

**Oireachtas Joint Committee on Justice and Equality**

**Hearing on Penal Reform,  
Wednesday 8<sup>th</sup> March, 2017**

**Opening Statement**

**by**

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Thank you for this opportunity to contribute to the Committee's deliberations on penal reform. I am joined today by my colleagues: Deputy Directors – Ms. Ita Burke and Ms. Una Doyle; and Assistant Director, Mr. Brian Dack. I propose, in these opening remarks, to give the Committee a brief overview of the role and work of the Probation Service, and to highlight some key issues that may assist the Committee. In the more extensive briefing paper, which will have been made available to you ahead of today's hearing, you will also see more detailed information about the structure and work of the Service. In addition, my colleagues and I will of course be more than happy to answer any questions and engage in further discussion on any matter as the Committee sees fit.

Probation, as a concept and a practice, has been around, both in these islands and internationally, for more than one hundred years. The 1907 Probation of Offenders Act is still very much the core legislation for what the Irish Probation Service does every day. Probation, across the world, is based on the idea of offering offenders a 'second chance,' to make good for the harm they have caused, and specifically not to reoffend. Probation also works on the basis of a classic 'carrot and stick' approach, that is, offering *help* to the offender to make positive changes in their life, but within specific *boundaries* of supervision, surveillance and control. While there is an undoubted need for custodial sanctions – prison – in penal systems, international research consistently shows that punitive responses alone to crime, such as imprisonment, in themselves, are statistically not as successful in reducing reoffending, as community-based sanctions, such as probation, which are shown to be generally more effective in reducing risk of reoffending.

The two primary areas of work undertaken by the Probation Service are:

- (1) offender *assessment* and
- (2) offender *supervision*.

Most assessments are undertaken by probation officers at the request of the Courts, to assist in sentencing decisions, and to identify what factors need to be addressed in order to reduce an individual's likelihood of reoffending. Other individual offender assessments are undertaken by probation officers on behalf of the Parole Board and the Irish Prison Service, for example.

Offender *supervision* programmes come under two broad headings:

- (1) probation type supervision and
- (2) community service.

*Probation supervision* includes a range of interventions undertaken with offenders, mainly in the community, aimed at helping them to reduce their risk of reoffending and make good the harm caused by their offending. Specifically, these interventions, which are based on the probation officer's initial risk and needs assessment, enlist the co-operation of the offender and those around them (e.g. family, other positive supports) to address any dynamic (i.e. open to possible change) issues or factors which may have contributed to their offending. These factors can include: anti-social attitudes, pro-criminal associates, substance misuse or addiction, homelessness, mental health issues, lack of positive role-models, poor problem-solving and self-management, and unemployment, among others. What we term 'probation type supervision' also includes work with those in custody, helping them prepare for reintegration in the community, again with a focus on helping to reduce their risk of reoffending. *Community service* is a direct alternative to prison, available to the Courts, for those sixteen years of age and over, who are guilty of an offence that would otherwise attract a custodial sentence, and who can then be ordered to perform unpaid work in the community as an alternative sanction.

At the core of what Probation staff do across all our programmes is to: *motivate* offenders to change, to help them increase both their *ability* to change, and facilitate improved *opportunities* for change. Probation officers do this through the development of positive professional relationships, within clear role boundaries, and using skills and interventions based on those shown by research to be effective. These in turn are founded on social work training, and national and international standards of good practice, including for example the Council of Europe Probation Rules (2010). While those we work with are, in the main, those who have committed criminal offences, a central focus for probation work is the impact of offending on victims, and the needs, rights and position, of victims of crime. Our work would be one-dimensional if we only focused on the offender. In doing what we do, we need to be conscious of, and seek to repair where possible, the broken relationship between offender, victim and the wider community. We do this in a number of ways. When preparing a pre-sanction assessment on an offender, we assess, as part of that, the impact on the particular victim or victims, the offender's understanding of that impact, and how we can help that offender to avoid creating more victims again in the future. We also provide opportunities to offenders to make good the harm they have caused. This includes

performance of community service, as well as a number of reparative and restorative interventions and programmes that we run, many of these in conjunction with partner agencies.

