

DÁIL ÉIREANN

AN CHOMCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

JOINT COMMITTEE ON JUSTICE AND EQUALITY

Dé Céadaoin, 8 Feabhra 2017

Wednesday, 8 February 2017

The Joint Committee met at 9 am

MEMBERS PRESENT:

Deputy Colm Brophy,	Senator Frances Black.
Deputy Clare Daly,	
Deputy Alan Farrell,	
Deputy Jim O'Callaghan,	
Deputy Mick Wallace,	

In attendance: Deputy Jonathan O'Brien and Senator Joan Freeman..

DEPUTY CAOIMHGHÍN Ó CAOLÁIN IN THE CHAIR.

Prisons, Penal Policy and Sentencing: Irish Penal Reform Trust

Chairman: I thank Senator Joan Freeman for accommodating us at the start of the meeting. She is welcome. Apologies have been received from Deputy Jack Chambers and Senators Lorraine Clifford-Lee and Niall Ó Donnghaile.

I welcome Ms Fíona Ní Chinnéide, acting executive director, and Ms Michelle Martyn, senior research and policy manager, from the Irish Penal Reform Trust, IPRT. On behalf of the committee I thank them both for coming before us at relatively short notice. I say well done to them both and to the IPRT. As I indicated briefly before we came into the committee room, it is the first group to engage in a series of hearings we hope to address on prisons, penal policy and sentencing. This is one of the areas on which the joint committee agreed to focus as part of its work programme for 2017. We intend to address those important and related matters over a period of time and we thank the witnesses for getting the ball rolling for us.

The format of the meeting is that the witnesses will be invited to make an opening statement to the committee which will be followed by a question and answer session with members. At this juncture I must read the privilege reminder which is par for the course at every meeting. They should please note that witnesses are protected by absolute privilege in respect of the evidence they are to give to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise nor make charges against any person or persons or entity by name or in such a way as to make him, her or it identifiable. Members should be aware that under the salient rulings of the Chair, members should not comment on, criticise or make charges against a person outside the House or an official by name or in such a way as to make him or her identifiable. I invite Ms Ní Chinnéide to make her opening address.

Ms Fíona Ní Chinnéide: Thank you, Chairman. I thank the members also. We are delighted to have been invited to address the joint committee and to hear that prisons, penal policy and sentencing are on its work programme for 2017. The Irish Penal Reform Trust, IPRT, is Ireland's leading non-governmental organisation campaigning for rights in the penal system and the progressive reform of Irish penal policy. Our vision is of a penal system that is just and humane, that protects and promotes human rights, equality and social justice, and that only uses prison as a sanction of last resort.

I would like to begin with an overall observation that reforms achieved since 2011 mean there is now a strong foundation on which to work towards a progressive penal system in Ireland - one led by innovation and best practice not crisis management, one that addresses and does not merely compound social inequalities.

Taken together, the cross-party consensus achieved in the Joint Committee on Justice, Defence and Equality report on penal reform from March 2013, and the cross-agency consensus achieved in the strategic review of penal policy final report in July 2014 means there is a strong basis for reform. Indeed, implementation of the recommendations in both reports would represent significant advances in achieving a just and humane penal system, which would in turn contribute to safer and more equal communities.

Ireland's penal system is characterised by the systematic overuse of imprisonment as punishment. Although our daily prison population is of average size by European standards, at approximately 79 per 100,000, our rates of committal to prison, and consequently our rates of release, are among the highest among the 46 countries of the Council of Europe area, and third highest in the European Union. Our rate of release is the highest.

Ireland's prison population is characterised by mental health issues, addictions, homelessness, poverty, unemployment, educational disadvantage, chaotic family backgrounds and social marginalisation. In this context, it is not surprising that re-offending rates on release from prison are high. This does not mitigate the harm that is caused by offending, nor does it minimise the impact of crime on victims and the community. However, if Ireland's criminal justice system and penal policy are to realise the goal of having safer communities, they must have at their centre a means of addressing the causes of offending behaviour, and not just punishment. As an overarching recommendation, IPRT calls for a clear Government commitment to evidence-informed criminal justice policy grounded in data and evidence of what works to reduce crime and improve community safety. There should not be knee-jerk punitive responses to serious incidents.

It is worth restating two principles that underpin penal reform. First, the deprivation of liberty is the punishment, and prison conditions must not be used as further punishment. Second, at its core, prison is damaging in itself, and the negative impacts of prison on individuals, families and communities mean it should be only a sanction of last resort, reserved for the most serious offences and for those offenders who continue to present a serious risk to society. Therefore, the emphasis of a progressive, just and humane penal policy should be on the following: investment in early intervention, prevention and diversion strategies; investment in community-based sanctions and non-custodial alternatives; protecting human rights and meeting best practice standards in prison with robust independent oversight, in cases where prison is the only appropriate response; and greater investment in rehabilitation services and post-release supports. In all cases, provision must be on a nationwide basis and not solely concentrated in Dublin.

There have been positive reforms in the prison system but, despite these, many serious issues remain, including crowding in a number of prisons, including Cloverhill and the two women's prisons. Some 45% of prisoners do not have access to private toilet facilities, and 45% are sharing cells, which does not contribute to prison safety. The majority of prisoners are locked up for 16 or 17 hours per day, with 72 prisoners in solitary confinement, which involves being locked up for 22 hours or more per day. Thirty prisoners with serious mental health issues are awaiting transfer to acute psychiatric facilities. In some locations, prison health has been found to be in a state of crisis. The parole board has not yet been established, and decision-making on releases remains in political control. The systems of accountability are weak. In this regard, prisoners still do not have access to an independent complaints mechanism; Ireland has not yet ratified the optional protocol to the convention against torture, which it will have signed ten years ago in October 2017. We have not seen a prisons inspection report by the Office of the Inspector of Prisons published by the Minister since September 2014, which is two and a half to three years ago.

