criminal justice agencies as a means of meeting such victim needs (Zehr 2002).

The local research sample was similar to those most likely to utilise victim services (Newton, 2003) including the proposed PBNI VIS. The findings are also similar to other research throughout the UK and America.

The practical significance of this research include:

- PBNI have evidenced a commitment to improving knowledge and practice in relation to victims.
- The development of the proposed Probation Victim Information Scheme has been informed by the views of victims and the literature review.
- The process has involved networking with other criminal justice and victim organisations.

Recommendations

1. This research confirmed that the PBNI should develop a VIS. The Scheme should provide information in a supportive manner. This should include both the choice to receive information or not, and how this information is provided (i.e. letter, face to face etc).
2. The VIS should be closely integrated with other relevant criminal justice and voluntary organisation services to victims.
3. The PBNI VIS should be regularly evaluated (using this research as a baseline) to measure victim satisfaction.
4. The PBNI should increase public awareness of their role in preventing crime and the harm it does.
5. The needs and interests of victims should be considered in all PBNI policy and practice developments.
6. PBNI plan to commence the VIS in October 2005 following appropriate legislation (Criminal Justice Order [2005])

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Programme Integrity or Programme Integration? The need for a co-ordinated approach to work with domestic violence offenders.

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Summary

Current practice in criminal justice social work tends to emphasise the value of cognitive behavioural interventions, preferably delivered in structured group work programmes, as being the standard for increasingly effective interventions with offenders. This article acknowledges the value of programmes, but urges caution and the need to pay attention to the integration of such programme work with other interventions, including probation case management and inter-agency communication and co-operation. Specifically, the author reports on the findings of a study of a domestic violence offenders' programme in Scotland, and points to a range of programme integration and case management issues arising. The article concludes by drawing lessons for practice, including implications for maximising probation effectiveness, particularly in terms of more integrated working.

Keywords Probation Practice; Cognitive Behavioural Programmes; Case Management; Domestic Violence; Programme Effectiveness, Integrity, Integration; Drift; Resistance; Desistance; Maintenance

Introduction

The upsurge in enthusiasm for cognitive behavioural programmes within the probation service that developed in the wake of the What Works literature has recently been curbed at least in the UK by a number of cautionary findings from research and practice. As early as 1997 Hedderman and Sugg's (1997) survey of probation service programmes in England and Wales had found that cognitive behavioural techniques were not always well understood by probation staff and that programmes in which they were delivered were inconsistently monitored. Discussing the implementation of Glamorgan's early STOP Programme, Vanstone (2000) cautioned that staff enthusiasm for innovative group programmes could result in marginalisation and lack of attention to practice outside the programme, thereby undermining its overall effectiveness. While the accreditation of UK programmes by the joint Prisons Probation Accreditation Panel aims to overcome such shortcomings, there remains concern among practitioners and researchers alike that pre-occupation with the minutiae of programme detail potentially undermines the significance of good practice outside the programme itself. Although accreditation criteria do emphasise the importance of case management, an increasing body of research comments on the significance of a quality supervisory relationship and how it too contributes to reducing offending and other changes in behaviour (Rex 1999, Trotter 1999, 2000).

Such general concerns about over reliance on programmes are heightened when applied to interventions with sexual or violent offenders, and those who are violent in relationships. A significant finding by Gondolf (2002) in a major study of domestic violence offender programmes

for example suggests that 'programme effectiveness' seems less related to programme format or 'dosage', and more on whether agencies within the criminal justice system communicate with each other, and respond promptly and consistently to the offending behaviour. Whereas references to the 'criminal justice system' in the wider literature on domestic violence have traditionally referred to the actions of police and courts, work with domestic violence offenders has increasingly become an activity in which probation officers are engaged, particularly through the development of structured programmes. In view of the contested evidence about the effectiveness of these programmes, and in the light of the recent accreditation of a model programme in England and Wales, it seems timely to examine whether, as with structured programmes more generally, the significance of individual case-work ought to be more fully incorporated into any such evaluation.

The Programme Study

In 2003 a small-scale study examined the implementation of a domestic violence offenders' programme in Scotland. Perhaps not surprisingly the study revealed that despite systems being in place to maximise the 'integrity' of the programme itself, its potential impact depended considerably on the activities of individual caseworkers in their work with probationers, and their partners, outside the programme. This study was conducted in a large urban setting where almost a quarter of the criminal justice workforce had received training on the programme's theory, structure and method (see Note 1). Initially the programme would be delivered by a core of workers from a specialist Probation Support Team, (PST). Thereafter each cohort would contain one or more 'programme trained' workers from several patch-based teams in the authority (Area Teams). This model, whereby programmes would increasingly be delivered by workers from outside the PST was aimed at disseminating good practice and programme knowledge throughout the organisation. One possible disadvantage of such an approach however was that knowledge and expertise might become diluted as a wider, more diffuse, less experienced group of workers became involved in programme delivery.

The principal concern of management and key staff in the discussions preceding this study was whether the programme 'worked' i.e. to what extent did it impact upon men's violent and abusive behaviour? However eighteen months after inception it was evident that the impact of the programme itself would be well nigh impossible to pin down. During this period the programme had been adapted and refined to suit local conditions, with successive cohorts of the programme being delivered by combinations of workers with different levels of experience in and approaches to programme delivery. There were clearly substantial practical and methodological limitations around a study which focused solely on outcomes at this early stage (See Note 2).

Two research themes were therefore agreed upon. As far as the authority itself was concerned the study would address the extent to which their domestic violence programme was achieving 'programme integrity' i.e. the degree to which a programme is delivered as designed and planned (Hollin 1995).

However as men's attendance on the programme was a requirement of a probation order, another key theme would be to look beyond programme integrity to the issue of programme integration, exploring how programme themes, concepts, values and practices seemed linked to wider probation practice within the agency. Significant attention would be paid to those phases where programme and one-to-one work interfaced; the pre-programme phase, the time of men's actual attendance on the programme, and finally after men had completed the programme but still remained on a probation order.

Interviews were conducted with five PST staff who were closely associated with programme implementation and delivery, and with ten Area Team staff who had undergone Programme training and had also been involved in running programmes. A further ten Area Team workers (with or without programme training) who were currently involved in supervising men who had been on the programme were also approached. A preliminary examination of the PST database (See Note 3) coupled with the comments and observations of the workers interviewed suggested that there was considerable inconsistency in the extent to which the new resource was made use of across the authority. The possible consequences of this inconsistency in contributing to, or detracting from, the impact of the programme are explored below.

Working on the Programme

One of the most striking comments made by the programme workers was that working with this client group was 'substantially different' from their experience of group-work with other offending clients. In particular the levels of denial and resistance to engagement that many men presented were higher and their negative attitudes to women partners deeply entrenched. Significantly work in the groups seemed to be less about encouraging people to 'develop skills to overcome offending' and more about confronting men's ingrained attitudes and beliefs.

'They're very difficult clients who.. at the beginning of the programme were very much, defences up, denying a lot of behaviour, or minimising it, and to begin to break that down was so hard. The first probably eight weeks of the programme was really, really tough.'

Programme Worker: Female

Demand for programme places had varied widely across the authority but interestingly had surged dramatically in some local areas. This increase in volume and the pressure to provide a service promptly had resulted in groups varying considerably in style and atmosphere. Despite attempts to maximise the integrity of each programme cohort, it was immediately clear that programmes differed substantially from group to group, and thus provided qualitatively different experiences for the men attending them. While uniformity is neither achievable nor necessarily desirable, and while each group inevitably produces its own dynamic, Gondolf (2002) concluded that programme instability impacts negatively on effectiveness. Given the potential for instability during a pilot phase or at times of considerable organisational pressure, the role of case workers is clearly crucial in terms of supporting or augmenting the work of the programme itself.

Preparing men for the programme

Gondolf's 2002 research, in examining the connection between the wider criminal justice system and men's programmes, emphasises the importance of men entering programmes promptly following conviction, and of being promptly sanctioned where they fail to comply. In this Scottish study despite an agency commitment that men should commence programmes 'as soon as feasible' after being placed on probation, the PST database recorded a fairly consistent interlude of three months between men being placed on a probation order and commencing the programme. Some of these delays were undoubtedly attributable to the complexities in the lives of the men themselves:

'Well this guy's life was a mess generally. He had a real bad drinking problem. He wasn't blaming the violence on the drink exactly... but before we could get him to look at any thing he needed to get stabilised in some way, just even sober up. Then ... he had been put out of the house, so he was at his brother's then out of there...eventually he got a room. So there were all these pressing issues to address...and that was in the first five weeks, ...or maybe longer, say eight weeks before we finally could get him onto the programme...'

Area Team Worker: Male

It was also obvious however that other work priorities and pressures on time and resources were impacting on the length of the pre-programme period. Despite attempts to reduce this, principally by increasing the frequency with which cohorts ran, or by (unsuccessfully) attempting to run 'pre-programme groups', the reliance on workers from busy Area Teams to co-run programmes meant that their time had to be freed up by colleagues and local managers. Workforce wisdom suggested that these pressures were longstanding and were also likely to continue for the foreseeable future. If so what did this mean for men going onto the programme? Both programme workers and case-workers were asked about what was taking place during this period. Was this seen as a time of crisis such as that outlined above, as a 'waiting period' before attention to the man's use of violence could begin, or as an opportunity for important preparatory work to be commenced? The answers to these questions unfortunately were often less than clear.

Programme workers' views (pre-programme)

Programme workers commonly felt that men often turned up 'totally unprepared', uneasy and anxious about coming to a group, fearful in the words of one participant that it would 'put me in the spotlight.' Such anxiety was a significant inhibitor in terms of men's engagement:

'When men come in they're in a very high level of denial. You very rarely get one that will admit to anything...Their anxiety levels are so high that you could scrape them off the ceiling for the first four weeks and I think that stops us doing the job we need to be doing. They're so anxious about having to sit in a group and talk about violence that for the first couple of weeks you're having to do basic group-work stuff'

Area Team / Programme Worker: Female

Men's denial of personal responsibility was a constant refrain in programme workers' accounts. While they sympathised that their Area Team colleagues had many priorities to balance there was a feeling nevertheless that more needed to be done to prepare men for the programme. If for example they could focus more on men's resistance, so that men had begun to accept some degree of personal responsibility for their actions when they entered the programme, the programme's early impact might be enhanced.

It could of course be argued that these difficulties, of delayed entry and competing priorities, refer specifically to this particular authority, and represent difficulties which management might in time overcome, (for example by developing an 'open' group process). However the comments and observations of this sample of criminal justice social workers echo many of the tensions which consistently arise concerning the boundaries between 'case management', 'case-work' and 'structured programme.' The programme workers in this study had prevaricated for example in developing a pack that caseworkers could use during the preparation period, offering an optional set of tools to work with men, on issues such as jealousy, alcohol and 'anger'. Such ambivalence reflected a real tension within the authority, and within probation services more widely, about formulaic programmatic methods superseding other more individualised approaches. Some workers for example were concerned about the imposition of another 'tool-kit' which might imply a lack of confidence in those professional skills and qualities which criminal justice social workers routinely brought to their work with clients. On the other hand doubts were also expressed (by programme workers and Area Team workers alike) about the consistency of those same skills across the authority, and, significantly where male violence was the issue to be addressed, of the values and attitudes which were needed to underpin them.

Area Team workers' views pre-programme: risk and resistance

For Area Team case workers, their experience of engaging with men prior to entry into the programme was that of working with complexity, sometimes dealing with a number of apparently incompatible tasks. At the same time as they might be determining the risk which men presented to their partners they might also be trying to engage with men who presented as angry, blaming of others and highly resistant to the idea that they were 'wife batterers'.

Some wondered whether confronting or challenging men too robustly might heighten their resistance, as Miller and Rollnick (1991) have suggested occurs in working with substance abusers; or even whether this might in fact aggravate men's risk to partners. They had to manage a balancing act of confronting men with the seriousness of their behaviour and stipulating the consequences while at the same time encouraging men to see the programme as an experience from which they might benefit.

The confidence and clarity which case workers brought to pre-programme engagement seemed to vary considerably. Some stated that while they felt more confident about 'confronting and challenging' men's denial, they were hesitant about issues they would pursue thereafter, such as the 'association' between alcohol and violence. Others worried that their efforts might overlap

with, but more particularly undermine, the work of the programme:

'Because I'm quite familiar with the content of the Programme, I'm not wanting to give men a half measure you know? ... a half idea about what it's all about but not getting into it in any depth. I worry if you give them too much of a flavour of what's gonna be on the Programme that they're going along to and, ... "Oh I know all this!" kind of attitude!'

Area Team Worker/Programme Worker: Female

Thus while programme staff looked for men to arrive 'prepared' in some way for the experience, their Area Team colleagues were faced with the complex situations of men's individual circumstances. The degree of risk they presented to their partners, or to themselves, was often the most pressing concern at this time. For the most part they also were dealing with highly resistant clients who were not yet at the 'stage of contemplation' defined by Prochaska and Di Clemente (1992) as being necessary for any personal change to take place. While this observation might seem rather obvious, it nevertheless highlights the complexity of attempting to discuss programme effectiveness in such a way which excludes or ignores other factors in the lives of the participants themselves. To do so also certainly discounts the influence which individual workers contribute to the overall process of motivation, engagement, participation and maintenance.

Integrated working when men attend the programme

The theme of inconsistency persisted when the study focused on the workers' experience of integrated practice during the time men actually attended the programme, and it was useful to try and determine why this might be so. Why might it be that only some men appeared to benefit from an integrated response, in which individual workers and programme workers were, as one said, 'all singing from the same hymn sheet', that is sharing an understanding of the value of a programmatic response while engaging with the complexity of the individual's own circumstances?

Those programme staff and case workers who were regularly engaged with the programme for example spoke about having been involved in a 'steep learning curve' not only about the programme itself, but also about the prevalence of male violence and the extent to which it had featured in their caseloads over the years, (sometimes recognised, sometimes not). Their own burgeoning awareness had led them to ask sometimes searching questions about instances where casework colleagues' practice seemed to be minimally connected to, or allied with the aims of the programme, in short, where they were clearly not singing from the same hymn sheet. Could this all be put down to workload pressure? Were workers simply unaware or poorly informed about the dynamics of the violent behaviour of men on their caseloads? Did some have particular difficulties in addressing this issue? Were some denying the seriousness or even tacitly colluding with the men's behaviour and attitudes? There was a general concurrence with the view that there seemed to be less evidence of male workers referring men or subsequently engaging with the programme. There was also a feeling among some programme and case-workers alike that there might in fact be some resistance to the programme. It was also evident from the comments of many of those interviewed, that at least some of this resistance might be

less to do with the programme per se and more to do with the apparent imposition of 'programmes' as the paramount method of intervention, and the consequent subordination of other more holistic methods of working with clients on an individualised basis.

