

The 'Manageability of Risk' and Recall on Supervised Licence: Post-Release Pathways for Serious Violent and Sexual Offenders in Northern Ireland*

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Summary: Extended custodial sentences (ECSs) for serious offenders were introduced under the Criminal Justice (Northern Ireland) Order 2008. These sentences combine custody with a subsequent period on supervised licence in the community during which offenders can be recalled to prison should their 'risk of serious harm' increase to an 'unmanageable level'. Using a documentary file analysis approach, the study investigates the outcomes for all ECS offenders released under supervised licence between 15 October 2010 and 31 December 2013 ($n = 57$). The recall rate was established at 54%, with nearly half of recalls occurring within four weeks of release. Collation of offender records developed profiles of the ECS offenders and examined characteristics of recalled ($n = 31$) and non-recalled ($n = 26$) offenders. The paper offers tentative observations as to why some offenders remained under licence in the community and others were recalled to custody. Analysis points to the potential of enhancing pre-release working relationships between offenders and supervisors, strengthening through-care supports to reflect the complexity of offenders' needs, and focusing on the integration of strengths-based approaches in risk management policy and practice.

Keywords: Recall, supervision, probation, risk management.

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Introduction

In April 2009, the Criminal Justice (Northern Ireland) Order 2008¹ ('the Order') was enacted, which placed sentencing in Northern Ireland on a similar footing to the public protection sentencing framework introduced in England and Wales under the Criminal Justice Act 2003. The legislation introduced three types of public protection sentence: the Indeterminate Custodial Sentence (ICS), the Determinate Custodial Sentence (DCS) and, the focus of this paper, the Extended Custodial Sentence (ECS). The criteria for an Extended Custodial Sentence (ECS) are that an offender has committed a serious and/or violent offence and is assessed as posing a risk of serious harm (defined as death or serious physical or psychological injury) which cannot be safely managed in the community. ECSs combine a custodial period of up to five years for violent offences and up to eight years for sex offences followed by a mandatory supervised licence period of a comparable length of time. Halfway through the custodial period, at their Parole Eligibility Date, ECS offenders are reviewed by the Parole Commissioners for Northern Ireland (PCNI) to determine whether their risk has reduced to the point where they can be safely released for the supervised part of their sentence. Whether or not their assessed risk level has reduced, ECS offenders are automatically released at the Custody Expiry Date (CED) to start the licensed portion of their sentence under the supervision of the Probation Board for Northern Ireland (PBNI).

The Northern Ireland Prison Service (NIPS) on behalf of the Department of Justice (Northern Ireland) issues ECS licences. The licences contain standard conditions, such as a requirement to maintain contact with the supervising Probation Officer, not to commit an offence, and not to behave in a manner that undermines the purposes of the release on licence, which are 'the protection of the public, the prevention of re-offending and the rehabilitation of the offender' as outlined in Article 24(8)(b) of the Order. On the recommendation of the PCNI and/or the PBNI, additional conditions can be attached to the licence depending on the assessed risk factors of the offender and the nature of the offence. These conditions can include a ban on alcohol consumption, a curfew, a ban on contact with named victims, and a requirement to reside in PBNI-approved hostel accommodation and/or to participate in offending-related or therapeutic programmes. By signing the licence at the point of release, the ECS offender is understood to have agreed to abide by these conditions.

¹ <http://www.legislation.gov.uk/nisi/2008/1216/made>

Articles 28 to 31 of the Order allow for the recall into custody of released ECS offenders during their supervised licence period. The test to determine if an ECS offender should be recalled is whether ‘there is evidence that proves, on the balance of probabilities, a fact or facts indicating that the risk of that offender causing serious harm to the public has increased more than minimally since the date of release on licence and that this risk cannot be safely managed in the community’.