Robust independent oversight is crucial to the prevention of torture and degrading or inhumane treatment out of sight behind prison walls, and strengthening Ireland's systems of prisons accountability must be a priority. To this end, we would like to see progress on the implementation of the proposal of the Office of the Inspector of Prisons that the general Ombudsman

be able to receive individual complaints from prisoners. We would like to see progress on the inspection of places of detention Bill, including legislative change that would allow the Office of the Inspector of Prisons to publish its report directly to the Oireachtas. We need to see ratification of the optional protocol to the convention against torture and the establishment of the national preventive mechanism.

The optional protocol makes provision for a state to ratify the UN convention against torture and then establish the national preventive mechanism within three years. We will be examined under the convention in July 2017. Ratification of the optional protocol before that would show a Government commitment to meeting Ireland's obligations in this regard. It would also give us a timeline of three years for the establishment of the national preventive mechanism.

I thank the committee for its invitation to speak and for its attention to penal reform issues. We will be happy to respond to members' questions as best we can.

Deputy Jonathan O'Brien: Even to me, as a member of the justice committee, I must admit some of the figures Ms Ní Chinnéide outlined were a bit startling. That nearly half of prisoners are sharing cells, that nearly half of them do not have access to a private toilet facility, that there is such a high number held in solitary confinement, and that 30 prisoners with serious mental health conditions are correctly awaiting transfer to the Central Mental Hospital is truly shocking.

I have just a couple of questions. Ms Ní Chinnéide spoke about prison conditions. For all its faults, HIQA's remit does not currently apply to prison health services. Do the delegates believe it would be positive if the remit of HIQA were extended to cover prisons?

In the additional documentation provided by the delegates, it is stated the number of community service orders has fallen every year since 2012 but that the number of people being committed to prison is increasing. Can the delegates shed any light on the reason for that?

My final question is on the need for community-based sanctions and their cost. Is there any research on the investment that would be needed in order to introduce a system based on a model of best practice?

Ms Ní Chinnéide mentioned Deputy O'Callaghan's Parole Bill, which is on Committee Stage. I published a sentencing council Bill last week. The issue of bail will be discussed this evening in the Oireachtas. Rather than decreasing the number of people who will be committed to prison prior to their sentence, the bail Bill we will be discussing tonight will increase the number of people likely to be committed to prison. Has the delegation any comment on that?

Ms Fiona Ní Chinnéide: I thank Deputy O'Brien. All his points are pertinent. I will begin with his point on HIQA. The European Committee for the Prevention of Torture stated in its report of November 2015 on its last visit to Ireland, in 2014, that health care conditions in some prisons were in a state of crisis. Prior to that, the committee called for an independent audit and oversight of prison health care. We are extremely concerned about the state of prison health care. The committee mentioned HIQA. The strategic review of penal policy implementation oversight group stated in its report that HIQA has said it cannot currently do it as proposed. This is very disappointing. If it is only a question of resources, those resources should follow. For some other reason, this needs to be explored. At a minimum, we believe the Department of Health should be involved in commissioning an independent external audit of prison health care. Ultimately, we believe responsibility for prison health should move to the Department of

Health. The lack of independent external oversight and published reports from which we can tease out that there is public scrutiny and accountability across the whole system is often the basic issue.

With regard to committals, last year saw the highest number of individuals sent to prison, at 14,182. This relates to 17,206 committals. We have not seen this level since around 2011-2012 when we thought committals had reached their peak.

Fines and committals affect these figures. Last year, 9,883 committals were for fines. The Fines (Payment and Recovery) Act 2014 was only finally implemented in January of this year. We will not know the full impact until the annual report of the Irish Prison Service is published in the spring or summer. Last week, the director general of the Irish Prison Service gave evidence to the Committee of Public Accounts. On that occasion he said that there had been a 15% reduction in fines committals during 2016. It is a positive move but only brings the number down to about 8,000 fines committals. We have called for an amnesty in the past. There are hundreds and perhaps 1,000 outstanding warrants for fines. This matter needs to be addressed. It is a completely damaging and wasteful practice. In most cases people are committed to prison for just a small number of hours because they do not present a risk to society. These are people where the judge, in the original case, decided that prison was not an appropriate punishment for the offence committed. When one removes the fines committals from the figures, the number of people sentenced by the courts rose by a smaller amount in 2015, across almost all sentence lengths.

We are concerned about the drop in the annual number of community service orders. Research must be conducted into the reason for the decrease. The Irish Penal Reform Trust, IPRT, has commissioned a longitudinal, long-scale, three-year report that we will publish in April. We will welcome an opportunity to present its findings to the committee at that time. The report focused on the lack of provisions. We found that there was an inconsistent provision of community service orders or an inconsistent use of them by the courts throughout the country, a fact that needs to be addressed.

The Probation Service in its 2014 report found that the average cost of a probation order was €5,000 and a community service order cost in the region of €2,500. The community payback or work that was done in the community was not included in the assessment. Crimes are committed in the community so it is good that there is a community payback.

The Probation Service, also in its 2014 report, calculated the hours of community work conducted through the community return programme. It estimated that community service orders were worth €4.5 million to the community. That is a significant sum that must be considered. Prison is often spoken about as a cost-neutral solution to crime. It costs just under €70,000 per prison per annum, not including education and other costs.

We strongly welcomed the introduction of the Parole Bill 2016 by Deputy O’Callaghan. We look forward to making submissions and detailed amendments in this regard.