Examples of integrated practice

By contrast there were also particular workers and specific team settings where more integrated practice was evident and where workers were enthusiastic in using the programme as a resource to assist their one to one work with men. The factor that was most commonly referred to as far as area teams were concerned was the presence of a manager or senior worker who was responsive and enthusiastic and who encouraged their staff to engage with the programme. (This seemed to be related not only to domestic violence programmes, but to a more general willingness to embrace innovative ways of working).

'Our senior here is good. I think that people are more aware about what works and what doesn't. And if you've got that in the team...and someone who'll let you try out new ways...it helps. I think if you look at our team we're like that. There's a kinda buzz ...which is good.'

Programme Worker / Area Team Worker: Male

Problem recognition and awareness of how to engage with it seemed to be important. In one team with a large proportion of women workers, there was already an established awareness of, and commitment to challenging the issue of men's domestic violence where it routinely appeared. The existence of a domestic violence programme was seen as a key element of the probation order but also as something which functioned as a resource to them as workers, providing additional consultation and advice in relation to the man's violent behaviour, but also affording them the necessary space to concentrate on the many other issues and problems in the lives of their clients.

Not surprisingly either, the presence of 'programme trained' workers in various teams throughout the authority also generated and influenced discussion about the prevalence of male violence on caseloads. It had impacted on specific aspects of practice such as assessments for the courts:

'Well, it has an effect on day to day stuff...I mean there are workers who come and say, 'Look I'm not sure about this guy', or, 'Look, this guy, it's a one-off, he's never done it before and he's no' gonna do it again...erm, so we talk about them with that and talk about our experience of that story and how familiar it sounds, (laughs). So aye, they're using us as a resource...'

Programme Worker / Area Team Worker: Male

After the programme

While it was beyond the scope of this initial study to follow up in any depth the nature of the ongoing work carried out with men following programme completion, interviews with programme and case workers highlighted some general concerns about maintaining the momentum begun in the programme. While some comments again apply to this particular authority they are nevertheless recognisable and relevant to many probation settings. Protocols for monitoring and reviewing men's participation in the programme and their progress thereafter had been set up. It was difficult to establish how effectively these procedures operated however, and particularly whether programme recommendations were taken forward in one to one work. This drift away from accountability and clarity was unhelpful inasmuch as it obscures examples of both good and bad practice which might enhance or undermine the impact of 'programme effect' upon men's attitudes and behaviour.

A recurring concern of some of the programme workers was that for many men on the programme, 'work had only just begun', or 'things were just beginning to sink in' around the time they had completed their requirement to attend. Even after men had completed the programme, workers were often explicitly concerned about the risk which some of them still presented to their partners, and of how their concerns were being taken on board while the men remained on probation orders, (and thereafter!).

'Some clients don't require that high level of intervention; some require serious fortnightly contact at the very least. They need structured work to continue the process, structured co-gendered work. Again we can prioritise high risk because some of these guys are so incredibly dangerous they should not be worked with alone. So that's good practice, that's what should be happening.'

Programme Worker: Male

It seemed to be the case that both quantity and quality of work carried out with men after they left the programme depended on the inevitable issues of time, resources, comprehension about the programme, workers' commitment, and significantly understanding of the nature of male violence. Thus while programme workers' concerns were again often justified, some Area Team workers were able to provide graphic accounts of their ability to link individual work to that of the programme:

'I had two guys who went through it and...with one it was quite clear what I needed to work with him on afterwards and I got that information from the programme worker. I did that work with him...maybe because I had done the programme as well, maybe it was easier for me because I knew he's done it and I knew what areas to work with him. It was like...he just couldn't get empathy! He just couldn't understand things from his partner's point of view...We kind of worked away at that. The...last time there was a domestic incident was six months ago, which considering it used to be every two weeks, it's you know...an improvement!'

Area Team Worker: Female

Others spoke of the need to take other significant factors in men's lives into account:

'[Participant's name] really got a lot out of the programme, but all of a sudden that experience finished and he didn't have that prop, and we had to look again at the whole issue of alcohol in his life...as a factor. Because this was a real major thing for him...major!'

Area Team Worker: Female

Integrity, Integration, Drift and Resistance

It is perhaps inevitable that probation and criminal justice social work authorities will encounter difficulties in setting up programmes so as to provide a sufficiently consistent experience for those who go through them. Each cohort is somehow different and requires constant monitoring and fine-tuning both to 'maximise' programme integrity yet allow some flexibility for staff to respond spontaneously to individual characteristics in the life of each group and its members. It is obvious therefore that attempts to gauge the impact of a programme per se need also to be based upon several factors. These include the needs and problems in the lives of the participants themselves, their motivation or resistance to intervention, the particular risks which each presents, the nature of their relationship with the professionals they encounter and indeed the skills and qualities of these professionals.

The evidence emerging from this small study is arguably relevant for many probation and social work settings. It suggests that while a programmatic approach can be highly appropriate both in terms of concentrating resources and indeed in helping clients concentrate on the primary issue of their offending, in this case violent and abusive behaviour, what transactions occur outside the environment of the group but with the wider framework of the probation contract are also crucial. When workers spoke for example of their concerns that men who often took several weeks to reach the programme (a concern in itself) sometimes left it when they had, 'just begun to get it' there are obvious concerns about the lack of detailed knowledge about what goes on thereafter between client and caseworker or case manager.

Other points made by many of the workers interviewed raised fundamental issues about the complexity of adopting an agency wide approach to an issue such as men's domestic violence, behaviour which until very recently was regularly diverted away from the official scrutiny of probation officers' attention. No matter how robust the programme integrity of any particular programme, the overall integrity and thus effectiveness of the wider response to these offenders was affected and arguably undermined by inconsistency of workers' practices and attitudes across the authority, which in turn impacted upon the probation experience on clients' lives. Further investigation (Morran, in progress) is currently being undertaken into what occurs in the way of supervision and support for men on domestic violence programmes, and crucially for their partners, during the remainder of their probation order (and significantly thereafter!) While some clients may encounter case workers who are informed (in this case about domestic violence), and bring skills and attitudes to their work which augment and enhance the overall approach of a probation order, there are others whose experiences are less positive, or less

challenging. While programmes themselves might counteract such an imbalance, it would be worrying if the programme was seen as the only forum in the wider context of a probation order where men's use of violence was directly or consistently addressed. It would also be worrying were the 'lens' of the programme to be so narrow as to focus solely on the 'offending behaviour' to the exclusion of other troubling issues, problems and risks in that individual's life.

Thus while programmes are undoubtedly valuable and have had a significant effect upon the way in which male domestic violence for example has come to be responded to by the probation and criminal justice social work services, it is necessary to look beyond them. It is essential to question what at times appears as an almost obsessive concern with the minutiae of their sequence, detail and structure; a process that has been referred to critically as 'programme fetishism.' Similar concerns have recently been voiced by McNeill (2002), who, upon examining the findings from research upon criminal careers and on desistance from offending, suggests that earlier pre-occupation with 'dosage' in much 'what works' literature overlooks the 'complex personal, inter-personal and social contexts' of why change occurs and why people stop offending'.

Conclusion

The emerging literature on desistance from offending has begun to explore the complexity of the processes and the circumstances in which people may move between states of resistance, vacillation, persistence and the maintenance of patterns of personal and behavioural change, (Rex 1999; Maruna 2002). In the case of men who would commonly resist the intrusion of the criminal justice system into the 'private business' of their relationship with their partners, (whom usually they see as being responsible for 'causing' them to be violent), the process of change is indeed complex and is daily influenced not only by the patriarchal society in which they / we live, but is affected also by their past and present experiences of negotiating the complexity of their lives and the changing nature of their relationships with others. For such men to begin and sustain change it is clear that domestic violence programmes will play only one part in this process and that we have much yet to learn in terms of what might contribute to and maximise the opportunities for desistance for these men and thus safety for their partners.

Research into the effectiveness of domestic violence programmes, and offending behaviour programmes more generally, must acknowledge not only the wider social contexts in which people offend, but also needs to look more at what can help sustain longer term maintenance of behaviour and attitudinal change. In order for McNeill's 'complex personal and inter-personal contexts' of behaviour change to be addressed therefore, any programme has to be underpinned by work on motivation to change, the development of trust, engagement and participation, and of modelling behaviour and professional values that have proven to be so significant elsewhere in work with offenders (see Burnett 2000, Rex 1999, Trotter 1999, 2000). These professional skills cannot be underestimated, nor should they be subordinated, or marginalised within probation practice. Where case workers exhibit these skills in their one-to-one work with offenders, and have these skills valued, they surely enhance the potential effectiveness of any programme, just as a programme may enhance the skills of that individual worker. This then is the essence of a truly integrated approach to working with people who offend.

*Note 1: Subsequently a further twenty workers underwent training on programme delivery.

*Note 2: Additionally the fact that in the past the author had been involved in the development of the original programme adopted by the agency raised legitimate questions and concerns about the 'researcher objectivity' which he would bring to a study of whether the programme was 'effective'. Despite this it was agreed that his 'insider' knowledge could be advantageous in terms of understanding programme content and process, as well as the demands of working with domestic violence offenders. Consequently a research agenda that satisfied both the objectives of the authority and the author's own interests as a researcher / practitioner was established.

*Note 3: At the time of the study seven cohorts of the programme had been completed comprising a total of 120 men who had actually been on a programme at any one time.

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Student experiences and impressions while on placement with the Probation and Welfare Service.

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Summary

This paper is a review of the experience of students from Trinity College Dublin (TCD), undertaking professional placements within the Probation and Welfare Service, (PWS) as part of their social work training. A number of randomly selected placement reports have been used as a source in order to extract and convey a sense of student experiences and impressions while on placement with the PWS. The focus in the paper is not on the broad repertoire of skills and knowledge acquired there, but rather on the three themes that emerge consistently from the random sample of placement reports; a) social work theory, b) gender and c) attitudes to crime and offenders.

Keywords Students, Professional Training, Gender, Social Work Theory

Background

The Department of Social Studies, Trinity College, provides two social work training courses, both of which lead to the award of the National Qualification in Social Work (NQSW). One is a four-year undergraduate social work degree, the Bachelor in Social Studies (BSS), which is awarded jointly with the NQSW. The other is a postgraduate social work course, where the NQSW is jointly awarded with a Masters in Social Work (MSW). The BSS degree programme is a four-year fulltime course, with an intake of approximately 30 students per annum. The MSW postgraduate programme is a two-year fulltime programme with an annual intake of approximately 20 students. Students undertake a placement in social work in each year of the MSW course and in three of four years of the BSS course. (First year BSS placement by contrast is undertaken in a residential/social care setting). Placements are an integral part of social work training and are designed to complement learning in social work theory and skills undertaken in the academic setting.

Social workers are distributed across the settings of medical/hospital, mental health/addictions, disability/intellectual and physical/sensory, child protection /family support, local authority/housing welfare, occupational social work, community/voluntary sector and the Probation and Welfare Service. Students as a group undertake placements in all such settings and each student in a selection of them. The PWS represents 12.7% of the social work workforce (National Social Work Qualifications Board [NSWQB], 2002) and PWS placement provision to Trinity College reaches a similar percentage of our overall number of such placements. In this regard, the PWS have generally responded favourably and generously to the NSWQB's exhortation for, 'commitment by agencies to the provision of practice placements.'

An examination of students' expressions of preference for the sector in which to undertake their

placements for the academic year 2004-2005 shows a slightly higher first preference for PWS placements than actual PWS placements acquired. However, the assignment of placements is mediated through a process that addresses students' learning needs and involves consultations between student, social work tutor, previous practice teacher and Department of Social Studies teaching staff. Thus it may be that a student seeking a PWS placement may not obtain one for any of a number of reasons. PWS placements are highly valued by the students and the University, and this is reflected in the very positive relationship between the University and the Probation and Welfare Service.

Students have to complete a placement-related written assignment of approximately 8,000 words. The assignment topics can vary somewhat for students of the different years, but substantially address the core topics of 1) community and agency context, 2) overview of work undertaken, 3) case study of one piece of work, and 4) placement learning, including special features which either contributed to, or limited, learning on placement. The present author used these reports as a source in order to extract and convey a sense of student experiences and impressions while on placement with the PWS. As also stated, this author concentrated on the three themes of a) social work theory, b) gender, and c) attitudes to crime and offenders; which emerged consistently from a random sample of these placement reports, rather than on the broad repertoire of skills and knowledge acquired on placement.

Emerging Themes

a) Social Work Theory

The link between social work theory and practice is central to social work education. Students learn to integrate theory and practice, particularly while on placement. They also learn the key techniques used in different practice approaches and agency settings, and develop the ability to choose the pertinent theory and practice approach to particular circumstances. Placement reports from students in the PWS can sometimes appear theoretically more confident than reports of students in other social work sectors, where there may not have been an established theory and practice approach.

A perusal of the sample of placement reports shows consistency in that students employ the cognitive behavioural approach as their primary method in case work. Another common intervention used incorporates Trotter's guidelines (Trotter, 1999) for working with involuntary clients; incorporating role clarification, pro-social modelling and reinforcement, problem solving and focus on relationship. Other theory practice approaches evidenced in students' reports included that of motivational interviewing.

Sample comments from placement reports analysed

"The Cognitive Behavioural Approach was one of the primary methods utilised in this intervention. I focused on the causal connection between pro-criminal thoughts or beliefs and criminal behaviour."

“Trotters’ approach to working with involuntary clients also proved useful in terms of collaborative problem solving and pro-social modelling.”

The challenge of choice between different and competing theory/practice approaches is somewhat removed from students in PWS setting. Probation practice in recent years has embraced ‘what works’ (e.g. Chui, 2003) evidence based practice and theory with cognitive behaviour therapy as a core aspect of its direct practice with clients. The PWS thus has a theory and practice ‘house style’ with a corresponding support literature.