The evidence suggests that public protection sentenced offenders in Northern Ireland are treading the same fast path back into custody as parolees elsewhere, a situation referred to as a ‘revolving door at the prison gate’ (Padfield and Maruna, 2006: 329). In the US, parole violators comprised 9% of those in custody in 2015 (US Department of Justice, 2015), while in England and Wales, recalled prisoners accounted for 6% of the prison population in 2016 (Ministry of Justice, 2017). By August 2015, 2505 offenders sentenced under the Order had been released in Northern Ireland and 723 had been recalled into custody (Criminal Justice Inspection Northern Ireland (CJINI), 2016).

Recall has consequences beyond its immediate primary purpose of protecting the public from risk. So-called ‘back-end’ sentencing, the practice of returning individuals to custody from supervised licence, can leave an offender facing incarceration without due process, raising questions of procedural fairness (Padfield, 2007). With a history of recall, offenders may face future parole hearings with a heightened risk assessment and increased likelihood of risk-averse decision-making (Delimata, 2014). Furthermore, the aftermath of recall can lead to disengagement on the part of both offenders and the agencies involved in their cases, with potential long-term implications for future offending (Digard, 2010). With the threat of an increasing proportion of the prison population in post-recall custody and high-risk offenders seeming to ‘fail’ more frequently than other offenders, it is necessary to understand the issues and dynamics underpinning recall rates.

Explanations for recall rates are ‘complex and multi-faceted’ (Weaver *et al.*, 2012: 95) yet the parameters of the data available for this study necessitated that it focused primarily on individual offender profiles as a framework to explore recall. Consequently, the paper says less about the impact of the criminal justice system on recall outcomes and instead seeks to provide insight into the post-release pathways of 57 ECS offenders released on licence in Northern Ireland between 15 October 2010 and 31 December 2013. Based on a comprehensive analysis of

file data information, this paper examines their background history and circumstances at the time of release to provide exploratory insight into recall outcomes.

The recall process in Northern Ireland

The process of recall involves several agencies. The PBNI initiates recall proceedings and its request is forwarded to the Public Protection Branch (PPB) at the Department of Justice, which refers the case to the PCNI together with a dossier containing a PBNI recall report detailing post-release events, the offender's criminal record, a copy of the licence, the pre-sentence report giving the offender's social and offending background, and normally, for alleged new offending, a Statement of Facts from the police.

Within a maximum of 24 hours, a single parole commissioner issues a recommendation either for or against recall under Article 28(2)(a) of the Order, which is forwarded to the PPB, who are responsible for the revocation of the licence. At this stage, there are no representations from the offender.

After recall, the offender must be informed of the reasons for his recall and is entitled to legal representation when the recall is reviewed under Article 28(3) of the Order by a single commissioner and/or by a panel of three commissioners, a process that takes a minimum of 12 weeks. If release is not directed, a date is fixed for the next review and recommendations are made to address risk factors, leaving ECS offenders potentially facing the remainder of their licence period in custody.

Previous recall research

Large-scale, mainly US-based quantitative studies have addressed the question of *who* is likely to be recalled, analysing rates of recall or parole revocation, characteristics of recalled offenders and possible contributing factors (Hughes *et al.*, 2001; Petersilia, 2003). Only a small body of more recent literature has considered the question of *why* offenders are recalled, looking beyond the features of recalled offenders to the wider effects on offenders of supervision and the decision-making processes of recall (Bahr *et al.*, 2010; Bucklen and Zajac, 2009; Digard, 2010).

Continuing the quantitative research tradition, Grattet *et al.*'s (2008) study of 250,000 individuals in California found that likelihood of recall declines with age and increases with length of criminal record,

and that proportionately more men (particularly African-American and Hispanic offenders) than women were likely to be recalled. Steen and Opsal (2007) outline that those convicted of serious crimes and subject to sentences of more than one year were 80% more likely to be recalled for technical violations and far more likely to be recalled for new offences than offenders convicted of more minor offences and serving shorter sentences. In a possible explanation for the high rate of new offending among more serious offenders, recidivism research suggests that lengthy and frequent custodial periods separate offenders from support networks and loosen both family and community ties (Duwe and Clark, 2013; Petersilia, 2003).