I was unaware of the Sentencing Council Bill and thank Deputy Jonathan O’Brien for flagging it.

Bail is always a controversial issue in the media. For example, the Department of Justice and Equality has mentioned Garda statistics that claim 75% of burglaries were committed by 25% of offenders. The data and evidence to support the claim have not been published. There-

fore, we need to see the data and evidence on which policies are based.

A fundamental principle of our justice system is that one is innocent until proven guilty. Prison should be a sanction of last resort in all cases and particularly pre-trial or before one has been convicted. Having said that, there are reports that there are high offending rates while people are on bail. This matter needs to be addressed sensibly and effectively. We believe that where a judge believes there is a high likelihood that a further offence will be committed, the first resort should be tailored conditions and an individualised approach to bail conditions. The IPRT has conducted research on bail courts and conditions handed down. We have found that there tends to be a whole suite of bail conditions handed out to every individual before the courts and that they are not tailored to individuals' needs.

Bail supports have been proven to reduce offending by people who are out on bail. We need to shorten the time between arrest, charging and the court date. Bail supports are an opportunity to address offending behaviour, especially among groups who struggle to meet bail conditions, such as women, people with addictions and young people. There is a big issue with young people not being given clear enough information about the consequences if they do not meet their bail conditions.

Good examples of bail supports include bail information schemes, bail support supervision schemes, remand fostering and bail hostels. In Scotland supervised bail has led to a reduction in offending behaviour because 80% of the people who completed the bail supervision period did not go on to receive a custodial sentence. The projects that take a view that the bail period is a time when offending behaviour can be addressed are much more successful in the long term. Let us remember that locking a person up costs money and is not cost neutral. We believe that moneys should instead be invested in services and supports that have been proved to be more effective at addressing crime.

I hope I have answered all of the questions posed by Deputy O'Brien.

Chairman: Would Ms Martyn like to contribute to the debate?

Ms Michelle Martyn: Ms Ní Chinnéide and Deputy O'Brien have spoken about community-based sanctions. Next week Ireland will be examined by the UN Committee on the Elimination of Discrimination Against Women. We will highlight the following to the committee: the disproportionate number of female prison committals for non-violent offences; the fact recent media reports indicate that the highest percentage of female committals continue to be for fine defaults; the lack of gender specific alternatives to custody; the annual decline in the number of community service orders for women for the years 2012 to 2015, inclusive; and a recent psychology report compiled by Dr. Porporino that states 60% of the women on a community return programme had returned to prison. We believe women need a more specific focus because they are the most vulnerable in society. Many of the women come from a background where they have suffered childhood sexual abuse or have care histories. Men are more able to focus on their addictions but women have caring responsibilities or may be involved in abusive relationships. The IPRT would like to see more gender-specific programmes for women.

I want to highlight the lack of post-release supports for women. There is no open prison or open conditions for women. In 2014, a research report showed that women are 4.6 times more likely to be without accommodation when they leave prison.

Chairman: I thank both witnesses for their contributions. Deputy O'Brien does not have a

supplementary question so I call Deputy Clare Daly to commence, please.

Deputy Clare Daly: I thank the witnesses for attending. I was looking forward to this debate but I am not so sure now. Having heard the presentations I feel seriously depressed and it is only 9.30 in the morning. This is the first of our modules on this topic. It is great that we are airing these issues because they do not get enough attention. This is a vast area for discussion. It is hard to get a handle on these matters because we are only starting off. We as a committee might have to be a little strategic on how we deal with this area. I believe sending people to prison does not work. It is not cheap and is harmful. Our automatic starting point should be providing alternatives to prison. I am constantly surprised that the austerity agenda has not developed this view more because society would be better off on a whole number of fronts if we did not have prisons or had substantially fewer of them. Understanding the circumstances that lead people to prison is key to addressing this issue.

Last week, Mr. Michael Donnellan, the director general of the Irish Prison Service, attended the Committee of Public Accounts. He said that two thirds of inmates have some form of addiction, either drug or alcohol related. A large proportion of the prison population have seriously psychotic mental health problems. These are the people whom society previously put into asylums. Some of the prison population should not be in prison at all. They suffer with health issues and that is how they should be treated. The committee needs to consider these aspects.

In terms of sentencing people who have been found guilty of drug offences or whatever, there is no non-custodial treatment penalty in Ireland and the Misuse of Drugs (Amendment) Act allows for that to happen. Rather than people being sent to prison, they agree to sign up to a counselling or addiction programme to get them drug free and they have supports. However, that does not seem to exist. Only one person at a time can be taken from a prison to the Central Mental Hospital in Dundrum when there are 30 other seriously psychotic prisoners who urgently need treatment. When that prisoner comes out after several weeks, the next fellow can go in but by that stage, the fellow who had been sent back is probably ready to go back in again. The harm being done in that regard is criminal. How does the Irish Penal Reform Trust see that element being addressed?

There is no doubt that when a woman goes to prison, the impact on society is far greater. Studies have shown that when a man goes to prison, the family pulls together with the woman saving money to make sure the man has his smokes and the children can visit him. When a woman goes to prison, the children quite often end up in care or the family unit's accommodation is lost. The idea of no prison for women or of small community residential units, replicating family life while maintaining links with people's families, are key to the rehabilitation process. Are there measures the Irish Penal Reform Trust believes should be pushed to keep contact with the family? When someone goes to prison, it is stressful for their relatives. If keeping the family connection helps someone not to re-offend, what can be done to bring the family unit on board?