Students adopt and embrace this PWS house style. Placement reports overwhelmingly reference such authors as: Trotter C., Andrews D., Miller R and Rollnick S., Raynor P. and Vanstone M. Frequently referenced too are PWS own various published policies, procedures and reports, and published articles by PWS staff such as, Connolly A., Geiran V., and McNally G, (e.g. *Irish Social Worker* [2000] Vol. 18). However, a qualitative difference between the competent and the excellent student report from a PWS placement is the latter’s evidence of independent critical thought. Such students cite the rationale for the cognitive behavioural approach or demonstrate an awareness of the wider criminogenic issues in addition to the repertoire of PWS-related theory and practice approaches.

b) Gender.

The PWS students comment on the fact that their clients are predominantly men. That may seem unremarkable to Probation and Welfare Officers, who are long immersed in Probation practice. However, it forms part of the ‘first impressions’, or ‘culture shock’ of newly arrived students to the PWS. Social work settings, child protection to name one for example, tend to engage more frequently with females than males. The Probation setting is often a first setting in which many students have had an opportunity to engage predominantly with male clients and to participate in institutions of the criminal justice system, where the majority of staff are also likely to be males. This point on gender is acknowledged in nearly all placement reports. The acuteness of the observation may also be a factor of the gender composition of students in Dept of Social Studies, where 85% are female.

Examples of student comments regarding working in a prison environment included:

“Working in a male dominated organisation was somewhat intimidating and This placement provided me with a first opportunity to work with male clients.”

One placement report drew out some implications and personal reflections evoked by clients’ gender:

“I was never aware of any negative impact on my work because of my gender; in fact I experienced the opposite effect. Perhaps being a woman, the prisoners were more open to talking to me about problems and issues that they had.”

c) Attitudes to Crime and Offenders

Students are members of the society at large and so carry forward into placement some of the same emotional range and intensity attaching to 'crime', that is present in the general population. The PWS, as such is not an 'at ease' setting for students. It can be highly evocative. That tension is evidenced in some comments in students' reports of placement:

"I found it difficult to imagine myself capable of holding a non-judgmental attitude to clients."

"I was disgusted by the crime and my personal feelings about this crime took over my ability to be non-judgmental."

"That emotional range and intensity is not exclusively reserved for offence or offender, but is as passionately felt in relation to the formal institutions of justice:

"I could not help but feel troubled by being part of such a system. Is it helping clients or is it reinforcing institutional oppression?"

"Courtroom is a place where disrespect, judgemental and discriminatory thoughts and actions prevail. Court staff could benefit from anti-oppressive training."

The existence of such feelings demonstrates something of the evocative nature of this work context for students. The context is that of the criminal justice system, not what might be anticipated as a 'client-centred care system.' Students can clearly feel the system's tensions when confronted with the force-field that is the care/control, justice/welfare dilemmas. The implications of this are many, not least in posing the question as to who is the client.

Conclusion.

Students acknowledge the PWS as a learning site that offers opportunities to progress across a repertoire of social work skills and knowledge, both generic and PWS-specific. This article has concentrated on the three themes of social work theory, gender and attitudes to crime, rather than the totality of students' learning on placement in the PWS. What emerges around themes of gender and attitudes to crime suggest something of the evocative nature of the student experience of the PWS agency context. Students' feelings, including indignation, can provide material for supervision with practice teachers and thereby can deepen the student learning on PWS placements. Supervision has a role too in addressing the theme of social work theory. Students demonstrate a general willingness to embrace the PWS's explicit evidence based theory and practice. PWOs as practice teachers could take on a greater role in supervision of encouraging independent critical thought by students, such as their awareness of wider criminogenic factors in offending. In summary, supervision is crucial both in integration of theoretical constructs with developing practice skills, together with facilitating students to reflect on their personal frame of reference, which influence their responses in the PWS setting.

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Statistical Evaluation of the ‘Men Overcoming Domestic Violence’ Programme.

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Summary

The “Men Overcoming Domestic Violence” programme for male perpetrators of domestic violence was evaluated by exploring the changes in participant’s beliefs, attitudes and associated characteristics between the ‘pretreatment’ and ‘post-treatment’ stages. The results of a statistical analysis revealed that participants reported statistically significant changes on a number of psychological variables related to aggression and violent behaviour. The evidence reported was favourable in terms of demonstrating the efficacy of the Men Overcoming Domestic Violence programme.

Keywords: Domestic violence, efficacy, perpetrators, programmes, evaluation.

Background

Since 1997 the Probation Board for Northern Ireland (PBNI) have delivered a “Men Overcoming Domestic Violence” programme for male perpetrators of domestic violence. The majority of these participants have been on Probation Orders or Custody Probation Orders with a condition of attendance at the programme but some have been referrals from Social Services who have not been convicted of domestic violence offences (non adjudicated offenders). Hague and Malos (1993) noted that any group work programme for male perpetrators must be evaluated. The Men Overcoming Domestic Violence Programme aims to increase the participants’ understanding of their actions and awareness of the consequences. As such, any changes in behaviour must be preceded by changes in the participants’ beliefs and attitudes. Therefore, it is essential that effectiveness of the programme in inducing such changes be demonstrated. Implicit in the design of the MODV programme is that behaviours are a function of the individual’s beliefs, attitudes and personality. Therefore a change in behaviour will be preceded by a change in an individual’s belief, attitudes and personality. A number of variables that have been empirically and theoretically demonstrated to be related to violent behaviour are measured before and after participation in the MODV programme. It is expected that any changes in these variables is attributable to the intervention. The analyses reported below are all carried out at the group level. If consistent changes are found to be statistically significant this implies that MODV programme is effective for a broad range of participants. A reduction in the mean level of those variables associated with violent behaviour, and an increase in positive psychological variables, would constitute evidence for the effectiveness of the MODV programme. In particular, the MODV would be considered to be effective if there were significant decreases in self-reported.

- Psychoticism
- Neuroticism
- Criminality

- Impulsivity
 - State anger
 - Trait anger
- and significant increases in
- Extraversion
 - Empathy
 - Anger control

Method

Participants and Procedure

Participants consisted of 70 males aged between 20 and 63 years (mean=34, SD=7). The sample was drawn from centres in Belfast (N=26), Ballymena (N=11), and Derry (N=32). Over half the sample was in full-time employment. Most were married (38%), single (29%) or separated (16%). Less than half the participants were attending the programme voluntarily (42%). A battery of psychometric tests were administered before and on completion of the MODV programme.

Measures

Eysenck Personality Scale (Eysenck, & Eysenck, 1996; Eysenck & Eysenck, 1978). This scale measures the following dimensions.

Extraversion: Extraversion is characterized by being outgoing, talkative, high on positive affect (feeling good), and in need of external stimulation.

Neuroticism: Neuroticism, or emotionality, is characterized by high levels of negative affect such as depression and anxiety.

Psychoticism: Psychoticism is associated not only with the liability to have a psychotic episode (or break with reality), but also with aggression. Psychotic behaviour is rooted in the characteristics of tough-mindedness, non-conformity, inconsideration, recklessness, hostility, anger and impulsiveness.

Criminality: The Criminality subscale measures tendencies to engage in criminal and/or antisocial behaviours.

Impulsivity: The Impulsivity subscale measures a trait related to disinhibition, approach motivation, novelty seeking, and sensation seeking.

Empathy: The Empathy subscale measures the level of the respondent's vicarious experience of another's emotional experiences.

The State Trait Anger Expression Inventory II (STAXI: Spielberger, 1988).

The STAXI-2 was developed and standardized for use by psychologists and qualified professionals with adolescents and adults ages 16 years and older in a wide variety of settings. The STAXI measures both state and trait anger.

State Anger: State Anger refers to the intensity of the individual's angry feelings either at (a) the time of testing, or (b) a time and situation specified by the test administrator.

Trait Anger: Trait Anger evaluates a person's general predisposition to become angry.

Anger Control-Out (AC-O): AC-O involves the expenditure of energy to monitor and control the physical or verbal expressions of anger.

Anger Control-In (AC-I): AC-I measures how often a person attempts to relax, calm down, and reduce angry feelings before they get out of control

Results

The pre- and post-test scores were entered into the statistical package SPSS for analysis. The analysis aimed to determine if there had been significant changes in the variables of interest. Paired sample t-tests were conducted to determine if changes in the variables exceeded that which could be attributable to chance.

Variables expected to decrease:

The EPQ-R: Psychoticism subscale

The results for this subscale indicate a significant difference ($t=1.78$; $df, 22$; $p<0.05$) in gain scores for this dimension of the EPQ-R. Participants mean scores have reduced from 8.78 at pre-test to 7.50 at post-test. This reduction on this dimension is desirable for participants and is illustrative of the positive outcome associated with the programme.

The EPQ-R: Neuroticism subscale

The results for this subscale indicate a significant difference ($t=3.947$; $df, 22$; $p<0.05$) in gain scores for this dimension of the EPQ-R. Participants mean scores have reduced from 17.60 at pre-test to 12.43 at post-test. Considering the metric this is a very much favourable change in participants' scores.

The EPQ-R: Criminality subscale

The results for this subscale indicate a significant difference ($t=3.91$; $df, 22$; $p<0.05$) in gain scores for this dimension of the EPQ-R. However, it is interesting to note that participants mean scores decreased from 17.78 at pre-test to 12.69 at post-test. This result represents a statistically significant decrease in levels of criminality reported by participants between pre-treatment and post-treatment scores.

The EPQ-R: Impulsivity subscale

The results for this subscale indicate a significant difference ($t=2.28$; $df, 15$; $p<0.05$) in gain scores for this dimension of the EPQ-R. Participants mean scores decreased from 11.43 at pre-test to 9.31 at post-test. This result again represents a statistically significant decrease in levels of criminality reported by participants between pretreatment and post-treatment scores.

The STAXI: State Anger subscale

The results for this subscale indicate a significant difference ($t=2.37$; $df, 16$; $p<0.05$) in gain scores for this dimension of the STAXI. Participants mean scores decreased from 21.17 at pre-test to 15.82 at post-test. This result again represents a statistically significant decrease in levels of 'State Anger' reported by participants between pretreatment and post-treatment scores.

The STAXI: Trait Anger subscale

The results for this subscale indicate a significant difference ($t=3.79$; $df, 16$; $p<0.05$) in gain scores for this dimension of the STAXI. Participants mean scores decreased from 23.82 at pre-test to 17.64 at post-test. This result again represents a statistically significant decrease in levels of 'Trait Anger' reported by participants between pretreatment and post-treatment scores.

Variables expected to increase:

The EPQ-R: Extraversion subscale

The results for this subscale indicate a non-significant difference ($t=-1.182$; $df, 22$; $p>0.05$) in gain scores for this dimension. While this result is not statistically significant participants' scores are indicative of a trend in a desirable direction.

The EPQ-R: Empathy subscale

The results for this subscale indicate a non-significant difference ($t=1.03$; $df, 15$; $p>0.05$) in gain scores for this dimension of the EPQ-R. Participants mean scores decreased from 11.25 at pre-test to 10.56 at post-test. This result suggests that participants' levels of empathy have remained fairly constant between pre-treatment and post-treatment testing periods.

The STAXI: Anger Control-Out subscale

The results for this subscale indicate a non-significant difference ($t=-1.49$; $df, 16$; $p>0.05$) in gain scores for this dimension of the STAXI. Participants mean scores increased slightly from 18.58 at pre-test to 21.35 at post-test.

The STAXI: Anger Control-In subscale

The results for this subscale indicate a non-significant difference ($t=3.15$; $df, 16$; $p>0.05$) in gain scores for this dimension of the STAXI. Participants mean scores increased very slightly from 20.41 at pre-test to 21.70 at post-test.

Discussion

In general the results of this evaluation are positive. After participation in the MODV programme those variables that are related to impulsive, thoughtless, and aggressive behaviour showed a significant decrease. There is evidence that suggests that participants have changed in the way that they deal with their anger witnessed by a decrease in state and trait anger.

The observed changes in the personality measures suggest that the MODV programme is successful in changing those traits that are associated with aggressive, impulsive, and hostile behaviours. Statistically significant reductions in the levels of psychoticism, criminality, and impulsivity, were all reported.

Overall there were significant decreases on the scores of the majority of the anger measures. This reflected a general decrease in the participant's predisposition to become angry and also a decrease in anger as a response to environmental triggers. The overall index of anger expression suggested that the participants would be less likely to express their anger in an outwardly negative and poorly controlled manner.

This evaluation of the MODV programme offers quantitative support for its effectiveness. However addition research in terms of replication and a longitudinal design covering a longer time period (to evaluate long-term changes) would provide further insights into the psychological changes of the participants.

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Sex Offenders Act, 2001: Implications for the Probation and Welfare Service, Policy and Practice

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Summary

The implementation by the Oireachtas of The Sex Offenders Act, 2001 places statutory responsibility on the Probation and Welfare Service (PWS) for the post-release supervision of convicted sex offenders in instances where the Court, at the time of sentencing, includes such supervision in the sentence. The Post Release Supervision Order (PRSO) is aimed at enhancing public safety by protecting the community and reducing victimisation. This protection of the community is achieved by managing and reducing the risk of re-offending through supervision. From the perspective of the PWS, the introduction of this legislation therefore has implications for service delivery in both institutional and community settings. This article details the main provisions of the Sex Offenders Act, 2001 and examines the issues for PWS practice, as well as detailing the Service's response to its additional statutory obligations.

Keywords Sex Offenders, Post Release Supervision Orders, Risk Management, Intervention, Registration and Notification.

Introduction

The Sex Offenders Act 2001, enacted by the Oireachtas in October 2001, incorporates within its various parts a strategy for the management of sex offenders in the community, with particular reference to An Garda Síochána and the Probation and Welfare Service. The Act has many similarities to the sex offender legislation in Britain and Northern Ireland, but also has some features unique to the Irish situation.

The main provisions of the Act

PART 1: Primarily focuses on the *schedule of offences* covered by the Act. Offences under the Child Trafficking and Pornography Act, 1998, which include specific non-contact offences against children, are included in the schedule. Other non-contact offences, e.g. indecent exposure, are not included.

PART 2: Here the obligations of the sexual offender to notify certain information are outlined in detail. The *Notification System*, colloquially referred to as 'the register', places the following obligations on an offender found guilty of an offence under the schedule of offences. The offender must inform An Garda Síochána of his/her name (including any alias), date of birth and home address within seven days of conviction (if not imprisoned), or within seven days of his/her release from prison in instances where the offender has been imprisoned. The offender must also notify, within seven days, any change of address within the state. If the offender intends to leave the state for a continuous period exceeding seven days he/she must inform An Garda Síochána of that intention, and of the new address if known. The offender may make

notification by attending in person at a Divisional Headquarters of An Garda Síochána and give the information verbally. Alternatively, he/she may do so by registered post. The length of time the offender is subject to the notification system depends on the severity of sentence handed down by the Court. For those aged less than eighteen years at the time of sentence, the notification requirements are halved. Failure to comply is subject to penalty. Finally, for those subject to notification for an indefinite period, the offender can after ten years, return to Court seeking to have the order varied or discharged.