It has long been established that a high proportion of offenders on parole recidivate shortly after release (Hakeem, 1944). Grattet *et al.*'s (2008) study found that the risk of violation rose sharply in the first 90 days, was high in the first 180 days after release, but after a year had dropped by 80% compared to the initial figure. In his study of 12,000 former inmates in New Jersey, Ostermann (2011) suggested that over time an offender becomes more integrated into the community. Ostermann did not consider, however, possible additional discretionary factors at play, including the potential impact of 'light touch' supervision towards the end of the licence period or reluctance on the part of agencies to recall a hitherto successful parolee for breaches that might have resulted in recall earlier in the supervision period.

Ostermann's research (2011) indicated that those on supervision over a three-year post-custody period were less involved in new offences than those released unconditionally. Supervision acted as a protective factor despite the increased hazard of technical violations (Grattet and Lin, 2016). For those under supervision, reoffending is less likely to remain undetected under a watchful Probation eye or from police round-ups of the 'usual suspects'. However, a later study of post-supervision recidivism rates of nearly 3000 parolees concluded that parole supervision does not have long-lasting rehabilitation effects (Ostermann, 2013). Research from England and Wales reports similar findings, with parolees initially reoffending less than their non-licensed counterparts, but at the three-year point showing no significant statistical difference in offending rate (Lai, 2013). The conclusion drawn from these studies is that supervision appears to be effective at reducing reoffending, but only in the short term.

The importance of comprehensive and flexible resettlement services and supports for successful re-entry has been highlighted in previous

literature (Petersilia, 2003; Carr *et al.*, 2016; Clark, 2015). Reductions in post-release reconviction rates of 40% were found if offenders on licence were given wide-ranging welfare support (Clark, 2015) or in the case of those with mental illness who attended an enhanced day reporting centre (Carr *et al.*, 2016).

There has been limited research, however, into the role of informal support on the likelihood of recall, which is perhaps surprising given that family support is viewed as a crucial factor in eventual desistance (Duwe and Clark, 2013; Laub and Sampson, 2003). Bucklen and Zajac (2009) surveyed 542 parole violators in Pennsylvania and conducted focus groups and interviews with 62 recalled offenders. Those who were deemed parole successes (defined as being without violations over a three-year period) were significantly more likely to be in a supportive relationship and employed. While caution must be exercised given that findings were based on self-reports from a low response rate of 30%, similar conclusions were confirmed in a later Dutch study of 12,000 parolees (Lamet *et al.*, 2013).

Methodology

The research design used a documentary file analysis approach to gather quantitative and qualitative data. The study sample was the population of 57 ECS offenders released on supervised licence since the introduction of the Order in 2008, between 15 October 2010 and the end of 2013.² The sample comprised offenders who had been recalled during the period ($n = 31$) and those who had successfully completed at least seven months on supervised licence ($n = 26$). The time frame for the study was from January to September 2014.

Data was sourced from the PPB, the PCNI and the PBNI. The process of securing access to the material involved a series of meetings with key personnel in the relevant agencies. These meetings covered agreement on the nature of the data required, logistical considerations, data security and ethical issues. Ethical clearance was sought from the School of Languages, Law and Social Sciences at the Dublin Institute of Technology where the study was conducted. Specific consideration was given in this application to potential conflicts of interest in light of one of the authors' position as a Parole Commissioner in Northern Ireland.

² Four offenders were excluded from the sample; two were in prison for other offences although the custodial portion of their ECS sentence was completed, one because his sentence was not subject to the standard supervision arrangements and one because he had been deported on release.

The main source of data was PPB dossiers for each recalled offender, typically between 170 and 300 pages in size, which included details of the offenders' background and criminal record, reports from participation in interviews, interventions, recall and custodial behaviour reports and post-release details. The PCNI provided recall recommendations and the PBNI provided contact supervision reports, pre-sentence reports and other details for the offenders who had not been recalled. Information from the three agencies was cross-referenced to establish the recall rate and to check data validity. A meeting was also held at the end of the study with the PBNI and the PPB to review the findings and ensure that case details were appropriately anonymised.