I put down many parliamentary questions on medical care in prisons. Many of the medical positions in the prisons are vacant or are filled by locums. What is the problem with this? Is it a terms and conditions matter? The replies to my parliamentary questions state it is not a question of resources but still the positions are not filled.

In getting a sensible policy on prisons which helps everyone, the media must be called into question as they are responsible for holding back serious discussions on this issue. They sensationalise crime and those in prison. They think of demeaning names and slang for them, which

is used to sell newspapers against the background of declining newspaper readership, and they are completely irresponsible. In my experience, some people in the Department who would push for reform are afraid that they will be portrayed in the media as being soft on crime and will receive the full wrath of the public as a result. The media should be called to account for their irresponsible coverage.

Ms Michelle Martyn: In 2012, the Irish Penal Reform Trust issued a report, “Picking up the Pieces”: The Rights and Needs of Children and Families Affected by Imprisonment. Subsequently, children affected by imprisonment were identified in the national policy framework for children and young people as having specific needs and a commitment was made to them. Approximately, 6,000 children are currently affected by parental imprisonment and 17,000 are affected every year. That is a large number of children.

Since our report, the Irish Prison Service has set up a family imprisonment group and looked to improve prison visiting conditions for children and families. As Deputy Clare Daly said, children and families are key to rehabilitation. From the beginning of a sentence, children and families should be involved and relationships should be maintained through sentence management and after release. The children in question are more likely to have mental health problems or end up in the criminal justice system themselves.

From our interviews with young people affected, we learned they cannot hear their parents in prison. Accordingly, they like the special visits because they can hug the parent. Another issue is inconsistency in the conditions across the prison estate. The last report from the Dóchas Centre visiting committee recommended financial support should be given to families visiting because female prisoners tend to come from further away as there are only two female prisons, namely, the Dóchas Centre in Dublin and the female wing in Limerick Prison.

Apart from the Bedford Row Family Project in Limerick, there are no other support agencies for families of prisoners across the country. Savings can be made for the State if supports are provided. In the UK, the Prison Advice and Care Trust, PACT, has shown a social return on investment of £11.40 for every £1 of public money spent on family supports for prisoners. The Scottish Government invested £1.8 million over three years providing proper visitor centres to ensure children will attend them. Children and families are the most important factor in rehabilitating a person, particularly for long-term and life-sentence prisoners.

Ms Fíona Ní Chinnéide: Deputy Clare Daly raised the issue of drug offences and the estimated 70% of people in prison having addiction issues. This comes as no surprise. It is a well-known international phenomenon. Drugs need to be treated first as a public health issue and second as a criminal justice issue. The problem starts with the lack of residential treatments in the community. In prison, there are issues around waiting lists for access to addictions treatment. Often prisoners present with dual diagnosis, both addiction and mental health issues which need to be treated at the same time. Our recommendation is that there needs to be investment in community mental health and addictions treatment and services. There should be a diversion of people at the first point within the criminal justice system, that is, with the Garda. On committal to prison, there needs to be an assessment and diversion to more appropriate therapeutic treatments and services. Prison conditions and regimes need to be improved, along with improved training for staff. There needs to be the establishment of vulnerable care units in all prisons, modelled on the successful high support unit in Mountjoy Prison and a shift from pharmacological treatment towards therapeutic interventions. There should not be waiting lists. All prisoners who want to address their addictions should be able to access treatment, not only methadone but detox beds, drug treatment landings and counselling. At root, it is a

public health issue first. I know the previous justice committee examined the Portuguese model in this regard. That research would be a good first point.

The Irish Penal Reform Trust does not know why there is a difficulty in filling the health placements in prisons. There are issues with security, staff ratios on a given day and prioritisation of details. For example, the Midlands Prison is a super prison with 820 prisoners but it has fewer resources than Wheatfield Prison, which has fewer than 500 prisoners. There are concerns about prisoners' ability to access psychological and psychiatric health care interventions. Often when a doctor is called, he or she cannot get to the landing because of security and the prison officers are not available. This is an issue experienced by all prisons and much of it comes down to court escorts etc. The Inspector of Prisons and Places of Detention recommended a review of this, which I understand is ongoing. One is filling the positions, the other is having the staff available to bring the doctors down.

On Deputy Daly's point about the media, we know this. The former press ombudsman, Professor John Horgan, was very clear on this. Murder makes up 0.05% of crime but makes up 15% to 20% of media reports. The vast majority of crimes committed are not serious or are less serious or minor offences. They get resolved and never come to light again. It is a huge problem. We are very concerned, particularly around the conversations about parole reform. We wonder if the media is not, to some extent, exploitative, in going to victims' families at the seven-year point. We all know that the likelihood of any prisoner who is sentenced to life getting out at 15 or 20 years is very slim, so it is very questionable that they approach families to seek their response on that. We find that highly problematic. It underlines the importance of parole reform and the progress of the Parole Bill 2016. We have to release decision making from political control because people who are reliant on the public to vote them into office are more likely to be concerned about public perceptions of their actions. It is unfair that media reporting should influence a decision around a prisoner's suitability for release, which should be based purely on risk-assessment.

Deputy Clare Daly: On the issue of women, has there been any attention given to what is called in other jurisdictions, conjugal visits? I will call them family visits. This is where a couple could spend time together, maybe with their children, and cook food and share some family time in a little apartment for the weekend. Are we moving towards that?

Ms Michelle Martyn: We have highlighted best practice. In France they have family life units similar to what the Deputy has outlined, but there is a lot more that needs to be done first in terms of the visiting conditions, which are quite poor generally. Obviously it is something we would advocate for.

The point the Deputy raised about media reporting is also really important from the children and family perspective and the harassment that some families have experienced. We should look at the UN Convention on the Rights of the Child and the European Convention on Human Rights with regard to the right to privacy of the child and family.