The Court, when convicting an offender under this part of the Act, shall issue a certificate of conviction/sentence to the offender, the Garda, the Governor of the prison if the offender is imprisoned, and/or the PWS within the meaning of Part Five of the Act. In instances where a person is convicted in another jurisdiction of a sexual offence contained in the schedule of offences, then that person must on entering the state inform An Garda Síochána of that fact and be subject to the Notification System.

PART 3: Under this part, a Garda Chief Superintendent may apply to the Circuit Court for a *Sex Offenders Order*, when he/she is satisfied that the offender through his/her behaviour and/or attitude poses a danger to potential victims and/or the wider community. This is a civil order and therefore the requirement in seeking the order is one of probability as against beyond reasonable doubt. The Court, in granting the Order, must be satisfied that the person does pose a danger to others. In granting such an Order, the Court can place conditions or prohibitions on the offender. Importantly, this must be done within the context of the offender's personal integrity and constitutional rights. Orders can be for a period of five years or longer. The conditions of an order can be varied during its existence and the offender can apply to the court to have it revoked. Failure to comply is an offence.

PART 4: *The Provision of Information for Employment purposes.* This part places responsibility on an offender convicted under the Act to inform an employer or any other relevant person acting in that capacity, i.e. a person engaging the offender in voluntary work, of his/her conviction of a sexual offence, if the work is likely to involve unsupervised contact with children (less than 18 years of age) or a mentally impaired person. Failure to adhere carries penalties.

PART 5: *Post Release Supervision of Sex Offenders.* This part has particular relevance for the PWS and its management and supervision of sex offenders in the community. Section 28 places a duty on the Court in determining the sentence to be imposed on a sex offender in respect of the sexual offence concerned, to consider imposing a sentence involving a post-release supervision order (PRSO). In considering that matter, the Court shall have regard to:

The need for a period, after the offender has been released into the community, during which his or her conduct is supervised by a responsible person,

- The need to protect the public from serious harm from the offender,
- The need to prevent the commission by the offender of further sexual offences and
- The need to rehabilitate or further rehabilitate the offender.

Under Section 29, the court may impose a sentence involving a PRSO i.e. a sentence that involves a period of imprisonment followed by a period of supervision. The length of such a combined sentence must not exceed the duration of the maximum sentence that may be imposed for the sexual offence under the Act. Additional provisions which may be included in a sentence involving post-release supervision are outlined in Section 30. These may include a condition prohibiting the sex offender from doing one or more things the Court considers necessary for the purpose of protecting the public from serious harm from the offender, and/or a condition requiring the sex offender to receive psychological counselling or other appropriate treatment provided by the PWS or any other body which it appears to the Court, having regard to any submissions made to it on behalf of the PWS, is an appropriate body to provide such counselling or treatment.

In imposing a sentence involving a PRSO on a sex offender, the Court has a duty to explain the effect of the sentence to the offender. The Court shall explain to him/her the effect of the sentence, the consequences provided for should he/she fail to comply with any of the PRSO conditions, and that under this Act the Court may vary or discharge any of those conditions on the application of either the offender or a Probation and Welfare Officer. Furthermore, at any time after the supervision period has commenced, the Court may, on the application of the offender or Probation and Welfare Officer, discharge all the supervision period conditions (and the PRSO shall lapse accordingly) or vary or discharge one or more of those conditions if, having regard to the circumstances which have arisen since the sentence was imposed, it considers it would be in the interests of justice to do so, and the protection of the public from serious harm from the offender no longer requires that those conditions should continue in force or, as appropriate, that they should continue in force in the form in which they stand at the date of the making of the application. Failure to comply with a PRSO is an offence, punishable with a fine and/or imprisonment.

PART 6: Addresses a number of miscellaneous issues, the most significant of which in the present context, provides for a complainant to be legally represented during the hearing of his/her application. This provision is only available in instances where the offence is of a serious nature, i.e. rape, aggravated sexual assault.

Probation and Welfare Service Response to the Act

In response to this statutory obligation placed on the PWS by the Sex Offenders Act, the Service has developed a protocol to assist and support Probation and Welfare Officers to implement effective practices in working with this group of offenders, whether in custody or in the community. The Service protocol contains a number of key elements. Firstly, it involves the establishment of the (PWS) National Sex Offender Office, with responsibility for the administration and maintenance of all information on PRSOs. The Office is based at Service

Headquarters, Smithfield. The protocol also prescribes the intervention and management framework for working constructively with this group of sex offenders, both in prison and the community. Central to its philosophy, the protocol acknowledges that community supervision of high-risk cases should be seen as a continuum that starts in the courtroom, continues through the prison sentence and into the post release context. This is based on the recognition that interventions made with the offender in prison should be linked to plans for release (Spencer, 1999; SWSI, 2000; Correctional Service, Canada, 2000; Murphy, 2002) and supervision to be implemented following release; hence the need for a planned, co-ordinated and structured approach at and through all stages.

Research indicates the need for an ongoing effort to facilitate and encourage a climate and culture among staff of all agencies, particularly 'on the ground' in custodial institutions, that supports, values and reinforces the role of offence focused work undertaken in assisting offenders change and manage their behaviour (O'Reilly and Carr, 2004). This in turn should then facilitate a holistic, multi-disciplinary approach, incorporating literacy issues; mental health issues; introduction to the group work experience; motivational work as well as an introduction to offence-focused intervention. The PWS protocol reflects and embodies these principles of effective practice, facilitating Probation and Welfare Officers in their work of engaging, motivating and supporting offenders to use their time in custody constructively to effect meaningful change, both in attitude to offending and in their behaviour.

Decisions with regard to release planning need to be based on the assessment of the level of risk of re-offending, which in turn dictates how that risk will be managed. This reflects the need to involve all those who have a legitimate part to play in ensuring all factors are taken into account when planning the release of the offender (Spencer, 1999; CSOM, 2000). The protocol is explicit in advocating a multi-disciplinary approach throughout the case management process. Effective management of sexual offenders in the community involves planned arrangements for overseeing the offenders, designed to manage and reduce the risk posed by each individual offender. There are a number of elements to the supervision process, notably risk assessment and management, the need to address offending behaviour as well as resettlement issues for those leaving prison. The Service's management of sex offenders is substantially influenced by the perceived risk of recidivism and supervision plans need to reflect this. Furthermore, it is important to consider the impact the pending release may have on the victim, his/her family, the offender's family and the community. Risk management must also recognise the importance of influencing and maximising the positive factors, including informal supports, in the offender's situation (Doyle, 2002).

Within the aforementioned context, it is imperative to acknowledge that offenders who commit sexual offences are not a homogeneous group. Consequently, each individual presents different risks and needs, and therefore require individualised supervision plans (Leon, 2000; Langton and Barbaree, nd: Kemshall, 1996). Given this, the protocol clearly prescribes a proactive collaboration between the supervising Probation and Welfare Officer and his/her line

manager in designing and implementing a supervision plan tailored to each individual client. The plan needs to be structured yet flexible, and sensitive to changing conditions in the offender's life.

Effective supervision plans can be divided into two broad areas:

Risk management strategies (imposition of external control over factors relevant to the offending behaviour) – achieved through the development of a risk management strategy for each offender, and

Intervention programmes (development of internal control) – achieved by the offender addressing pertinent issues through participation in a recognised programme (e.g. Lighthouse Programme) and the transfer of the knowledge, understanding and skills gained into his /her daily life.

While participation in a treatment programme is an integral element in the process, it remains just one element, albeit an integral one. Also central to risk management is the need for adequate arrangements for the monitoring and management of the identified risk if public protection, the desired outcome, is to be realised. Consequently, the need for effective individualised management strategies should not be underestimated. Prediction, based on individualised risk factors, in turn dictates the elements of a system of supervision and oversight. Areas for consideration, as outlined in the protocol, include:

- (Continued) Offence focused interventions,
- Accommodation,
- Employment / training issues,
- Addictions,
- Propensity for violence, and
- Resettlement issues.

Conclusion

It is evident that there are a number of interrelated issues, all of which are pertinent to formulating and implementing a strategy for the management of sexual offenders released from prison. Furthermore, to be effective, management of this group needs to be operated by those who are accountable and have authority vested in them. It is therefore crucial that the Probation and Welfare Service, a key participant in managing offenders in the community, in collaboration with the Department of Justice, Equality and Law Reform, develops a proactive and coherent strategy to inform and educate the various stakeholders and the public at large of the importance of engaging this offender group in changing their offending behaviour and thereby contributing to greater public safety. The protocol for Service operation of Part 5 of the Sex Offenders Act, 2001 is the cornerstone for the development of a more integrated and enlightened policy and strategy in this area.

Note The description of the relevant legislation above is not intended as a legal interpretation, but rather as a practice guide for readers working in the probation and related fields.

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Legislation:

Child Trafficking and Pornography Act, 1998.
Sex Offenders Act, 2001.

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Delivering Effective Interventions - Using Reconviction Rates to Measure the Efficacy of Sentences

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Summary

Reconviction is the most commonly used indicator for measuring the effectiveness of court penalties in reducing reoffending. 2001 adult reconviction rates published in 2005 by the Northern Ireland Office indicated that 17% of those who received a non-custodial sentence were reconvicted within two years, while 45% of those discharged from custody were reconvicted in two years. The reconviction rate of those with statutory supervision after custody discharge was lower than those without statutory supervision.

Keywords Effectiveness; Community Sentences; Reoffending; Reconviction

Introduction

The aim of the Probation Board for Northern Ireland (PBNI) is to reduce crime and the harm it does. To meet this aim, PBNI supervises community sentences for the courts; each with a detailed workplan based on individually assessed risk and need. PBNI seeks to continuously improve the effectiveness of community based sentences, delivering services which are underpinned by a framework of standards and service requirements, working in partnership with statutory, non-statutory and voluntary bodies and incorporating lessons learnt from best practice in other jurisdictions.

Reconviction rates are the most commonly used means of assessing the effectiveness of court sentences in preventing reoffending. Reconviction is not the same as reoffending, and is recognised as an undercount of reoffending. Not all crimes are reported to the police; furthermore of those crimes that are reported, there are various methods of clear up, one of which is prosecution¹. Nonetheless, reconviction remains the standard measure of re-offending.

Study Findings

The most up to date analysis of adult reconviction in Northern Ireland was published in February 2005 by the Northern Ireland Office. The Research and Statistical Bulletin (3/2005) 'Adult Reconviction in Northern Ireland' (McMullan and Ruddy, 2005) 1 outlines the two year reconviction rates of adults (aged 17 years or more) who received a non-custodial disposal during 2001 and those released from custody into the community in 2001.

The findings are based on analysis of data from on the Police Service of Northern Ireland's Integrated Crime Information Service (ICIS). The records of 18,710 adults who received a non-custodial disposal and 703 adults discharged from custody during 2001 were analysed. The criminal careers of these individuals were then monitored for subsequent convictions over the next two years.

The reconviction rate is calculated as the percentage of offenders who were reconvicted within a given time (in this case two years) from the date of their non-custodial disposal or discharge from custody into the community (Kerr and Wilson, 2000) 2.

In summary, the analysis showed:

- 17% of those receiving a non-custodial disposal in 2001 were reconvicted in 2 years.
- The overall community supervision (community service order, probation order and combination order) two-year reconviction rate was 34%.
- 45% of those discharged from custody into the community 2001 were reconvicted within 2 years.
- 49% of those discharged from custody were reconvicted within two years, while 32% of those released on a Custody Probation Order were reconvicted within a two year period.
- The highest reconviction rate was for offenders discharged from the Young Offenders Centre (with a disposal of immediate custody), 74% were reconvicted in the subsequent two-year period. In comparison, those discharged from the Young Offenders Centre on a Custody Probation Order had a two-year reconviction rate of 43%. This finding highlights the positive impact of statutory supervision following release from custody.
- Examining both those discharged from custody and those receiving a non-custodial sentence, younger offenders had the highest reconviction rates- 30% reconviction for 17-19 year olds in the non-custodial group and 72% reconviction for those aged 17-19 in the custodial discharge group.
- Generally the greater number of previous convictions, the higher the reconviction rate (for both the non-custodial group and the custodial discharge group). 43% of the non-custodial group with 17 or more previous convictions were reconvicted within 2 years compared to 60% of the custodial discharge group with a similar criminal history.
- The highest reconviction rates were, for both groups, found to be for property offences (burglary, theft and criminal damage), 32% for the non-custodial group and 65% for the custodial discharge group. In the non-custodial group the lowest reconviction rates were for “other” offences (8%) and sexual offences (12%). In the custodial discharge group the lowest reconviction rates were for sexual offences (20%) fraud and forgery (27%) and drug offences (29%).

Conclusion

Comparing reconviction rates for different court penalties is difficult- they are a product of many factors, not only the sentence handed down. However, this research clearly indicates people under supervision are less likely to reoffend than people released from prison without supervision. This evidence is useful in considering the option of statutory post custody supervision for all young offenders. The current Review of Sentencing (ongoing in Northern Ireland) has indicated that such provisions will be considered in new legislation.

These findings also evidence that reconviction rates for those with previous convictions is generally higher than those who had no criminal history. This suggests resources should be directed towards people with more previous convictions and follows the well established principle of matching level of supervision with risk of reoffending/risk of harm.

These findings evidence the provision of a high quality probation service by PBNI, promoting the reintegration of offenders into the community and protection of the public.

A full copy of the findings can be found on the Northern Ireland Office website: www.nio.gov.uk.

Glossary

A **Probation Order** can last between 6 months and 3 years.

A **Community Service Order** may be imposed on any individual aged 16 years old or over, and is made on the basis of the number of hours which an offender must work in the community. An Order can be made for at least 40 hours and not more than 240 hours and shall be performed during the period of 12 months.

A **Custody Probation Order** is a sentence of the Court requiring an offender to serve a period of imprisonment (offence must justify 12 months or more) followed by a period of supervision in the community (the period of supervision will be 1 to 3 years commencing on date of release), and is unique to Northern Ireland.