Individual profiles were constructed in a modified life grid format to chart offenders' social background and circumstances, mental and emotional health, offending, custodial and post-release history. These profiles were used as the base for descriptive statistics which established characteristics of the ECS population. The small size of the ECS population demanded a cautious approach in order to maintain subject confidentiality.

Findings

Setting the context: profile of ECS offenders

Criminal history data indicated that ECS offenders in this study had been convicted of an average of 51 offences covering a broad range from the prolific offender to those who had a single conviction. The majority (74%) were first convicted aged 17 years or under, 18% were aged 18 to 24 years and 8% were 25 years and over. Analysis of the data identified that over three-quarters (77%) were classified as violent offenders and 23% as sex offenders.

The vast majority (97%) were male, 40% were aged 20-29 years, 26% aged 30-39 years and over one-third (34%) were aged 40 years or over. Highlighting the high assessed risk of this group, 95% of offenders were on remand in prison custody at the point of their ECS sentence. Most (82%) had spent at least four months on remand prior to sentence with 41% having spent almost one year or more on remand.³ Over two-thirds (67%) were given sentences of three years or more with the remainder (33%) sentenced to between one and two years. A combination of time spent in

³ From the file data it was possible only to calculate time spent on remand, not the underlying reason for the remand status of the offender.

custody on remand and under sentence meant that many offenders were released on licence after spending a considerable time incarcerated.

The extent to which the profile of ECS offenders converges with other prisoner groups in Northern Ireland is difficult to identify given the dearth of comparable literature. The available evidence suggests that commonalities exist in the areas of mental health, substance misuse and trauma (CJINI, 2015; O'Neill, 2016). The following section attempts to set the context of offenders' release and post-custody supervision by providing insight into their background and circumstances prior to and during the custodial detention period.

Social, educational and vocational background

Sufficient information was available in the dossiers for 52 of the 57 offenders to assess that 77% of the 52 had grown up in difficult circumstances based on at least three of the following factors being present: social services' involvement, a history of residential care, sexual abuse when a child, expulsion and/or suspension from school, parental separation or death, parental substance abuse, offending and/or domestic violence.⁴

It was apparent from the documentation that individuals' backgrounds were characterised by an absence of nurturing, described in the files as 'traumatic', 'very disturbed', 'involving severe abuse and neglect', and/or rejection. The data identified that 25% of the ECS population had experienced the death of a parent in childhood. While these losses occurred against the background of 'the Troubles' in Northern Ireland, reported alcoholism, violence and other risk behaviours were indicated in a number of parental deaths. Furthermore, according to the file data, 17% had made disclosures that they had been sexually abused as children.

Data on educational background was available for 43 (75%) offenders. The average school leaving age was 15.75 years, and over two-thirds left school with no qualifications. Three-quarters had been expelled or suspended from school.

Of the 52 cases for which information was available, 17% of the sample could be considered to have worked regularly before their most recent custodial sentence and 44% had very limited work experience (characterised by a few months of casual work interspersed with several

⁴ Where data were not complete for either the total ECS group or sub-groups, the number for which information was available is indicated.

years of unemployment). A further 38% ($n = 20$) had never worked, and attributed this to having spent long periods of their adult lives in custody or to mental health and/or substance abuse problems that hindered employment.

Of 49 ECS offenders for whom information was available, 61% ($n = 30$) were living with family members (either parents or a partner) before their ECS sentence (or related remand period), 16% ($n = 7$) were living independently, mostly in rented accommodation, and 23% were living in hostel accommodation.⁵

Mental health and substance misuse

The data revealed that mental health issues were common among the group before and during their custodial experience. Mental health issues were verified in the documentation by self-report data, health care reports, psychology and psychiatry reports and the implementation of Supporting Prisoners at Risk (SPAR) measures due to concerns about an offender's emotional or mental health in custody.⁶ Drawing on this information, 75% of the sample was identified as having mental health issues. Incidents of self-harm were noted in 42% of cases ($n = 24$) and 10 offenders were identified in the documentation as having made previous suicide attempts.