The Probation Service and the Prison Service carried out a review on drug treatment last year and one of things it noted was that integrated dual treatment was lacking for community-based organisations, that is, tackling both drugs and mental health. The majority of prisoners would have both addiction and mental health issues. There needs to be more integration in terms of services for them.

Deputy Jim O'Callaghan: I thank the witnesses for coming in and for their presentation.

There have been a number of reports before in respect of the area of penal reform, for example, the Whitaker committee report around 30 years ago and the Oireachtas sub-committee report in 2013. I am conscious that at the end of this process this committee is going to produce a report. It is such a huge area and there is so much academic research. Many of the characteristics of people who are in prison are quite obvious. People come from very similar backgrounds with regard to educational disadvantage. In terms of what we can do as a committee, I would like to hear Ms Ní Chinnéide's views on whether we should just concentrate on two or three areas.

The witnesses have said that there are over 9,800 committals for people who did not pay fines. That is over 50% or 60% of the committals per annum. It is obviously a huge amount. From a political point of view, most people in the country would think that it is a waste of money and that it is wrong that people should go to jail for not paying fines. What would Ms Ní Chinnéide think about the committee focusing on two or three issues, one issue being fines, rather than producing a general report that covers everything? I would also ask what recommendations she would have for us as to how we should deal with the issue of fines? In the case of a minor offence, like a road traffic offence, for which obviously a people should not go to jail, they get a fine. If they do not pay the fine the law is undermined and the effectiveness of the law is lost because people know that at the end of the day nothing happens. One does not go to jail, one does not have to pay a fine. I would be interested to hear what Ms Ní Chinnéide thinks as to how that should be dealt with in terms of fines.

Another area where there seems to be a large prison population, and where the general public would also be sympathetic, is people with drug addictions. Some would have minor drug addictions but come out of prison with major drug addictions. How do we cope with that, bearing in mind that some people who have drug addictions can be convicted for very serious offences?

It is important, and I would be interested to hear Ms Ní Chinnéide's point of view, that obviously we have to try to produce a report that will get broad support so that we can change the law. There is no point in us coming out with a report which the Irish Penal Reform Trust will think is great but which other groups will say is an affront to victims' rights because it is a political issue as well. To look to America, there are victims' rights groups, which are really advocates for the death penalty, and there are prisoners' rights groups. It is important that this committee tries to get somewhere in the middle ground and deal with one or two issues. I would be interested to hear what Ms Ní Chinnéide has to say in respect of fines and individuals who have drug addictions when they are going into prison.

Ms Fíona Ní Chinnéide: I thank Deputy O'Callaghan. We completely agree that we do not need more reports proving the value of penal reform: the Whitaker committee report, the management of offenders from 1994, the Oireachtas sub-committee report in 2013, which we thought was extremely strong, and the strategic review of penal policy. What we need now is implementation. I agree with the Deputy.

Regarding what could be useful to address fines, it takes a while for practices to change. We had concerns with the two fines Acts; the Fines Act 2010 initially, that was not fully implemented, and then the Fines (Payment and Recovery) Act 2014, which was only fully implemented in January. We would have questions on these. For example, we believe the threshold of €100 is too high for payment by instalment and that there should be no limit. For people coming from certain circumstances at certain times of year coming up with €100 on the spot can be very difficult, for example two weeks before Christmas when getting Christmas presents for the kids. We would remove that €100 as a base. The original Fines Act 2010 had provision for payment

by instalment of fines over two years in certain circumstances. That was reduced to 12 months in the Fines (Payment and Recovery) Act 2014. We would extend it. We see no reason it should not be over 24 months. We hear again and again from people who want to pay but who cannot pay upfront and in full. People should be facilitated to pay. We agree that it is a completely wasteful practice that puts an enormous burden on the Prison Service.

The Deputy is completely accurate that committals for non-payment of fines made up more than 50% of total committals in 2015. Nobody agrees that this is the best way to go. There are provisions in the Fines (Payment and Recovery) Act 2014 for alternatives. There is now provision for attachment of earnings orders if people do not pay. We would wonder slightly why people are continuing to be sent to prison but it could be based on the date that they received the fine. There are attachment of earnings orders for people who are in employment. There is provision for community service alternatives for people who are not in employment. There are recovery orders. There is a suite of measures. Essentially an evaluation is needed. It has been in operation for a year now, so the first point would be an evaluation of its success and to see if those other provisions are being used or if the default is still prison even though that is not in accordance with the legislation. That would be a very useful thing to do.

I agree completely that justice needs to be done and needs to be seen to be done, and anything that enhances public confidence in the system is to be welcomed. It would also be useful to do more research on community-based alternatives, to look more closely at them and to invite groups in to talk about them. Some work was done by the previous Joint Committee on Justice and Equality and a proposal was accepted by the then Minister regarding community courts. To return to something that Deputy O'Brien asked initially, community courts are expensive to set up in the first instance but this is about the longer game. This is about saving money but re-offending rates are a very narrow way of looking at the success of any provision. One needs to consider that if people do not go to prison they are maintained in their community, they stay with their families, the impacts on the children are minimised and, if they are in employment, they can maintain their job. It is better for the community and it is less damaging.

Mindful of Ireland's obligation to implement the European Union victims directive, which the Irish Penal Reform Trust, IPRT, welcomes, we would have concerns about legislation that seeks to go beyond the EU directive but victims are less well served by the Irish criminal justice system.