A **Combination Order** is a sentence that combines a Probation Order and a Community Service Order. The period of Probation supervision can last from 1 to 3 years. The Community Service part of the Order can range from 40 to 100 hours and must be completed as instructed.

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*A therapeutic response or 'a free fix'?
The Irish experience of methadone maintenance treatment.*

Tony Carlin, Probation & Welfare Service

Summary

This paper will initially outline the prevalence of methadone maintenance treatment in the European and Irish context. The second section will then highlight the main benefits of methadone maintenance to both the individual and society, using the work of Nyswander and Dole in the 1960s as the starting point. This will be followed by a discussion of reasons for opposition to its use. The fourth section will look at abstinence-oriented methadone reduction treatment as an alternative to methadone maintenance and in doing so will outline its shortcomings. The concluding part of this paper will focus specifically on methadone maintenance in the Irish context and the ambivalence that surrounds its use. The paper concludes by proposing that while methadone maintenance is by no means a perfect solution, it is nonetheless, to date, the most pragmatic and successful treatment response to opiate dependency.

Keywords Methadone, maintenance, abstinence, opiate, dependency, addiction, harm reduction.

Introduction

Methadone maintenance is defined by Ward, Mattock and Hall (1999; 1) as:

The administration of a long-acting opioid drug to an opioid dependent person by a non parental route of administration, for the therapeutic purposes of preventing or substantially reducing the injection of illicit opioids such as heroin.

Methadone maintenance treatment is a subject, which has traditionally elicited strong views, often resulting in a form of trench warfare between its advocates and opponents. As a treatment response to opiate dependency, it is becoming increasingly used in Ireland and most of Europe. While a strong evidence base supports its efficacy and benefits, opponents argue that it reduces motivation towards recovery and discourages the development of a healthy view of the future, (Cumberton et al. 2004). They also argue that methadone only deals with the symptoms rather than the real problems at the base of a person's addiction and that it prevents real solutions (Coolmine Therapeutic Community, undated).

The prevalence of methadone maintenance treatment programmes

According to the Substance Abuse and Mental Health Services Administration (SAMHSA, 1992), methadone hydrochloride is the most widely used pharmacological treatment agent for opioid dependence in the world. Since it was first synthesised in Germany in the 1940s, hundreds and thousands of individuals addicted to heroin have been treated with it. According to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), there was a seven-fold increase between 1993 and 2000 in the number of heroin addicts being treated with

methadone. The EMCDDA's 2003 annual report estimated the figure of people being treated in the EU and Norway as 390,611. According to Marsch (1998) there were approximately 150,000 methadone maintenance programmes operating in the U.S in 1997. In Ireland, as of June 2003 there were 6,667 people registered on the Central Treatment List out of approximately 15,000 opiate users in Ireland, (as estimated by Kelly, Caravahlo and Teljeur (2003) in a report submitted to the National Advisory Committee on Drugs). This constitutes over 44% of that population. The fact that methadone maintenance is widely used in Europe and Ireland as a form of treatment for opiate misuse clearly attests to benefits and effectiveness. The following section will outline these in more detail.

The efficacy and benefits of methadone maintenance treatment

Methadone maintenance treatment first came to prominence through the work of Dole and Nyswander in the United States in the 1960s. Dr. Vincent Dole was a metabolic disease specialist, while Dr. Marie Nyswander had worked as a psychotherapist in abstinence based drug treatment programmes for many years. She had become increasingly frustrated with patients, who, fed up with the grind of addiction would go through withdrawal, cooperate with a treatment programme and do well in it for a while, but then relapse. The relapse rate at Lexington Hospital, the federal treatment facility where Nyswander worked, was approximately 90%.

In the mid 1960s, she and Dole began a series of clinical trials and in 1965 produced data on 22 male patients who had been treated with methadone from which they built a case for legal maintenance of opiate addicts on a daily dose of between 80 to 120 mgs of methadone. They had found that patients thus stabilized were metabolically blockaded and consequently could not experience euphoria by injecting heroin. They had no withdrawal symptoms and did not have to inject street drugs, or get involved in criminal behaviour to support their habit. It generally appeared to be a way out of a criminal subculture and a way into a stable and productive life.

Since then methadone maintenance has been extensively researched and shown to have many benefits. Perhaps the most important of these has been that it has kept numerous people alive who may have otherwise died. Tober and Strang (2003) have also identified four positive roles in relation to methadone maintenance treatment. These are: (1) to relieve withdrawal symptoms, (2) to draw people into treatment, (3) to retain them in treatment and (4) to promote positive change while they are there.

Perhaps the largest and most significant study, which attests to the benefits of methadone, is the National Treatment Outcome Research Study (NTORS), which was conducted by Gossop et al. in England between 1995 and 1997 with a group of 1,000 people who entered drug misuse treatment services. The primary focus of this study was to see whether interventions such as methadone maintenance had any impact on the psychological social and behavioural problems of the clients at one year and two year intervals after entering treatment. There were numerous outcome measures in this study including: rates of reduction in the consumption of street drugs, changes in drug-taking behaviour from injecting to oral consumption, reduction in the

frequency of injecting, improvement in physical, psychological health, reduction in needle sharing, reduction in sexual risk-taking, reduction in criminal activity, improvement in relationships and improvement in home stability. The findings from this study showed that at the end of the first year clients treated in maintenance programmes showed reductions in the frequency of their drug use by nearly half. The proportion of clients injecting also decreased significantly, thereby also reducing the risk of mortality and health problems associated with intravenous use. In addition to this, the rates of sharing needles with its potential to spread infections such as hepatitis and HIV among clients also fell. With regard to psychological health, there was also an improvement. At the beginning of the study, one-fifth (20%) of the clients reported having suicidal thoughts. After one year on methadone maintenance treatment, this number had fallen to 17%. Reduction in the rates of acquisitive crime among the participants at one year were also recorded. Shoplifting and burglary fell by 70%, robbery by 45% and fraud by 80%. These changes were by and large sustained throughout the second year of treatment.

March (1998) also produced empirical research findings from eleven studies investigating the effect of methadone maintenance on illicit opiate use and from eight and twenty-four studies investigating its effect on HIV risk behaviours and criminal activities respectively. The findings of this analysis showed that there was a consistent statistically significant relationship between methadone maintenance treatment and the reduction of illicit opiate use, HIV risk behaviours and drug and property related criminal behaviours. The effectiveness of methadone maintenance treatment was most apparent in its ability to reduce drug related criminal behaviours though appeared to have only small to moderate effect in reducing HIV risk behaviours. While the evidence of success of methadone maintenance treatment has been substantial, there has nonetheless been significant opposition to such forms of treatment, which will be detailed in the following section.

Opposition to methadone maintenance treatment

Historically, the opposition to methadone maintenance treatment would appear to have come from a moral perspective rather than a rational one. In 1953, Harry Anslinger, the then Commissioner of Narcotics, warned that treatment clinics 'dispensing narcotic drugs to drug addicts for the purpose of maintaining addiction', would 'elevate a most despicable trade ... to ... a time honoured profession; and drug addicts would multiply unrestrained, to the irrevocable impairment of the moral fibre and physical welfare of the American people' (as quoted in Davenport-Hines, p290.). Thomas Szasz (1987) observed that illicit drugs had replaced sex at the centre of, 'the grand morality play of existence.' He went on to say that, 'no longer are men, women and children tempted, corrupted and ruined by the irresistible pleasures of sex, instead they are tempted, corrupted and ruined by the irresistibly sweet pleasures of drugs' (pp 327-328). Implicit in the above statement is the view that drugs are exclusively evil and that a person using or misusing them is in some way deviant, pathological, and consequently undeserving of compassion or positive regard.

MacGreil (1995) in a study of prejudice and tolerance in Ireland found that of fifty-nine social groups that respondents were asked to rate, using the Bogardus social distance scale, drug

addicts were deemed to be the most socially undesirable. Bryan et. al (2000) in their study also reported attitudes to drug users as being largely negative. They found that two thirds of their respondents believed that support for drug users should only be offered to those who had abstinence as their ultimate goal. Other criticisms of methadone are that it has become an end in itself, (Szasz 1975) that it shouldn't be regarded as any thing other than an adjunct to treatment, (O'Connor 1993), that it can cause tooth decay, constipation and lead to accidental overdose (Preston, 1996) and that it encourages a sense of powerlessness and helplessness in the addict (Bottomley 2003). There is also the argument referred to by Tober and Strang (2003) that methadone maintenance, because it is so effective in removing or reducing many of the adverse consequences of opiate addiction, may in fact remove the incentive to give up using opiates.

Underlying a lot of the opposition to methadone maintenance is the assumption that abstinence and a drug free lifestyle is the only acceptable treatment goal for opiate dependency.

Total abstinence is essential as the first step to tackling life problems and gaining healthier lifelong recovery.

(Coolmine Therapeutic Community, undated)

However, it is clear from the high failure rate of abstinence oriented programmes, (the original source of frustration for Nyswander) and the mortality rates associated with chronic opiate dependence, (English et al. 1995) that there is no compelling reason for insisting that abstinence is the only acceptable treatment goal for people who are opiate dependent. Research findings show that the proportion of people who become and remain abstinent is approximately 10% within the first year after treatment and that approximately 2% per annum achieve abstinence thereafter, (Goldstein and Herrera, 1995; Hser et al. 1993; Joe and Simpson, 1990; Vaillant, 1973). The less extensive literature on the longer-term outcomes of treatment also indicated that over five years and longer, the proportion of opiate dependent people who achieve lasting abstinence from all opiates does not differ between those receiving drug free treatment and methadone maintenance treatment (Maddux and Desmond, 1992).

Alternatives to methadone maintenance treatment

Due to the positive outcomes associated with methadone maintenance treatment, opposition to it has gradually lessened, with some support for methadone-based programmes now coming from proponents of abstinence-oriented programmes in Ireland. Stephen Rowen, (Director of the Rutland Centre in Dublin) in an article in the 'Irish Times' newspaper (Rowen, 2003), conceded that, 'methadone maintenance could be used in the early stages of recovery for chronic drug users'. However, he went on to say that ultimately a recovery path needed to be established for an addict rather than viewing methadone maintenance as, 'an end in itself.' He argued that once an addict showed a willingness to progress beyond methadone, then he/she should be given whatever resources he/she needed. A distinction nevertheless, should be made between methadone maintenance treatment and methadone reduction treatment. Whereas the former involves the provision of methadone in stable doses and is intended to reduce problematic

behaviours associated with illicit drug use, it is not in itself an abstinence-oriented treatment and involves continuing use of methadone possibly on a long term and permanent basis. The latter on the other hand is a short to medium abstinence-oriented intervention varying from a few weeks in duration to many months and occasionally years. Reduction schedules may be fixed without the patient being involved in the discussion of the duration of the treatment or the rate of reduction. However, it may be negotiable, with the patient having some say in the timing and the amount of dose reductions.

When one compares the two treatments, clearly methadone reduction appears to be the more attractive option because it offers the 'prize' of abstinence, whereas maintenance treatment could be perceived as consigning the patient to a life of chemical dependence, albeit legal chemical dependence. However, in the two year follow-up studies of the NTORS client group, (Gossop et al. 2001) differences were found between those on methadone maintenance and those on methadone reduction treatment with regard to prescribed doses and retention rates (Gossop et al. 2001). Patients on higher doses tended to achieve better outcomes and there were lower retention rates among patients on methadone reduction treatment. Treatment retention has been found to be one of the most consistent predictors of favourable treatment outcomes (Simpson et al. 1997; McLellan et al. 1997). This was consistent with the results of a study carried out by Sees et al. (2000) who found that patients receiving 180-day detoxification were less likely to remain in treatment than patients receiving maintenance. In fact, the more rapidly the methadone was reduced, the worse the outcomes.

The NTORS findings raise questions about the overall effectiveness of methadone reduction treatment. Tober and Strang (2003) in fact suggest that many patients who start out on a methadone reduction programme actually end up on a maintenance programme because of the failure of the former to produce positive outcomes. Extrapolating from the findings of the NTORS, the best outcomes are found among those being maintained on regular high doses of methadone for protracted period of time or indeed permanently.

Conclusion

Methadone maintenance treatment is successful in retaining opiate dependent people in treatment and providing a range of positive outcomes with regard to the person's actual drug use, their physical and psychological health and their social functioning. From the research of Gossop et al. (1998, 2000 and 2001), it would appear that the main contributory factors to the maximisation of these outcomes are the size of the dose and the length of time in treatment. However, keeping drug addicts on high doses of drugs for indefinite periods in order to keep them stable is one, that attracts controversy, and some concerns have been expressed about the physical long-term effects of methadone. This perhaps explains why within Irish society there appears to be significant ambivalence about such treatment. In one sense, there are constant demands by communities and the media to, 'do something about the drug problem.' Nevertheless, when a proven treatment like methadone maintenance is offered, there can be similar levels of opposition (Farrell et al., 2000) to the siting of methadone treatment clinics in local areas. The range

of views evident in the general population can also be reflected in those of public representatives, political parties and policy makers.

There is also an argument that methadone is purely a pharmacological treatment which serves to act as a form of social control of a highly problematic and otherwise difficult to manage group. Nevertheless, no other as effective, evidence based 'non-pharmacological' alternative has been devised or offered. The prohibitionist, 'war on drugs' approach to drug misuse has clearly had at best limited success in terms of its own objective of eliminating drug misuse, as can be seen from continuing escalation in drug use worldwide. Similarly, it can be argued that there was a distinct failure in Ireland to cope with the heroin epidemic and the emergence of blood-borne diseases in the 1980s, until harm reduction approaches were used. The principle of harm reduction, which appears to influence Irish drug policy increasingly, particularly in urban centres, has provided the philosophical bedrock for methadone maintenance treatment to take root. In recent times, the notion of injecting rooms has also been mooted, though immediately opposed on the same grounds as methadone maintenance i.e. that providing such a service is in some way condoning drug use. While this remains the case, potentially effective responses to drug addiction will of necessity continue to be formulated and developed behind closed doors, away from public scrutiny.

In conclusion, therefore, methadone maintenance treatment is by no means a perfect treatment response to opiate addiction, in the sense that it guarantees a drug free lifestyle. In addition, the increasing prevalence of cocaine in Irish society, with its associated problems, has thrown up new challenges for drug treatment services as it is not amenable to a pharmacological response and perhaps exposes the fact that services to date may have become over dependent on such responses. Nonetheless, methadone has clearly been shown to be effective and pragmatic in retaining opiate addicted people within the treatment milieu and in contributing to the reduction in the physical, psychological and social harm resulting from such drug misuse. The task for policy makers and service delivers however, is not solely to convince people of its efficacy or benefits but more importantly to challenge the moral arguments about drug misuse which have continually impeded the development of a clear response to opiate addiction based on the principles of harm reduction.