Substance misuse was classified as present if self-reported in the file data, if identified as a risk factor by PBNI, if the offender was participating in an intervention to address misuse and/or if an alcohol or drug ban was a condition attached to the licence. Using these criteria, three-quarters of ECS offenders were identified as having alcohol abuse problems and a similar proportion (72%) had drug misuse issues.

In over half (54%) of the files reviewed both drug and alcohol problems were noted. Drug misuse was notably high in the 20 to 29 year age group, where it was reported in 96% ($n = 23$) of cases. When the data were cross-referenced it emerged that 95% of those with indications of mental health problems also misused substances.

⁵ Information was not available to ascertain whether hostel accommodation was due to homelessness or as a condition of a previous court order.

⁶ A SPAR process is initiated when a prisoner is identified as being at risk of self-harm, and in need of additional, immediate care and support. It provides a multi-agency approach to monitor and protect the prisoner during periods of personal crisis.

Interpersonal relationships and family support

The presence of family support was established if at least three of the following factors were outlined in the documentation: family custodial visits, family contact, specific mention of a supportive family member by the offender, supportive family member reported by PBNI, offenders were living at the family home before custody, offenders were living at the family home after custody. On this basis, 49% of offenders had some level of family support, 21% had limited support (for example, only sporadic telephone contact with family members outside of Northern Ireland) and 30% had no family support. From the available data, only 12% ($n = 7$) reported being in a supportive relationship with a partner before their release. Of these seven cases, three had recorded incidents of domestic abuse against their partners. Indeed, the perpetration of domestic violence characterised the intimate relationships of a considerable number of the sample. The file data indicated that almost one-third ($n = 18$) of the ECS offenders had been violent to their current or past partners. Assault of a partner had resulted in two offenders' current sentences, and in three cases disputes with ex-partners were a contributory factor in their subsequent return to custody. The problematic nature of relationships extended to the children of ECS offenders; although 53% ($n = 30$) were parents, half had either little or no contact with their children.

Release and recall: comparing recalled and non-recalled offenders

Half of all offenders in the study were released early, before their CED, on the basis that parole commissioners considered their risk of reoffending had reduced to the point that they could be managed safely in the community. Nevertheless, most offenders were assessed by PBNI as having a high likelihood of reoffending based on the Assessment Case Evaluation (ACE) risk assessment tool,⁷ and 81% also met the PBNI criteria of posing a significant Risk of Serious Harm (RoSH) at the time of their release.⁸ According to the file data, offenders tended to have few if any opportunities to establish connections in the community prior to their release, including with the individuals and services tasked with monitoring and supervising them post-release.

The average licence period was 18 months; however, analysis of offenders' records identified that 31 of the 57 (54%) ECS offenders

⁷ Assessment, Case Management and Evaluation system. A Practical Guide <http://bit.ly/2sLjQ5u>

⁸ The PBNI RoSH assessment is based on past serious violent or sex offending, risk factors as well as the nature of the current offence.

released between 15 October 2010 and 31 December 2013 had been recalled to custody by 31 July 2014. Four offenders were subject to two recalls and one was recalled three times. Over half ($n = 16$) of recalls took place within four weeks of the offenders' release and of these recalled cases, most occurred within one week or less. Before we explore the reasons underpinning these recalls, the following provides insight into the differences in the profile data of the recalled ($n = 31$) and non-recalled ($n = 26$) groups. In so doing, it seeks to offer tentative observations as to why some offenders remained under licence in the community and others were recalled to custody. The modest sample sizes of both groups caution against drawing generalisations from the data.