Restorative justice has been found to be extremely beneficial to offenders and victims alike, with reported satisfaction rates of 90% which, compared to satisfaction rates in the criminal justice system, are multiples of that figure. There is provision in the EU victims directive for restorative justice. We are only now commissioning analysis of the victims Bill as published but we believe the restorative aspect is quite weak in that Bill and should be strengthened. It would be very valuable to talk to groups like Facing Forward. Restorative justice is not new to Ireland. The Nenagh reparation project has been running for the past ten years but we are a great country for successful pilot projects that never get national provision. In 2009, the National Commission on Restorative Justice agreed unanimously that that should be rolled out nationwide. More focus on restorative justice and more examination of the benefits for victims and offenders alike would be valuable.

We mentioned the community courts, community service and restorative justice.

Deputy Jim O'Callaghan: I thank Ms Chinnéide for her answer. In terms of, say, a drug addict who is convicted of a minor offence such as shoplifting and a drug addict who is con-

victed of a serious sexual assault, what options does Ms Chinnéide believe should be available to a judge sentencing that person?

Ms Fíona Ní Chinnéide: Our position on that is clear. We are not abolitionist, currently. Prison should be reserved for the most serious offenders and for offenders who continue to present a risk to society. We are not saying that the most serious offenders should not be in prison. There are two sides. People should be diverted. The drug treatment courts have had mixed results and we believe there should be an examination of the reason for that. They have been successful in other countries and we should examine the reason the drug treatment court in Dublin, and it is only in Dublin - it is not a national provision - is not working because it should be working better. We need more resources in that area. For those offenders for whom prison is the only appropriate response, we need to ensure they are able to access treatment, services and supports while they are in prison. I am not sure if that answers the Deputy's question-----

Deputy Jim O'Callaghan: It does in part. Obviously, a person who is a drug addict is in a different position from a person who is not but who is convicted of a serious offence. There should be some incentive or benefit for a drug addict in that the conviction should indicate that if he or she goes down the path towards trying to get treatment for their addiction they will get a lesser sentence or the prison will seek to facilitate them in overcoming their drug addiction.

Ms Fíona Ní Chinnéide: It is an interesting proposal. Compulsory participation in treatments and services is not always found to be successful in all cases but we do not have the research and evidence to suggest otherwise, unless Ms Martyn wants to come in.

Ms Michelle Martyn: The late inspector of prisons recommended that an audit on health care in prisons should be done. That might be one recommendation. We have to examine the reasons someone has an addiction in terms of social exclusion. These people often have experienced trauma in early childhood.

The figure for those who completed the drug treatment course is very low at 6%. There are gold, silver and bronze phases and to get to the gold phase one must be drug free. I understand 57 people have completed the course but a previous report highlighted that drug treatment courses in other countries would have residential treatment options but they are not available here as part of the drug treatment course.

Deputy Colm Brophy: I want to follow up on the question asked by Deputy O'Callaghan. While he seemed happy with the answer, I have a problem with a particular aspect which I would like to tease through with the witnesses. There is a constant reference to minor offences that are deemed by certain groups or whatever to be low impact or not affecting victims. However, the reality in terms of victims of crime and communities is that many of the offences the witnesses or the system might deem to be minor are high impact on both the victims and the communities when they are committed repeatedly. I refer in particular to the impact of the crime of burglary. A single act of burglary can destroy an older person's entire life. It can destroy their home, where they live, relationships within families and their ability to live independently in a community. I do not believe they care much for the terminology to the effect that it was a one-off, low impact, minor or non-violent crime because for them the impact is almost as great as violence.

In the event of somebody committing multiple offences such as burglary, and without going back to the entire system that got them there, particularly if they are affected by drugs, what is the witnesses' view as to what they should do in that situation? Fining the person will not work.

I do not believe that keeping them within a community will necessarily work if there is not a willingness to change a behavioural pattern. I agree with a host of what the witnesses advocate in terms of the reform process, the resourcing process and so on. What worries me is that when giving a number of answers they seemed to step over to a certain point with which I have a real difficulty, namely, the lack of recognition of the impact of crime on victims and how there must be an element of recognition of that by the State through the judicial process. They are correct to say there is a cost in terms of imprisonment but sometimes there is a real cost to society from non-imprisonment.

Another area on which I would pick a fault with the witnesses, and I am on record as having said this previously, is that the behaviour in terms of some of the media coverage here amounts to nothing short of the glorification of crime and the creation of almost Kardashian-like characters who, while being vilified by “media sources”, are almost portrayed as people we should look up to and whose lives we should be interested in and follow. On the other hand, they went a step too far when they queried the right of anybody to ask the victim of a violent crime their view on parole for the person who committed that crime. There is a right to have that voice heard and if the way that voice is heard is through the media, that is a right. I put in the first caveat clearly but I strongly disagree with the witnesses that there is no role further down the line for the family of a victim of a murder to have their voice heard on how parole should be decided in the future. I would like the witnesses to come back on that.

Ms Fiona Ní Chinnéide: To clarify, I did not mean to say there should not be a right. My question was specifically about the seven year first parole hearing point when we know that no prisoner will be released at the seven year point. There is an unofficial policy that it will be a minimum 15 years so I wondered whether it is exploitative to ask the question at seven years, but I completely agree that there should be no deprivation of rights in terms of people being heard.

Also, I said in the opening statement that in all our points we do not seek to minimise the impact of crime on victims. It is important that victims’ needs are heard and met, and we completely support the full implementation of the EU victims directive so we are clear on that. We believe victims’ rights and prisoners’ rights can be respected at the same time. To clarify, it was about the seven year first parole hearing.