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Quality: Lessons from a User Survey

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Summary

A survey of service users carried out on behalf of the Probation Board for Northern Ireland (PBNI) by independent consultants in 2003/04 found high levels of satisfaction and evidence of adherence to practice standards which was consistent with evidence from internally collected key performance data. The survey has also usefully identified areas for improvement and provides the basis for continued monitoring of organisational performance from a user's perspective.

Keywords Service users, user satisfaction, practice standards, business improvement.

Introduction

In 2001 the Probation Board for Northern Ireland (PBNI) commenced a business improvement project using the European Foundation for Quality Management (EFQM) model. The model emphasises collection of information about results which are used to guide business improvement and the User Survey is an important component of that project. It includes the following key concepts:

- Results orientation – improvement in an organisation is demonstrated by results as a consequence of improved processes, policies and management;
- Customer focus – organisations in the public sector and private business survive on their ability to provide a valued service or product to their consumers and any assessment of their performance should reflect their views;
- Leadership and constancy of purpose – feedback from users and customers provides focus for leaders and goals for the organisation;
- Management by processes and facts – user feedback provides factual information about the impact of processes and about how well they are being applied;
- Continuous learning, improvement and innovation – a good survey of user opinions will indicate improvements, corrective action and even unintended consequences of organisational performance;
- Public responsibility – the EFQM model emphasises public responsibility for both public and private organisations. User feedback can provide information about fairness, equity and societal impact of an organisation's performance.

Based on this model the objectives of the survey were to ascertain the satisfaction of users with the service they were receiving, to confirm that standards of practice are being maintained and to evaluate the effectiveness of interventions against intended outcomes.

Design of the User Survey

With the help of the NI Statistics and Research Agency PBNI commissioned Price Waterhouse Cooper to carry out the survey. It was agreed that the methodology would be comprised of six consequential steps:

- Desk top research – the aim was to identify comparative data against which PBNI performance could be judged. The most useful study was research commissioned by the Home Office in England and Wales in 1993 1.
- Staff In-depth interviews – as a first step in the design of the survey, staff were interviewed to understand their perception of the job and the objectives of their work.
- Offender focus groups – these were convened in urban and rural locations to test some questions related to the enquiry with service users and to ascertain the aspects of the service they felt were important and should be tested;
- Questionnaire design – using information from the staff in-depth interviews and the offender focus groups, a pilot questionnaire was designed. It covered social characteristics, the nature of contact with their Probation Officer, the impact of supervision, satisfaction with the service provided, the rigour of supervision, their relationship with the supervising officer and the range of interventions used;
- Pilot study – the questionnaire was piloted in Crawford Square office, Derry with 12 offenders;
- Survey implementation – after modifications following the pilot study a full survey was under taken with a further 130 offenders across Northern Ireland, proportionately representative of the caseloads in PBNI team areas. The survey was restricted to users aged 18 and over subject to current community based supervision excluding Community Service. The sample was approximately 15% of the target group.

Results

Profile of respondents

It was important to ensure that the sample was representative of those supervised by PBNI, so the survey group composition reflected that of the organisation's caseload by gender (80% male; 20% female), age (46% were age 17 – 24; 29% were age 25 – 34), social status (99% were socio

economic group C2DE -unskilled manual/unemployed), marital status (66% single; 23% married/living as married) and type of Order (11% Combination Order; 73% Probation Order; 12% Custody Probation Order).

Contact with Probation Officer

Levels of contact are important basic indicators of the engagement with offenders. Levels of contact reported by the survey group were high (94% reported weekly contact at commencement of Order; 48% currently reporting weekly; 31% fortnightly) which confirms the findings of Key Performance Measures monitoring. Most users (92%) were satisfied with this frequency of contact and with the length of the sessions (90%) which was from 30 minutes to one hour.

Contact with other service deliverers

PBNI is committed to providing a service which is of high quality and meets the needs of offenders and public protection. In order to achieve this level of quality in an appropriate setting, and relevance to the user, emphasis is put upon the use of internal specialists, community groups and voluntary organisations which can provide expertise beyond that of the supervising officer. Users reported a wide range of services received from specialist providers including training, employment, addictions services, local community groups and internal programme providers or specialists. The majority of users (76%) found these services useful.

Change in supervising officer

At a time of higher than usual staff turnover there was concern that many users would have had a change of supervising officer which carries risks of disruption and inconsistency. However, the majority (65%) had no change of supervising officer and of those where there was a change, only one respondent had requested the change. In a small number of cases there was a worryingly high number, up to four, changes of supervising officer.

Home visiting

PBNI practice standards specify the need for home visiting so it is not surprising that 90% of users had received visits at home. The majority of users did not have a preference for home or office visits. Where a preference was expressed, it mainly related to convenience but some said they prefer to keep their home life separate while others believed it important to involve their family or partner.

Location of Probation Office

PBNI are currently undertaking a review of their estate and user views can be helpful in decisions about future office location. Most of the respondents (82%) found the location of their Probation office convenient but some (18%) thought it inconvenient because it was more than five miles from their home.

Contacting their Probation Officer

An indicator of a good quality service is accessibility and nearly all the users (94%) found it

easy to contact their supervising officer. Almost half the respondents had visited their Probation office without an appointment and the majority were able to see their own officer. However, by the nature of a Probation Officer's work, a number were seen by a colleague officer and all reported that they were very satisfied with the service they received.

Contact with family or others in the community

For a range of reasons, including the needs of the user and public protection, family or community contact can be an essential part of a supervision plan and home visiting is a feature of PBNI practice standards. Almost half the respondents reported contact with their family (despite the majority of the sample being single) but only a small number (9%) reported contact with the community. These contacts were recognised by users as being necessary in most cases.

Enforcement - induction

Effective enforcement depends upon prompt action by the supervising officer and the offenders' clear understanding of their responsibilities. Nearly all users recalled being informed of the requirement to keep appointments, received a copy of their Order to sign and confirmed consent. More than half recalled the requirements to behave appropriately, to inform of a change of address and the procedures for changing an appointment. However, it was noted that 21% did not recall being told of confidentiality limitations which is a potential area for improvement.

Risk assessment and supervision plan

Nearly all users (84%) reported that a risk assessment process was undertaken but there was a large variation in the risk score reported by offenders and the actual score recorded. This understanding should be improved since it is crucial to motivation in the supervision process. However, nearly all users reported that a supervision plan had been drawn up and nearly all of those (98%) agreed with its contents.

Enforcement – appointments

When asking about experience of enforcement procedures, most users reported that they had been informed of the consequences of failing to keep appointments. There were 32% who had missed an appointment and they reported a verbal or written consequence in the vast majority of cases. Most of them thought it was a fair response although less than a fifth of their explanations for failing to keep an appointment were deemed acceptable.

Satisfaction levels

There were generally very positive views of supervising officers and satisfaction with supervision. Probation Officers were described as friendly (82%), a good listener (75%) and reliable (65%). Some negative views were expressed ('strict' – 18%; 'intrusive' – 16%) but it could be argued that it is likely that a non collusive supervising officer might be perceived this way. An overall satisfaction rate of 98% was reported. This is extremely high in such surveys, especially where the user is receiving a service they have not chosen but have had imposed.

Influence on offending

In spite of the high levels of satisfaction and indicators of effective practice from the survey, few users identified Probation interventions as the main influences on their likelihood to reoffend. The two main influences identified are family (rated top by 54%) and fear of prison (36%)

Expectations of Probation

However, users did expect Probation to help prevent offending as well as provide assistance with employment and accommodation. Significantly, nearly all (96%) reported that Probation met or exceeded their expectations.

Content of supervision

Service users reported that the content of supervision emphasised offending related issues. A majority were referred to specialist resources but a significant number (32%) failed to engage with them. Where users did engage with specialists there was a high satisfaction level.

Overall satisfaction levels

Satisfaction rates of 59% very satisfied with the overall experience of being supervised and 36% quite satisfied give an overall satisfied rating of 95% which compares extremely favourably with public and private sector studies across the UK and Ireland.

Comparison with England and Wales

The results obtained from the survey were compared with those from the 1993 Home Office study in England and Wales 1. While some results were similar, there were others which demonstrated a comparatively high level of performance as perceived by service users.

Question	Home Office Report	PBNI
Copy of order to sign	85%	97%
Confirmed consent	Over 90%	97%
Supervision plan	65%	82%
Frequency of first appointments	83% weekly	94% weekly

The way forward

As explained earlier, the EFQM model emphasises results and the use of results information to improve performance.

The results of this survey are very impressive. Overall satisfaction levels of 95% (59% very satisfied and 36% quite satisfied) are remarkable, especially since research indicates that when forced to use a service, as offenders are in this case, respondents generally will score the service lower. PBNI also compares favourably with the only other significant survey of offender attitudes that was discovered.

In order to make best use of these findings it is important to build upon the knowledge gained to further develop and monitor service provision. There is now a baseline against which to compare future findings and to identify improvements that can be made.

In general the strategy will be to move the proportion indicating “quite good” into “very good” since a “quite good” rating indicates room for improvement. More specifically certain areas which are of concern will be addressed including the explanation of confidentiality so that it has a more lasting impact upon offenders under supervision and communication of supervision plans. A plan should be central to supervision and underpin the rationale for every interaction with an offender so one would expect it to be more to the fore than was indicated in the survey.

A plan is being developed to monitor user views through internally administered surveys and periodic engagement of independent consultants to provide a picture of improvements and progress in relation to the actions taken.

However, notwithstanding these potential improvements, it is clear from the survey that most of the credit for the positive results is attributable to supervising officers and their workplace colleagues who are the public face of the service by which it is judged. Comments about their performance are overwhelmingly positive and highly valued by offenders who respect their supervising officers and the job they do.

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Inaugural PROTECT N&S National Conference Summary

Ciaran Kennedy, Probation & Welfare Service, Jimmy Moore PROTECT N&S and David Williamson PROTECT N&S

Summary

PROTECT N&S is a joint initiative between the Probation Board for Northern Ireland (PBNI) and the Probation & Welfare Service (PWS). The project was developed as a response to the Belfast Agreement and the subsequent Criminal Justice Review that highlighted the need for development of co-operation between public bodies in Northern Ireland and the Republic of Ireland. This paper is a summary of the proceedings of the inaugural project conference, held in May 2005.

Keywords Best Practice; Innovation; Vision; Collaboration; Partnership; Community

Introduction

Funded by the Special European Union Programmes Body under the Cross-Border Co-operation Measure, PROTECT N&S aims to contribute to community safety throughout Ireland by enhancing co-operation between the two Probation Services with particular emphasis on developing best practice, joint training and exchange opportunities. The project brings together an Ireland-wide network of probation management, staff and Criminal Justice experts who have practical experience of effective practice in securing the protection and safety of communities through the social inclusion of offenders.

PROTECT N&S has been in operation for fifteen months and has sought to focus on the significant challenges of building a safer society, through partnerships with other agencies and communities. This is at the heart of the mission statements of both PWS and PBNI.

The inaugural PROTECT N&S National Conference was held in Dublin on 24/25 May 2005. The Conference aims were to:

- Promote the role of the community in working in partnership with criminal justice agencies towards enhanced community safety,
- Demonstrate current effective practice within criminal justice services, and
- Identify developing trends and issues in criminal justice across Ireland.

Over 120 people attended and participated in a varied, interesting and challenging programme building on the work undertaken in the four seminars with PWS and PBNI border teams during the last year. Domestic Violence, Alcohol- Related Offending and Drug-Dependent Offending were particular issues under consideration in these seminars. A very full Conference

programme contained 4 plenary presentations and 12 Presentations/Workshops, covering very diverse themes. It was planned that rather than take plenary feedback, presentation summaries would be posted on the PROTECT N&S website.

Tara Boyle from the Special EU Programmes Body placed the work of PROTECT N&S in a wider Peace and Reconciliation context. Her comments cited the project as an excellent example of what the Peace Programme is seeking to do. Following opening speeches by Brian Lenihan, TD, Minister of State for Children, and Ronnie Spence, PBNI Board Chairman on behalf of NIO Minister, David Hanson, a thought-provoking keynote speech by Brendan McAllister, Director of Mediation Northern Ireland, explored the “*Challenges and Opportunities in creating Inclusive and Safer Communities*”. Brendan defined ‘peace’ as a balance within ourselves and between self and others. He challenged delegates to consider their creativity and explored the concepts of spirituality and the moral imagination. Peacemakers, he said, demonstrated four qualities:

- They form relationships across the divide,
- They think transcendentally or inclusively from the perspective of the ‘other’,
- They are creative and
- They take risks for peace.

Brendan placed these comments in the context of change in communities and recommended a norm of partnership.

Dr Derval Howley, Director of the Homeless Agency gave a detailed outline on the work of the Agency in Dublin and its legislative and policy background, highlighting the many initiatives being taken within the sector. She outlined links with the PWS, specifically with and through the PWS led Homeless Offenders Strategy Team (HOST). She described a number of initiatives in relation to offenders, including the Homeless Persons’ Unit in-reach services to Mountjoy and other prisons, the Access Housing Unit Pilot (providing assessment, referral and support for prisoners into private rented accommodation) provided on a multi-agency basis, and the Joint Accommodation Protocol between PWS, the Irish Prison Service and Dublin City Council. Derval’s conclusions were:

- Partnership is hard work but does work,
- Communication is essential,
- Partnership and communication can lead to better outcomes for individuals and communities.

Both these speakers emphasised that the attainment of safer communities will only be achieved by the co-operation of state and voluntary agencies and the effective engagement of these services with the communities that they serve.

Conal Devitt took up this theme in his Community Safety presentation on developing part-

nerships with communities. Community Safety Partnerships have to overcome prejudice to have added value in promoting perceptions of communities being safer. He stressed the need for local involvement to make these partnerships work.

The powerful “Don’t Say A Word” drama, performed by Sole Purpose Productions, eloquently illustrated the perspectives of both victim and perpetrator of domestic violence. The panel discussion following the performance teased out many of the issues and pointed to the need to maintain clear boundaries in interventions with the parties. The PROTECT N&S Domestic Violence seminar in October 2004 had highlighted the inter-relationship between domestic violence and other types of offending, postulating that in effectively tackling domestic violence we may well contribute to dealing with wider offending issues. Best practice in dealing with perpetrators of Domestic Violence involves delivery of accredited intervention programmes that address an offender’s behaviour and run alongside monitoring and supervision rather than providing an alternative to supervision. The importance of victim safety was highlighted as key to effective domestic violence intervention.