Recalled offenders were found to have poorer custodial discipline records than their non-recalled counterparts and were almost twice as likely to have at least one breach of prison rules. However, by the end of their ECS, there was no discernible difference in the proportion of recalled and non-recalled offenders on an enhanced status regime.

Maruna (2001) considers that desire to change and take on a new identity is at the heart of a successful transition to desistance. According to the documentation, recalled and non-recalled offenders expressed similar levels of a desire to change their behaviour. A desire to change or transform was recorded in the files of 53% of offenders ($n = 30$), half of whom were recalled and half of whom were not. 'Becoming a better person', 'wanting a normal life', 'valuing family life', 'wanting to be there for their children' in a way that they had not experienced were the types of reasons underpinning offenders' wish for change.

Analysis of the data identified that 71% of offenders were required to reside in PBNI-approved hostel accommodation as part of the conditions of their release. The purpose of such accommodation was to provide an environment where offenders' risk levels could be closely monitored. For some, this was a mandatory short-term period of testing before returning home. For others, hostel accommodation was a longer term requirement arising from their ongoing high level of assessed risk and/or support needs, including a lack of alternative accommodation options.

It was noteworthy that 84% ($n = 26$) of recalled offenders went to hostel accommodation on release, compared to just 54% ($n = 14$) of non-recalled offenders, suggesting higher assessed levels of risk and need. There was some evidence to indicate that recalled offenders were more likely to have a history of unstable living circumstances. Prior to their sentence, 29% ($n = 9$) of the recalled group had been living in hostel

accommodation and 38% ($n = 12$) had a history of homelessness, compared with 8% ($n = 2$) and 4% ($n = 1$) of non-recalled offenders respectively.

While this cannot claim to be a comprehensive account of offenders' perspectives, it is interesting that one quarter of the offenders scheduled to reside in hostel accommodation on release were recorded in the file documentation as expressing reluctance about the move. The documentation highlights that offenders felt 'set up to fail', 'unable to cope with negative influences' and/or resentful about being away from their family and loved ones. One offender had been determined to 'stick it out' but stayed away from the hostel as much as possible before finally going unlawfully at large.

McAlinden (2016: 5) refers to the importance of avoiding labelling offenders and providing opportunities for 'an alternative future identity' away from offending. Yet it appeared that hostels were perceived by some offenders as copper-fastening the 'risk' label through their enforced association with other offenders and the rules and regulations associated with behaviour management within the hostel environment. The use of hostel accommodation as a post-release strategy epitomises the competing demands on the criminal justice system to monitor risk and address public protection concerns on one hand, and to provide a stepping stone towards resettlement on the other.

Meaningful involvement with training and employment has been found to be an important aspect of validating an individual's identity in a prosocial way and supporting the desistance process (Sampson and Laub, 1993). Recalled offenders were particularly alienated from successful employment pathways insofar as they were almost twice as likely never to have worked than their non-recalled counterparts prior to their most recent custodial period. According to the documentation, at the point of release over half of non-recalled offenders were involved in a training or employment placement compared to just one quarter of their recalled counterparts. Such evidence points to an elevated level of social integration among non-recalled offenders.

Families play a vital role in encouraging successful resettlement and desistance through the provision of support and informal social control for offenders (Farrell, 2002; Visher and Travis, 2011; Weaver and Barry, 2014). A notable finding to emerge across the file data for ECS offenders was the practical and sometimes emotional nature of family support. Families accompanied offenders to appointments, were described by

PBNI as positive influences in six cases, monitored offenders' behaviour in two other cases, provided temporary family accommodation on release or at crisis points, and provided work opportunities and other structured activities, such as football and fishing.