Many assumptions are made and a good deal of research has been done on what victims want. Professor Joanna Shapland has done a lot of research in the area and her findings are that victims and offenders often want the same thing from the criminal justice system, which is, essentially, fairness. As I mentioned, it has been found that there are high rates of satisfaction reported by victims with restorative justice, but it is important that their involvement is voluntary. There should never be an obligation on victims to engage in the process. However, it gives an opportunity to victims to ask questions that remain in their minds. In the case of burglary, it might be, “Why was I targeted?” or “Was I being watched?” A victim will not get closure on the impact of crime but will see that the offender has come face to face with the impact of the crime committed.

We talk about “less serious offences” rather than “minor” offences in recognition of the fact that there is always a victim at the end of an offence. In one regard, none of them are “minor”; they are all “less serious”.

The issue of re-offending and burglary was raised. Burglary is an interesting case in point. Professor Andrew Coyle has noted that a doctor would not just keep increasing the dose, dou-

bling and trebling it, if he or she finds a medicine is not working. Recidivism rates of people imprisoned for burglary offences are the highest on release from prison. The most recent report had the rate at just under 69%. The statistics come with a warning from the Central Statistics Office, which is that its collation of data has been improved over the years, so they are not completely reliable. A rate of 69% for re-offending suggests that prison for burglary is not working. It is not comparing like with like, but the equivalent probation statistics are 45%. The other serious issue revealed by recidivism statistics is that a significant proportion of those who have been put in prison for different offences are coming out of prison committing burglary for the first time. We would, therefore, question the effectiveness of prison as a blunt response or an overall response to burglary in particular.

We very much welcome restorative justice initiatives such as the joint agency response to crime, which has proven successful. This involves joined-up thinking and case management with offenders and repeat offenders or, to quote the Tánaiste, “serial offenders”. We think these initiatives are more effective. We must focus on reducing crime and not just punishing it. The two must happen at the same time.

Tougher sentencing is often proposed as a response to crime but it is very limited in its deterrent effects. It is effective in terms of incapacitation for the length of time that the person is in prison. It has been estimated that the prison population would have to be increased by 25% to reduce crime by 1%. It is not a practical, cheap or cost-effective way of addressing crime. We agree about the impact of crime on victims and believe more research needs to be done. Perhaps the committee would consider inviting before it the Victims Rights Alliance, which is a great organisation in that regard. Often what victims want is to know that the offender will not re-offend.

Deputy Colm Brophy: I listened to what Ms. Ní Chinnéide said and I accept some of it. I do not think there is the time or that it is necessarily the appropriate juncture, so I do not want to get into areas on which I would disagree with her today. However, there is a whole raft of views on why repeat burglary offences are committed by those who come out on what are very short burglary sentences. It is perhaps an area for another day. Leaving out the drugs side of it for a second, if someone is consistently committing less serious offences, to use Ms. Ní Chinnéide’s term, or minor offences or whatever and that situation is not being resolved by other means, there seems to me to be a need for a custodial-type regime at that point that protects the public as well as just focusing on different areas in terms of rehabilitation of the offender. At the end of the line, there is a real problem, which does not seem to be addressed in some of the remarks and answers given.

Chairman: Would Deputy Brophy like to make any further comment or will we move on?

Ms Fíona Ní Chinnéide: I absolutely understand Deputy Brophy’s position completely. Our overarching call, which we stated at the outset, is that we are happy as long as it is grounded in evidence, research and data that it is the most effective way of addressing a particular crime and reducing crime, but unfortunately what we get an awful lot is knee-jerk responses that are not based in evidence. A commitment to evidence and data in the first instance and an obligation on criminal justice agencies to collate and publish the data would probably resolve the difference of opinion.

Senator Frances Black: My apologies for being late this morning and for missing the first contribution. I will speak about addiction. I have worked in Dóchas Prison and with women who have been in recovery from addiction. I hear what the witnesses are saying and I have a

couple of questions, but first I will tell them why I am asking them. I worked with a family that was devastated by their son's addiction. He was a lovely young lad, except that, when he was in his addiction, he would act recklessly and was in and out of prison. He came to them one day when he knew he had a sentencing hearing. At last he came and said, "Look, if there is any chance that I can get into treatment, I really want to do it". If he could choose, he would go into treatment rather than prison. Unfortunately, the family found it very difficult to get him into treatment because there was nowhere available for him. It was a real struggle. Then they decided to ring the Joe Duffy show. It was only then, having gone to the media, that he got into treatment. I will be going to his graduation. He will be a year clean and sober this month, which is fantastic and a perfect example of what recovery can do. He is now in a relationship and is leading a really good life and his family are in a great place.

What evidence or reports are available on people who have stepped into recovery and stopped going in and out of prison and not re-offending? Is there any evidence or reports on the cost associated with it? It would have cost the prison service €70,000 if the lad had gone to jail for the year but treatment probably cost less than half of that sum. Is there any evidence on that matter?

Why have the recommendations in the last report not been implemented?

I apologise if it was addressed earlier, but I have one other question. Why has Ireland not yet ratified the optional protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and to what extent, if any, has torture been found to have been used in Irish prisons?

Ms Fíona Ní Chinnéide: Could the Senator clarify the report she is referring to that has not been implemented?

Senator Frances Black: The last committee report.

Chairman: The last committee report had recommendations in 2013.

Ms Michelle Martyn: Not a lot of research has been carried out in Ireland on addiction and we definitely need to focus on the area. Last year's review by the Irish Prison Service and the Probation Service stated that 60% to 80% of those who undertook treatment completed it and 50% returned to training and education. One third would have achieved full recovery, one third would have managed addiction safely and the final third would have relapsed. Those are the figures from that review of the drug treatment-----

Senator Frances Black: How many relapsed?

Ms Michelle Martyn: One third.