Both PWS and PBNI have completed Service Policies in relation to domestic violence and both agencies have pursued active and positive engagement with the voluntary sector and the partner Criminal Justice agencies. The National Domestic Violence Intervention Agency, based in Dun Laoghaire, operates with the Probation & Welfare Service as a key partner while in Northern Ireland there are Probation partnership programmes such as the Belfast Non-Violent Relationship Project and the 24-week PBNI programme-approved Men Overcoming Domestic Violence Programme. The two Probation services have been developing appropriate responses to domestic violence, both from sharing experience and learning, to practical joint initiatives and projects. In the development of the first of two PROTECT N&S cross-border projects, staff working in an upcoming perpetrators programme in Dundalk will be able to avail of training provided by PBNI.

Provision of services for victims was addressed in a collaborative workshop by Christine Hunter of PBNI and Josephine Devine of PWS. Christine outlined the work of the new Victims Unit within PBNI, while Josephine detailed the process of preparing court requested Victim Reports within PWS. The engagement of local communities is taken a step further in the development of Restorative Justice. Carolle Gleeson and Alice Breslan presented on the Nenagh Community Reparation Project (Co. Tipperary) demonstrating an effective partnership model between statutory, voluntary and community partners to reduce crime, bring perpetrators and victims together and enhance community confidence in dealing with local crime. The complexities of operating restorative justice initiatives in the two jurisdictions was recognised and discussed.

Further models of productive engagement with other statutory/voluntary partners and local communities were demonstrated in the workshop on Drug Dependent Offenders given by Paul Okere from the Clondalkin Addiction Support Programme and Colin Dempsey from the Railway Street Project in Ballymena. Colin focused on the complexity of the inter-relationship between drug misuse and offending. The view of a simple causal relationship has been shown

to be somewhat too simplistic. Using resources to address an offender's addiction without addressing their offending in parallel is only likely to lead to greater difficulty in achieving and sustaining positive change (whether that be through abstinence or harm reduction).

PROTECT N&S also has a brief to identify emerging trends in the criminal justice system and in crime. Ireland has rapidly become a diverse society. Net immigration has been increasing for almost 10 years, and has left us learning not only how to deal with offences borne of discriminatory and racist attitudes but also how we deal with offenders from a range of countries, with the attendant issues of language, culture and ethnic differences.

Elaine Geiran PWS, and Ellen Mongan, reminded participants that in Ireland the issues of how minorities are dealt with and the particular challenges that come from developing cultural awareness and overcoming negative perceptions are not new. In particular, they highlighted the experience of the travelling community, who have generally been over-represented in the courts system and particularly in the prison system. It is regrettable that we have not developed sufficiently an understanding and respect for diversity. Criminal Justice agencies, often faced with dealing with negative behaviours and hostility, can be particularly susceptible to developing such attitudes, as we continue to work with offenders and victims from a wide range of cultural backgrounds.

Liam MacGabhann from Dublin City University (DCU) and Mark Graham from the Access team of the former South Western Area Health Board (SWAHB) outlined the particular difficulties in working with mental health issues. They presented an example of a health-led intervention that has developed good working relationships with Probation. The mental health area is one that Probation staff and others in the criminal justice system often struggle with, reflecting wider apprehensions in society and a general discomfort with mental illness. Changes in the structure and delivery of mental health services and the increased vulnerability of the homeless and of people with addictions have increased the contact of those with mental health problems with the criminal justice system.

This workshop identified, as Derval Howley had previously – in relation to homelessness, that those with mental health issues can present significant challenges to service providers. Though not necessarily the most dangerous service users by any means, in terms of the challenges they may pose, with often multiple difficulties and experiences of marginalization, the difficulty for service providers is to have interventions that identify risks and match needs and interventions appropriately.

PWS and PBNI staff exercise a range of highly developed core skills in their practice. PROTECT N&S has a brief to disseminate best practice. Dr. Hilda Loughran from University College Dublin (UCD) has worked on behalf of the PWS over many years, providing training to probation officers on Motivational Interviewing. PROTECT N&S, building on this, has looked to see how this skill, so useful in dealing with addiction, has been shown to be effective in other contexts. Hilda repeated the very valuable skills training presented at the Alcohol-

Related Offending Seminar in December 2004 on both conference days, demonstrating that this intervention fits very comfortably with the social work tradition of Probation in both parts of the island.

Stefan Falling and Niklas Eldholm, Probation Officers from the Swedish Prisons and Probation Service (KVV), presented on both days on the Swedish Electronic Monitoring model. They undertake both the practical monitoring and supervision and provide additional group work based interventions that support such monitoring and appear to give it added value. This highlights the principle of effective practice having a properly targeted intervention, something that was also emphasised in the presentation by the team from the national award-winning IMPACT Car Crime Project from Belfast. This project has shown positive results, and encompasses many of the key elements of successful inter-agency co-operation and community engagement, along with targeted interventions. Their detailed presentation highlighted that interventions need also to be able to adapt and change. This was emphasised by Heather Reid (NIACRO) and Lisa Cuthbert (PACE), who spoke about the Educational Trust, an all-island body supporting educational opportunities for long sentence prisoners, which has adapted and refocused its work as a result of the ongoing Peace Process.

Ciaran Kennedy (PWS) brought the conference to a conclusion, reviewing the two days and looking forward. He placed the conference in the broader context of the work of PROTECT N&S, highlighting that the process of peace and reconciliation is integral to the task of developing safer communities on either side of the border. Ciaran stressed that this is the time to take on this challenge with economic opportunity across the country, a commitment on the part of state agencies to co-operate, and increasing cross-border activity among the voluntary agencies.

Over the next year, PROTECT N&S will be looking at three further offence and offender areas - dangerous offending, youth offending and sex offending. Central to these is effective risk assessment and case management. Many of the principles that have been highlighted here in terms of interagency co-operation and community engagement will be particularly important in addressing these areas.

PROTECT N&S will continue to work to assist PWS and PBNI to build on their already successful relationship. One of the key tasks over the next year will be to look at the services that the two services are responsible for delivering and to identify where there are barriers to closer co-operation and how these may be overcome. Closely related will be consideration of where there are barriers to effective practice between the two services and other key agencies within the two criminal justice jurisdictions that compromise the development of increasing community safety. Development of working within communities will be another key area.

A particular value of the conference was the opportunity for Probation staff and wider criminal justice partners from both jurisdictions to meet and share knowledge, experience and best practice. Evaluation feedback was very positive and indicated that delegates considered the conference aims were achieved; the conference had been envisioning and had facilitated links

for future reference. Comments such as: 'helped me to think outside the box' featured in feedback from participants. The collaborative and participative approach by staff and community partners from both jurisdictions greatly assisted in sharing best practice approaches and feeding the evident curiosity as to how things are done 'on the other side'. The conference also provided a useful 'shop window' for representatives from other agencies to view examples of work currently undertaken in both Probation organisations. It provided a valuable opportunity to bring staff together for a clear purpose and reinforced the value of the core aims and objectives of PROTECT N&S.

Conference presentations will be available on the PROTECT N&S website at www.protectnands.org with presenters' contact details also available on the site for follow up as required.

Next year's conference will be in May, in Northern Ireland. Further information will be circulated later this year and/or can be obtained from info@protectnands.org

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A Study of the Number, Profile and Progression Routes of Homeless Persons before the Court and in Custody,

By Dr Mairéad Seymour, Dublin Institute of Technology and Liza Costello (2005).

Introduction

Bringing readers information on recent research that is relevant to work with offenders is part of the Irish Probation Journal (IPJ) editorial strategy. This part of the present edition provides summaries of two such reports, both published over the past couple of months. Aspects of the research on homelessness among offenders (Seymour and Costello) were reported on in the first edition of IPJ. It is very relevant to work with offenders, and the PWS is actively following up on its findings and recommendations. The summary of the report on domestic violence (Watson and Parsons), commissioned and published by the National Crime Council, is particularly apposite for inclusion in the present edition of IPJ given the articles by Mark Shevlin, David Morran and Christine Hunter also included in this edition. Those articles, allied to the NCC research report, are a timely reminder of the importance of developing effective responses to domestic violence offenders and victims with whom probation services come in contact. This research report brings new clarity to this field of research and practice. It underlines the previous dearth of relevant research in the area, and highlights the need for professionals in a variety of agencies to improve their understanding of and responses to domestic violence. In particular, findings refer to prevalence in the general population, risk factors, impact and reporting issues. Recommendations are made with specific reference to the criminal justice system. Some of these, such as the recommendations on data collection, staff training, treatment and rehabilitation of offenders and measures to ensure the safety of complainants, have relevance for probation services and their partner agencies. Both reports, published over this summer, have received significant media attention and are available in hardcopy and electronic versions:

The Research

The issues faced by offenders that are homeless or at risk of homelessness, both in the community and in custody, have been the focus of increased consideration in recent years. Such issues have been brought into stark relief in the context of the Government's Integrated Strategy on Homelessness (2000), and probably even more so following the publication of the Homeless Preventative Strategy (2002) and the NESF Report No. 22 (2002) on the Reintegration of Prisoners. The establishment of the Homeless Offenders Strategy Team (HOST – see Geiran in IPJ, Vol. 1, 2004) is a direct outcome of that strategy.

The research by Seymour and Costello (of the Centre for Social and Educational Research at Dublin Institute of Technology), which sought to obtain accurate information about the numbers, profile and progression of homeless persons appearing before the courts and in custody in Dublin, employed a range of methodologies. These included a review of the relevant literature, analysis of PWS, Detention Schools and Courts Service records, and a survey of 241 prisoners

in custody in Dublin prisons and places of detention; as well as in-depth interviews with the prisoner sample; focus groups with PWS staff and consultation with a range of service providers in local authorities, health services and homeless services. The research set out to 'generate path-finding information relevant to Probation and Welfare Service policy formulation, service development, planning and deployment of resources' and 'suggest new responses...'

The research found inter alia that:

- Official statistics under-represent the numbers of homeless individuals in the criminal justice system, with women being disproportionately highly represented in both courts and prison samples,
- 1.6% of those appearing before the courts and 9.3% of those referred by the courts to the PWS (over a six week period) were homeless,
- In the prison sample, 54% had experienced homelessness at least once prior to imprisonment, with many experiencing lengthy periods homeless,
- 25% of prisoners were homeless on committal to prison,
- Approximately half of all homeless offenders progressing through the criminal justice system, and 73% of all (those homeless) referred to the PWS, were under 30 years of age,
- Homeless offenders rated highly on a range of indicators of disadvantage, including poor education, employment, accommodation, lack of family and other supports, drug and alcohol misuse, and mental health issues,
- Youth homelessness emerged as a significant factor in subsequent homelessness histories and progression routes,
- 64% of prisoners who experienced homelessness had first done so before 19 years of age,
- Many offenders experienced difficulty accessing accommodation and other services.

Findings specifically related to offending and sanctions, including PWS supervision, included that homeless offenders had high rates of arrest, charge and conviction, and were more likely to accumulate higher numbers of charges than other (non-homeless) offenders, although the offending by the homeless sample tended to be of a less serious nature. Homeless prisoners tended to have spent significant periods of time in custody. Almost half of those had previously been on PWS supervision. The research identified a range of difficulties for Probation and Welfare Officers in supervising homeless offenders on community sanctions. These included

difficulties tracking homeless individuals, case management dominated by complex and chronic series of crises, and difficulties accessing appropriate accommodation. Challenges in the reintegration of homeless prisoners after release were also identified, as were particular issues identified by respondents in accessing homeless services.

The report makes a range of recommendations which should assist and inform policy and practice. These include:

- Homeless prisoners be recognised as a sub-group of the homeless population,
- Specific responsibilities of respective agencies in relation to homeless offenders be clarified by the Cross Department Team on Homelessness,
- Community sanctions be considered for homeless offenders where possible,
- That the PWS consider introducing improved ways of engaging and working with homeless offenders,
- That the PWS build on existing contacts to improve and develop services to homeless offenders, including partnerships with drug treatment agencies,
- The Homeless Person's Unit (Dublin) and other such in-reach initiatives be developed in other institutions across the Irish Prison Service (IPS) estate,
- Drug-free units in prisons to be more widely available,
- The PWS and IPS to encourage and foster family contact with prisoners,
- Provision be made for more widely available and user-friendly, basic information and advice services on housing, welfare entitlements and support services to prisoners in all custodial institutions, and
- Local authorities to provide clear and user-friendly information to homeless individuals on the operation of their housing and homeless lists and to simplify the associated processes, as well as ensuring access to an increased range of housing options.

The researchers highlight the need, evidenced from the international research, for reintegration planning to begin at the earliest stage in the sentence. In this regard, the advancement of effective, multi-disciplinary positive sentence management for all prisoners is recommended, as a way of preventing homelessness and addressing the problem where it already exists.

This research, which is methodologically rigorous, scholarly and well written, is a valuable addition to the literature on homelessness and offending, particularly in the Irish context, in which it stands out as much on account of the previous dearth of comparable enquiry as for its own value as a study. The report is available in pdf format on the PWS website: www.pws.ie.

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***'Domestic Abuse of Women and Men in Ireland:
Report on the National Study of Domestic Abuse'***

by Dr. Dorothy Watson, ESRI and Sara Parsons, National Crime Council.

In July, 2005 the National Crime Council (NCC), in association with the Economic and Social Research Institute (ESRI), published the first ever large scale study undertaken to give an overview of the nature, extent and impact of domestic abuse against women and men in intimate partner relationships in Ireland. The study was commissioned by the NCC and based on a survey conducted by the ESRI of a nationally representative statistical sample of over 3,000 adult women and men, as well as focus group interviews with Traveller and immigrant women. The study draws a distinction between severe abuse, defined as 'a pattern of physical, emotional or sexual behaviour between partners in an intimate relationship that causes, or risks causing, significant negative consequences for the person affected' and isolated minor incidents that do not form a pattern of behaviour and do not have a severe impact. The two types of behaviour differ in their impact and in the profiles of those affected. The study focuses on severe abuse which is likely to call for an intervention from the Criminal Justice System and/or place demands on support services for victims. The key findings are outlined below.

