

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

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

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

## **Introduction**

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

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

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

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

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

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

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

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

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

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

### **The study: Methodology**

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

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

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

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

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

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

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

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

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

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

### **Limitations of the research**

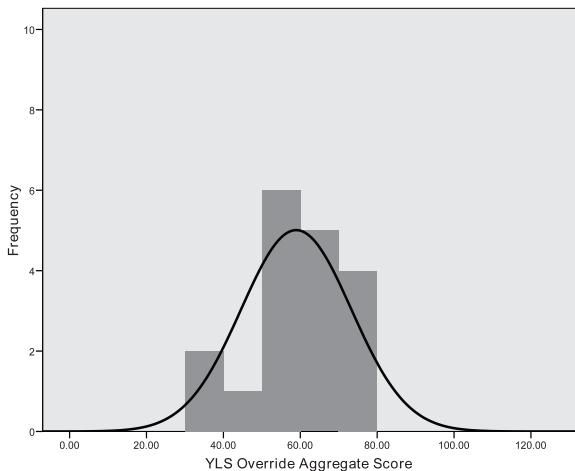
The key limitation of this research methodology is the non-interactive nature of using written case studies. In recognition of this deficit, an 'assumption box' – a space permitting the assessor to record any inferences they made in interpreting the case studies – was included at the end of each case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

### **Summary of results**

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

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

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



## Applications

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

## Literature review

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

### *Technicality vs. professionalism*

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

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

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

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

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

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

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

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

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

#### *The scope of risk prediction instruments*

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

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

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

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

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

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

#### *The relationship between risk assessment tools and practice*

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

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

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

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

#### *Organisational and human resources issues*

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

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

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

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

#### *Ethical considerations*

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

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

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

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

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

## **Conclusion**

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

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

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

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

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

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

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

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

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