The Probation Service is an agency of the Department of Justice and Equality. The organisation, which functions independently, in practical terms, on a day to day basis, is headed by a Director, who is also a member of the Department's Management Board, and answerable to the Secretary General. We have almost four hundred staff, based in offices across the country. We have a presence in every county, as well as in every custodial institution in the State. Our annual budget is now €46.3 million. On any day, the Probation Service is assessing and supervising over 8,500 offenders in the community, as well as working in all fourteen prisons and the Children Detention School. Of the 8,500 people being managed in the community every day, around 2,200 are on community service, and 3,500 on probation supervision, as direct sanctions from the Courts. Just over 1,300 of the 8,500 are women, 260 are under eighteen years of age and over 1,200 are on post-release supervision after serving a custodial sentence. Every year, the Probation Service assesses and/or supervises around 15,000 offenders, mainly in the community. Those referred to us have offended across the wide spectrum of crimes, from relatively minor, to the most serious violent offences.

While all criminal justice agencies bring their own unique skills, roles, and ways of working, to how we respond collectively as a society to crime and offending, *no* single organisation or agency has all the answers. So, Probation cannot do what the Prison Service does, nor what An Garda Síochána does, and *vice versa*. Reducing offending is a societal problem and needs a whole-of society response. That co-ordinated response has to start with a whole-of-criminal-Justice system approach in the first place. One key to the success of the work that the Probation Service does is the nature of our interagency and multi-disciplinary approach to what we do, especially with our Justice partners, namely the Irish Prison Service, Courts Service, An Garda Síochána, Irish Youth Justice Service, and the Department of Justice and Equality.

The Probation Service is a community-facing organisation, and community based organisations are a key group of partners for us in our work. We channel €15 million, funding from the Department of Justice and Equality, every year, to community and voluntary organisations that partner with us, across the country, in providing essential services to help in reducing offenders' risk of reoffending and facilitate their reintegration in their communities. These organisations provide a diverse range of services, addressing offender needs, in the fields of training, education and employment; accommodation; addiction treatment; resettlement and mentoring, among others.

In many jurisdictions, probation tends to be seen as either an alternative to imprisonment, or as something for diverting those guilty of really minor offences, particularly first time offenders, away from more serious sanctions. I would suggest that while probation can and does usefully fulfil both of those functions, it is in fact most appropriate and most effective with those who present a medium to high risk of reoffending and who can safely be managed in the community. Probation Officers carry out their work with offenders broadly from the standpoint that the individual person has committed an offence and must be held

accountable for their offending, and take responsibility for their own rehabilitation. In addition, we recognise that offending typically takes place in a wider family and social context, which must be taken into account in trying to help the offender turn their life around for the better. We also recognise that change is usually difficult, and people are more likely to be successful in making and maintaining changes in their lives if they have the benefit of skilled professional help, which is what we provide.

The full range of work that the Probation Service undertakes is important. Nevertheless, I do want to highlight some particular priority categories of offender with whom we have been undertaking specific initiatives.

- Prolific offenders: Recognising that a significant percentage of certain offences, such as burglary, are committed by a small percentage of prolific offenders, the Probation Service, in partnership with the Prison Service, An Garda Síochána and the Department of Justice and Equality, have established the Joint Agency Response to Crime (or JARC). This programme, developed in four areas of Dublin since 2014, is currently being extended to a number of areas outside the capital, and targets in a uniquely intensive, interagency approach, those identified as being the most prolific offenders in their areas. Burglary and violent crime have been the two primary offence categories targeted under JARC, with observable success. .
- Young people: Recognising that the mid to late teens, and early twenties, are statistically the peak ages for offending by many individuals, the Probation Service has a dedicated division – Young Persons Probation – that specialises in work with this age group, primarily those under eighteen years, but extending the same focused, and age-appropriate supervision to those up to twenty-one years of age.
- Women: Women are disproportionately represented in the criminal justice system, and face unique issues in addressing and reducing their risk of reoffending. For that reason, we have put in place a number of responses to take these issues into account. These include, for example, gender-appropriate assessment and supervision, female-specific community service projects, peer mentoring, and accommodation programmes.
- Sex offenders: As well as working closely with our psychology service colleagues in the Irish Prison Service, in delivering sex offender treatment programmes to those in custody, we also run, with a number of partner bodies, similar treatment programmes in the community, as well as accommodation support initiatives and circles of support and accountability programmes. Since 2010, the Probation Service, in co-operation with An Garda Síochána, Irish Prison Service, TUSLA (child and family agency) and local housing authorities have worked closely, through the SORAM (Sex Offender Risk Assessment and Management) initiative, to jointly supervise and manage the risk posed by sex offenders in the community. This work is overseen nationally by a strategic co-located interagency team, based in Harcourt Square.
- Post-release supervision: The Probation Service traditionally worked with those referred directly to us by the Courts. More recently, we have supervised an increasing number of people on post-release from custody, under a number of legislative provisions. Now, around fifteen percent of all those we supervise in the community are on some form of post-release programmes. These programmes,

including Community Return, and Community Support have proven very successful and mean that virtually all those released from prison on Temporary Release now are on one or other form of *structured* post-release programme, involving some Probation input.