Family support was over twice as common among non-recalled offenders when compared to their recalled counterparts in this study. Overall, 69% ($n = 18$) of non-recalled offenders compared with just under one-third ($n = 10$) of recalled offenders had some form of family support. Furthermore, 31% ($n = 8$) of non-recalled offenders formed relationships with new partners which were described by the offenders themselves as providing stability and supportive of them desisting from crime. In contrast, it appeared from the records that recalled offenders were less likely to establish new relationships, and those that did described them as creating crises in their lives. For three offenders, instability following a break-up set in motion events that led to recall. The protective factor of a stable relationship suggests that informal social control can play a part in supporting formal social control (Hirschi, 2009; Laub and Sampson, 2003).

Recalled offenders not only appeared to have fewer meaningful attachments and lower levels of social capacity but were also more likely to have substance misuse and mental health issues at the time of release. These issues are not insignificant in light of evidence linking them with licence violations and recall (Bucklen and Zajac, 2009; Steen *et al.*, 2013). In the current study, the vast majority (94%, $n = 29$) of recalled offenders were identified in the documentation as having alcohol misuse issues, and poly-substance misuse was present in 71% ($n = 22$) of cases in comparison to 54% ($n = 14$) and 29% ($n = 9$) for non-recalled offenders.

Recalled ECS offenders were found to be especially vulnerable; poly-substance misuse and mental health issues were recorded in 74% ($n = 23$) of recalled cases in comparison to 27% ($n = 7$) of the non-recalled group. These data indicated that substance misuse, mainly alcohol, was often the initiating factor that led to recall, particularly for offenders recalled soon after release.

Reasons for recall and the role of professional discretion

New charges were implicated in 61% ($n = 19$) of all recalls, and breaches of licence conditions accounted for the remaining 39%. Substance misuse (predominantly alcohol) featured prominently in the reasons for recall. It was implicated in the cases of 71% ($n = 11$) of those recalled within four

weeks and it was also conspicuous ($n = 16$) in the narratives of cases of alleged new offending.

Breach of the requirement to maintain contact with PBNI was considered as evidence of 'unmanageability in the community' for evident reasons; if the whereabouts of the offender was unknown to Probation then the offender's risk could not be considered as being managed in the community. In one case, breach of an alcohol ban also led to subsequent eviction from a hostel: another breach, demonstrating a domino effect with the potential to lead to recall.

Breach of the licence condition requiring offenders to avoid 'behaving in a way which undermines the purpose of the licence' covered less tangible areas of offender non-compliance. This 'catch-all' condition, which is open to subjective judgement or discretionary decision-making (Kerbs *et al.*, 2009), covered behaviour described by supervising Probation Officers in recall reports as 'complete disengagement' from supervision to gradually 'pushing the boundaries' of the licence: a perceived measure of increasing risk which resulted in recall proceedings for two sex offenders.

New incidences of offending were not inevitably a reason for recall; four offenders who appeared from the documentation to have committed offences during the licence period were not recalled due to a degree of discretionary decision-making on the part of agencies based on whether the alleged reoffending was assessed to have the potential for serious harm. For example, an assault committed the day after release led to the immediate recall of one offender whereas, in another case, an offence of driving without a licence did not.

Professional discretion also appeared to be exercised in judgements about the seriousness or otherwise of breaches of licence conditions. Likelihood of recall proceedings being initiated was high if there was a causal link between the type of licence breach and the circumstances of the original offence (such as the breach of an alcohol ban in the case of an alcohol-related violence conviction). While failure to comply with licence conditions potentially placed offenders at risk of recall, the records identified that a breach of licence conditions did not necessarily constitute grounds for recall. For example, the dossiers contained numerous examples of curfew breaches or missed supervision appointments, each of which would generally attract a PBNI warning, but if the supervisor considered that the offender was still 'manageable' in the community, recall proceedings were not initiated at that point.

Any decision to postpone recalling the offender was not without consequences, and incidences of non-cooperation and non-compliance were systematically recorded. Inevitably, licence conditions were breached on the road to recall, and an accumulation of these types of breaches was evidenced in the recall reports as a demonstration of an escalating pattern of disengagement from supervision and described as indicating an increase in risk and unmanageability in the community.