- The report shows that 15 per cent of women (or about one in seven) and six per cent of men (or one in 16) have experienced severely abusive behaviour of a physical, sexual or emotional nature from an intimate partner at some time in their lives.
- While the risk to women is higher, domestic abuse is something that also affects a significant number of men. The survey suggests that in the region of 213,000 women and 88,000 men in Ireland have been severely abused by a partner.
- Apart from the higher risk faced by women, the risk of having experienced abuse is also higher in couples where one partner (rather than both jointly) controls decisions about money, for those whose parents were abusive to each other, for young adults and for those with children.
- A number of findings in the report suggests an increased risk of abuse where the partners are isolated from close family and neighbourhood supports.
- In almost two out of five cases, the abusive behaviour had no specific trigger or was triggered by minor incidents.
- In terms of the impact of domestic abuse, about half of those experiencing severe abuse were physically injured. Women's injuries tended to be more serious - women are nearly twice as likely as men to require medical treatment for their injuries and ten

times more likely to require a stay in hospital. However, respondents often identified emotional abuse or the emotional consequences of abuse - such as fear, distress and loss of confidence - as the 'worst thing' that they experienced.

- Most women and men who were abused had told someone about it: almost half had confided in friends and about two in five had talked to family members.
- Only a minority (one in five) had reported the behaviour to the Garda. Men were less likely than women to report (5 per cent compared to 29 per cent of women among those severely abused). Women and men give similar reasons for not reporting the abuse, most often related to the seriousness of the behaviour, a preference for handling the situation themselves, and shame or embarrassment.
- Informal supports were important when someone left an abusive relationship. Of those who were living with an abusive partner and moved out, nine out of ten stayed with family or friends, and only 7 per cent stayed at either a homeless hostel, a refuge or on the street.
- The focus groups with Traveller and immigrant women indicated that they shared a broadly similar view of domestic abuse as the general population and had a similar tendency to rely on informal supports. Both Traveller and immigrant women showed a strong aversion to approaching the 'authorities', such as the Garda and social workers, for help.

In the Foreword to the report, the NCC acknowledged that whilst many of the behaviours which form part of domestic abuse are criminal, there is currently no criminal offence of 'domestic abuse' per se in Ireland. Given the numerous provisions in current legislation which may be utilised to address most forms of abusive behaviour, the Council does not believe it is necessary to create a new criminal offence of 'domestic abuse'.

Future policy formulation must reflect the fact that both women and men experience severe domestic abuse, albeit men to a far lesser extent than women. The NCC made numerous recommendations based upon the study findings. Some of those with most relevance to the Criminal Justice System include:

- In relation to An Garda Síochána the Council recommends that recording practices, Garda policy and training around domestic abuse be examined to encourage increased reporting of domestic abuse.
- When domestic abuse is a contributory factor in a crime a Court should consider such conduct as an aggravating factor for the purpose of sentencing.

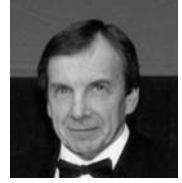
- Both the Criminal Courts and the Family Division of the Civil Courts should be provided with a wider range of disposal options, taking into account the safety of the complainant and the treatment and/or rehabilitation of the offender.
- Judges sitting in the Family Law Courts should receive appropriate on-going training. Regional Family Law Courts should be established.
- The Courts Service should collect data on the gender, age group and available demographics of the parties appearing before the Courts.

Copies of the report are available free of charge by telephoning the National Crime Council on +353-(0)1-4760047, by email request to info@crimencouncil.gov.ie and also by download from the Council's website, www.crimencouncil.ie.

Sara Parsons, Research Officer, National Crime Council, 4-5 Harcourt Road, Dublin 4.



Sean Lowry



Brendan Fulton

Transitions in Irish Probation, 2005

This year sees some very significant goings and comings in the two probation services. Michael Donnellan took up his position as Director of the Probation and Welfare Service (PWS) on 5th September. Michael comes to the PWS, having been Director of Trinity House School in Lusk, Co. Dublin, and with a career in social work which has included a period (1994-1998) as Director of Finglas Children's Centre in Dublin and several years in social services in London. His new colleagues in the two services, North and South, wish him well in his new and challenging role. Earlier in the year, two probation stalwarts retired – Sean Lowry from the PWS and Brendan Fulton from PBNI, both after long and distinguished careers.

Sean Lowry's involvement in social work started while serving as a priest in the diocese of Down and Connor in the latter half of the 1960s. Part of his duties brought Sean into contact with services for children in residential care as well as adoption services. From those early days of his vocational career, Sean saw the benefit in approaching social problems and projects from a systemic point of view, rather than just reacting to individual need. Part of this response included the development of improved professional relationships with statutory children's welfare services. It also resulted in Sean being asked to do a social work course in Queen's University, Belfast. One of his fellow students on that programme was Briedge Gadd, who subsequently became a Chief Officer with PBNI. While completing the course, the 'troubles' started in Northern Ireland, and Sean returned to a chaotic situation in Belfast, where he was immediately assigned to work with families affected by the fallout from the worsening civil disorder at the time. This included assisting those who had been displaced from their homes to access housing and other services. At the systemic level, it included the establishment of the Co-ordinating Committee for Relief in Belfast. A key to the success of this effort was the 'bridging' ability that Sean brought to linking the large number of voluntary committees and organisations with those in the statutory sector, for which he recieved formal recognition from the British Government.

Notwithstanding the success of his work in Belfast, by early 1973, Sean had left the priesthood and moved to Dublin, where he considered how to develop a career in the social services. He had applied for a job in probation, although, having had some involvement in family welfare cases in the courts in the North, had felt that court based work was not for him. Nevertheless, he was offered just such a post and joined the Probation and Welfare Service in May 1973. Sean recalls that there were 39 probation officers in the PWS when he joined, although that time marked the beginning of a stage of significant development and growth for the Service. It also provided opportunities for advancement. Having been seconded in 1974-1975 to do the CQSW course in UCD, Sean was promoted to Senior Probation & Welfare Officer in 1977 and later to Assistant Principal in 1984. He was appointed Principal in July 2002. Over his

career with the PWS, Sean has had management responsibility for a wide range of operational and strategic areas of work. These have included various courts and prison teams, intensive probation projects, staff development, research & statistics and special schools.

Sean clearly has a lot to be proud of in his achievements, especially in his 'hallmark' approach of working in collaborative and consultative ways as far as possible. Even where difficult decisions had to be made, Sean sees the importance of how we arrive there and how different stakeholders are brought along that journey. At all stages and levels in his career, Sean has enjoyed being at the 'cutting edge' of service development, whether in Belfast in the late 1960s and early 1970s (e.g. working with 20-30 voluntary social service centres to develop effective services) or since then in Dublin (e.g. in developing the role of the PWS in relation to special schools or establishing the Bridge [intensive probation] project) and influencing and shaping service development.

Describing an 'abiding satisfaction' gained from working with the people in the PWS, and partner agencies, including those in the voluntary sector, Sean emphasises the need for the statutory and voluntary sectors to 'appreciate each other.' His new colleagues in the PWS were very welcoming when Sean joined, and he says he always found their commitment and conscientiousness exceptional. Involvement with people from diverse backgrounds and different walks of life has also been enriching, and many personal friendships have developed over the years and continue, North and South. Sean has always maintained strong personal and professional links with Northern Ireland and was very supportive, while head of the PWS, of the establishment of the Irish Probation Journal.

Sean had contemplated, for a couple of years before retirement, that he might get involved in work completely different from probation after he retired. However, given his wife Teresa's illness, and death in January this year, Sean did not really get to plan for that retirement, as he would otherwise have expected. Since retiring in February, he has been invited to bring his considerable experience and expertise to bear on a number of projects on behalf of the Department of Justice, Equality and Law Reform, including consultancy work in the fields of probation and as a member of the Commission for the Support of Victims of Crime. As we go to press, Sean has also accepted an invitation from the Minister to join the National Crime Council. He expresses a strong hope that the PWS can further develop, with increased clarity of purpose, its role and ability of 'getting people to rethink their criminality' and do this from a strong position within the criminal justice system.

Brendan Fulton joined the Probation Service in 1968 after graduating from Queens University. Probation Officers were then employed by the Ministry of Home Affairs and he recalls being issued with a briefcase engraved with the initials E.R. This was particularly useful given that his first posting was West Belfast. However in the following year his West Belfast area was divided to reflect the massive social, economic changes that had taken place in that part of the city. This was a very challenging period which saw thousands of people forced from their homes on both sides of this new divide. Brendan moved to Derry in 1971 and for the first time ever there were two members of staff (one Senior Probation Officer, one Probation Officer) covering the City. He then completed the Certificate of Qualification in Social Work

at the Northern Ireland Polytechnic, later to be known as the University of Ulster. Brendan joined the soccer team and served as a player and captain for many years as well as helping the Probation Service to two legendary Tavistock Cup successes.

After a further period in Antrim as a Probation Officer and Senior Probation Officer Brendan moved to Belfast Prison (AKA Crumlin Road) in 1981. This was an important period in the history of the prison and indeed the Probation Board. In the following year the Probation Board for Northern Ireland was established following a lengthy debate about whether Probation and Social Work should be one service, as had happened in Scotland. Meanwhile in prison Brendan was reacting to breakouts, super grass trials and segregation issues. There was still time for the nourishment of services for families of prisoners and the development of planned programme work with long term prisoners, especially life sentence prisoners. It was also the beginning of real inter disciplinary co-operation with agencies such as Psychiatry which sowed the seeds for current multi-agency arrangements, particularly in relation to high risk offenders.

In 1985 Brendan left prison to undertake special projects, such as planning the first day centre, before his appointment to Senior Management as Assistant Chief Probation Officer in 1986. He covered the full spectrum of Senior Management responsibilities including Greater Belfast, Rural Teams, Training Unit and, from 1995, Prisons. For the last 10 years Brendan has worked closely with the prison service and made a significant contribution to the high regard PBNI is held within the wider Criminal Justice area. He also guided the organisation in many complex areas of social policy and his contribution to addressing accommodation for offenders was recognised in a personal achievement award from the NI Council for the Homeless in 2005. Brendan was an active member of the National Association of Probation Officers and while the service underwent many changes he remained true to the core value of compassion for the less fortunate.

In addition to his work as a Probation Officer for nearly 37 years, Brendan was committed to his family and the Greater North Belfast Community during turbulent times. Brendan and Rosemary had four children and all of them played a part in the fledgling integrated education movement. Brendan never sought individual recognition for his efforts but was much happier as part of a team. At his leaving function in June 2005 tributes were paid from many different quarters but one consistent theme was his humanity. He was, and remains, a wonderful source of guidance and inspiration for all those employed in the Criminal Justice Area. Like his colleague Sean Lowry, he was held in positive regard by all those who worked with him and the editorial committee of the journal thought it was important to record, on behalf of both organisations, our appreciation of the dedication both men showed over the last four decades.

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Book Review

Maurice Vanstone (2004)
Supervising Offenders in the Community:
A History of Probation Theory and Practice.
Aldershot: Ashgate.

ISBN: 0-7546-4190-2, 208 pages, H/B, S£45.00.

This excellent book, which is an adaptation of a PhD thesis, uses what the author describes (pp.viii-ix, citing Thompson, 1978; 5-7) as ‘evidence from the underside’ using ‘... the analogy of mud on someone’s shoes’ to piece together a new and original account of the history of probation work, from the nineteenth century up to the present. Numerous histories of British probation have been written. Vanstone, in the preface (p.ix), suggests that his work does not deny ‘the validity of previous accounts... Rather, it is an attempt to tell the full story.’ In that aim, he succeeds in significant measure. In fact, Vanstone brings a freshness to the accepted (and indeed respected) accounts of commentators such as McWilliams and others, and adds further layers of understanding to them, while exposing an increased level of complexity and nuance to the previously received history. At the same time, his historical analysis never lowers its standards of scholarly objectivity, which are applied even-handedly throughout. The development of probation practice and its struggle for professional acceptance are discussed through the various stages of the hundred years of probation’s development, right up to consideration of ‘What Works?’ and the ‘rise to dominance of effective practice.’ Although primarily focused on the British experience, some comparison with the USA is made.

As the centenary of the founding 1907 probation legislation approaches, this is a timely review, in the deepest sense, of the history of probation in these islands. It is not only a history of the organisation of the service per se, but in addition traces the development of underlying ideologies, values, principles and methods of practice. This publication is one in the ‘Welfare and Society’ series from the University of Wales Swansea, School of Social Sciences, in conjunction with Ashgate. Concluding that those of us working in probation have now arrived ‘back to where we started,’ Vanstone (pp.157-158) draws out some interesting lessons, including that:

‘...probation practice... has survived largely because of faith: faith that it was justified morally, helpful, welcomed by its recipients and effective in reducing offending... It has undergone a number of transformations: ... Those changes have made the Service vulnerable to diverse influences... [but] the most consistent factor amidst the conflict and change has been a focus on the individual as the main target of influence... the individual offender has been the object of help conditional upon submission to official authority and control.’

Vanstone goes on to point out (pp.159-160) that probation ‘does know how to “manage” offenders in the community but by offering tangible help to deal with problems associated with offending rather than unthinking control’ and that the service needs self-belief now more than ever, to progress further, with a ‘commitment to effectiveness in its fullest sense.’

This book is well written and easily read, although it seemed to this reviewer that every page and paragraph was filled with points worth re-reading and pondering over and over. One complaint - a number (albeit small) of 'typos' that this reviewer encountered were somewhat irritating in a production that is otherwise difficult to fault. Apart from the substantive chapters, there are some very interesting appendices, including training material from the early decades of the twentieth century: the Police Court Training Scheme, 1914 guidelines on 'The Content of an Ideal Court Report' and probation officer training curricula from the 1930s and '40s. Referencing and indexation are comprehensive. This book is highly recommended and will be of interest to students of probation work, as well as probation practitioners, managers and anyone with an interest in this field.

Thompson, P. (1978) *The Voice of the Past. Oral History*. Oxford: Oxford University Press.

Vivian Geiran is an Assistant Principal Probation and Welfare Officer in the PWS and Co-editor of Irish Probation Journal.

Q: Have you worked hard to produce a piece of original research?

Q: Have you been involved in developing a new or innovative practice, project or programme?

Q: If 'yes' to the above, then why not share your experience, skills and knowledge?

Irish Probation Journal

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Contact any of the editorial committee for further details.

Initial abstracts of proposed submissions for the 2006 edition should be sent to the Editors by 1st December 2005.

First draft of articles to be received by the Editors by 1st February 2006.

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