- Life sentence prisoners: Much of our work in relation to this group of offenders is undertaken under the ‘umbrella’ of the Parole Board process. As well as preparing assessment reports on life sentence prisoners for the Parole Board, probation officers work with such prisoners in addressing issues related to their offending, and helping them prepare for release and resettlement. The Probation Service, with the Irish Prison Service and the Parole Board, is currently developing a more co-ordinated interagency approach to the management of life sentence prisoners.
- Restorative Justice: The Probation Service has developed a number of restorative programmes over the past twenty years or so. Two of these, Restorative Justice Services (in Dublin) and Restorative Justice in the Community (based in Tipperary and Cork) run community based reparation panels, where offenders have an opportunity to confront their offending and its impact on their victim or victims, through discussion with panels of people representing community interests, including victims where appropriate, and to take specific actions to go some way toward making good the harm caused. As part of our Restorative Justice Strategy, the Probation Service now also offers a range of victim-offender mediation interventions, including in relatively serious cases.

‘How effective is probation?’ This is a frequently-asked, and important, question. On the face of it, such effectiveness is something that can be measured quite easily, in terms of the rate of reoffending by those who have been under probation supervision. On that reoffending measure alone, probation is effective, both here in Ireland and internationally. For the past four years, in partnership with the Central Statistics Office (CSO), reoffending rates by all those who have been on probation orders and community service each year has been measured. This is tracked over a three year follow-up period. Findings, which are published by the CSO, show that six out of every ten probationers have no further convictions in the follow-up three year period. This compares favourably with statistics for those who have been in prison, and also with probation comparators internationally. I appreciate there is no room for complacency and we are constantly reviewing our practice, based on statistical and other evidence, to improve our outcomes.

I should point out that effectiveness in probation needs to be measured on other scales, apart from reoffending. As well as probation’s effectiveness in offender rehabilitation, some of those other effectiveness measures include: probation’s relative cost effectiveness as a sanction; promoting citizenship and social justice; its value as a proportionate and just sanction in itself and as an alternative to custody; reducing the impact of imprisonment on prisoners’ children and families; as an aid to sentencing decisions; in resettling ex-prisoners; in building up communities; through the unpaid work undertaken in communities by those on community service; and by helping those who have offended to be reintegrated in their communities and to become positively-contributing members of society. In monetary terms alone, supervised community sanctions cost a fraction of custodial ones: €1,500 for a community service order, and €5,000 for a probation supervision order. The unpaid work done annually by people on community service – estimated with reference to the national

minimum wage hourly rate (€9.25) – is the equivalent of a total of €2.7 million worth of work done in local communities across Ireland every year, valuable work which would not otherwise have been done. .

Penal policy has been the subject of ongoing consideration for some time. A previous Oireachtas Justice Committee reported in 2013, making five recommendations, a number of which have been substantially achieved. The Report of the Strategic Review of Penal Policy was published by the Minister for Justice and Equality in September 2014. This report contained forty-seven recommendations, across the penal policy field, half of which relate directly to the work of the Probation Service. The Probation Service is fully committed to implementing penal policy, as set out in the Programme for Government and the Department of Justice and Equality strategy. We work closely with our partners to implement Government and Departmental policy, and specifically the actions in the 2014 Strategic Review of Penal Policy. We report regularly to the relevant Implementation Oversight Group, chaired by Dr. Mary Rogan. Implementation reports are published on the Department of Justice and Equality website. In that regard, we are well on track towards implementation of the review's recommendations. Much positive and productive change has been achieved in Ireland in recent years. More remains to be done, and that work programme is being advanced, in a collaborative way, across the Justice agencies. In conclusion, probation work, done well, makes a difference and adds significant value to the criminal justice system as a whole, and to making Ireland a safer and fairer place. The Probation Service's unique role is in helping to create safer communities and fewer victims through offender rehabilitation. Probation staff are in the business of hope; hope that is based in reality and evidence-informed practice. In that way, we provide unique services, reducing reoffending and victimisation, as part of a proportionate, just and effective response to crime, offending and offenders.

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