Discussion

Non-recalled offenders entered the prison system with lower levels of vulnerability and greater stability in the areas of housing, employment and relationships than recalled offenders. While there was limited difference in the desire for change between the two groups at the time of release, the data suggested that non-recalled offenders had greater cumulative personal and social capacity to manage the challenges of the post-release period.

Profound and complex needs including substance misuse and mental health difficulties, coupled with limited supports, characterised the post-release pathways of many recalled offenders. A high level of risk and complex unmet needs points to the necessity of enhanced levels of service provision in the areas of housing, employment, family support, substance misuse and mental health.

The high proportion of offenders recalled within a short period of time further emphasises the challenges experienced in avoiding reoffending and complying with licence requirements. Weaver *et al.* (2012: 93) argue that 'structural constraints' on prisoners post-release are a neglected feature of recall policy, and argue for a through-care approach that provides services and supports during and after the custodial period.

Since 2015, an element of through-care has been incorporated into the system in Northern Ireland in the form of Reset (Intensive Resettlement and Rehabilitation Project), a paid mentoring scheme for prisoners leaving custody (Hamilton, 2016). While the intervention is a welcome development, contact commences with the offender four weeks prior to release and extends to a maximum of 12 weeks post-release in most cases. The background of the difficulties experienced by ECS offenders raises questions about the limited time period available to support longer-term change and resettlement.

McAlinden (2016: 16) highlights the importance of integrating strength-based thinking into risk management practice and supporting

approaches that move 'beyond risk' to broader considerations of 'social reintegration'. This proposed strategy does not neglect risk but instead adopts 'proactive approaches' to risk management (McAlinden, 2016: 9) and locates it within a broader context that seeks to facilitate offender reintegration and desistance from offending. Such an approach is likely to require increased emphasis on a diversity of structures and systems to support offenders' transition from custody and their sustained resettlement in the community.

The existing literature suggests that the establishment of working relationships between supervisors and offenders is an important starting point to engage offenders and encourage their compliance in the community (Ugwudike, 2010). This is attributed to opportunities for expectations of supervision to be communicated and the provision of practical, social and emotional support which in turn may improve offenders' perceptions of the legitimacy of the supervisory process (Seymour, 2013). Unlike others sentenced to community sanctions, ECS offenders do not 'consent' to the order at court (Lamont and Glenn, 2015: 50), and consequently more intensive efforts may be required to engage them in post-release supervision. The absence of formalised opportunities for such engagement before release is noteworthy in light of the high proportion of offenders recalled shortly after release.

As outlined earlier in this paper, the documentation constructed on offenders' journeys through the criminal justice system details their life circumstances, offending history, nature of offending, and levels of assessed risk over time. In the absence of formalised arrangements for pre-release contact between offenders and supervisors, file documentation may serve as the primary source of data available to inform decision-making about offenders' (dis)engagement, especially at the early stages of post-release supervision. While the evidence suggests that supervisors' decision-making is based on a multiplicity of factors (Seymour, 2013), it is suggested that opportunities for pre-release engagement with offenders also provide a more nuanced context to the written documentation and potentially enhance the quality of information on which decisions are based. This is pertinent in Northern Ireland, where a considerable degree of subjectivity exists in the legislation pertaining to ECS offenders. In line with practice elsewhere (Weaver *et al.*, 2012), practitioners have scope to exercise discretion in their decisions about the acceptability or otherwise of licensees' attitude and behaviour.

Conclusion

The background information on offenders at the point of entry and release from prison set the context from which the challenges of post-release supervision were discussed in this paper. While the ECS group had commonalities in the adversity of their background circumstances, it was the degree of vulnerability, including extent of psychological and emotional need, attachment, and social capacity, that appeared to differentiate the recalled and non-recalled groups at the time of release. The implications suggest the need for greater emphasis on strengthened and sustained through-care to facilitate the multiplicity of offenders' needs and a further shift towards the integration of strengths-based approaches into risk management policy and practices.

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