Senator Frances Black: Is that of those who went into recovery?

Ms Michelle Martyn: Yes. A report was done last year but we need to do more on addiction and the underlying reasons behind it. The SAOL project, for example, is a good one which focuses on the treatment of women. It looks at the overall picture and trauma-informed base care rather than the basic fact a person is addicted.

Ms Fíona Ní Chinnéide: On the question of the slowness or lack of implementation of previous reports, there are two points, the first of which is resources, and the second, political will. They are the two things that generally tend to be obstacles. There is progress on the strategic

review of penal policy. There have been two reports published on implementation. We can see positive engagement by the Prison Service and the Probation Service in this regard but progress is slow. Other agencies are not responding in a like manner.

We are disappointed in particular by the statutory bar on temporary release for people sentenced to mandatory or presumptive ten years for drug offences. There were two recommendations that the situation should be changed. The Law Reform Commission in its report on mandatory sentencing in 2013 made such a recommendation and the strategic review group echoed that. The oversight implementation reports that the proposal was made to the Minister for Justice and Equality and that it was rejected and it will be resubmitted. More clarity is required in this regard. Progress is slow. It is a case of baby steps.

Five key points were made in the report of the Oireachtas committee on penal reform. The first was a commitment to decarceration to reduce prison numbers. There has been progress in this regard. In 2011, the numbers were 4,600 and rising. Yesterday, there were 3,734 people in prison and that represents an increase of 80 to 100 people on the previous month. It is never certain that progress has been made but overall there has been a reduction. We believe it should go further and that the daily prison population, which is currently 79 per 100,000, should be reduced to 60 per 100,000 or even 50. The director general mentioned that reoffending rates in Nordic countries is 35%. The Nordic model is more successful overall so we welcome all moves in this direction.

The second point made by the Oireachtas committee is that prison sentences of less than six months should be commuted and replaced with community service orders. That did not happen. It is a good recommendation. The Probation Service needs to have resources in order that as its remit expands, as we believe it should, given that community-based sanctions are much more effective in many cases, it gets the resources to be able to meet that need.

The third point is to increase standard remission from one quarter to one third and introduce an incentivised remission scheme of up to one half. That recommendation goes back to the Whitaker report from 1985, which Deputy O'Callaghan mentioned. Remission is not something that enjoys wide public or political appeal. There has been a very successful introduction of what is known as the community return programme. Prisoners who are deemed eligible, who are serving longer sentences, can be released into the community at the 50% mark to complete their sentence in the community. That greatly aids resettlement in the community. There is a saving on the €70,000 per year cost of individuals being in prison while gaining from the community payback. The programme has been enormously successful. The reports are that compliance rates are 90% although we remain very concerned about why women are being returned to prison in 60% of cases when men are only being returned in 10% to 15% of cases. The issue must be examined. The programme is very positive. The numbers are beginning to fall, and the suggestion is that all those who are eligible have engaged with the programme. A total of 450 prisoners were released into the community return programme in 2014 and it was 370 in 2015. We have proven the model and shown it works. Let us expand the criteria and get more prisoners released in this way. The initiative has been very successful. Internationally, people are looking at Ireland as a model in this regard. It is a rare good news story.

The fourth recommendation is the introduction of legislation providing for a structured release, temporary release, parole and community return. Community return has gone ahead but there has been very little progress on parole. There had been none until Deputy O'Callaghan introduced his Parole Bill in June 2016. Again, it is a case of baby steps.

The final recommendation is to address prison conditions and overcrowding and to increase the use of open prisons. Prison conditions have improved in many prisons but they continue to be substandard and unfit in many prisons. We are very concerned about conditions in Cloverhill Prison. We have not seen an inspection report. We have seen a visiting committee report on the prison and we understand the Inspector of Prisons completed an inspection report on the prison but it has not yet been published. We need inspection reports to be published in order that we can tease them out and learn what is going on. We are very concerned about the Midlands Prison. Half the prison population there are protection prisoners who have vastly reduced access to regimes. The regime is not considered to be a restricted one because the prisoners are not locked up for 19 hours a day but they are spending a lot of time on landings not able to access education and training workshops. They also report reduced access to medical treatment. We have many concerns about that. There has been no improvement in terms of increasing the use of open prisons. Yesterday, I worked out that just under 8% of prisoners were in open prison facilities. We would like to see the goal to be a rate of 30%, especially with reference to the Nordic model. As Ms Martyn said earlier, the lack of provision of open prison facilities for women in particular is something that needs to be addressed.

Senator Frances Black: Why do the witnesses think there is a lack of political will in particular in implementing the report?

Ms Fíona Ní Chinnéide: I might be a little unfair in saying that because there have been bold moves and there has been progress which must be acknowledged. In fact, we strongly welcomed the debate that occurred with Deputy Daly's Private Members' Bill, the Prisons (Solitary Confinement) (Amendment) Bill. There was almost unanimous acknowledgement of the socioeconomic deprivation, mental health and all the factors that contribute to offending. We warmly welcome the debate that took place on that. We would like to see all this translated into an impetus for speedier implementation. We are moving in the right direction. The story is one of progress but we would just like to see it happen in full and with speed.

Chairman: A little quicker. I thank the Senator. The next speaker is Deputy Mick Wallace.

Deputy Mick Wallace: I thank the witnesses for attending. I have a couple of questions for them. Deputy O'Callaghan made the point that we should probably concentrate on a couple of areas rather than a wider range of areas. The witnesses have touched on so many problems with how policing is done. When we present a large number of issues to a Department or to the Government, much of it gets lost.

Many would agree that the prison system is not working. That is a problem not just for the prisoners but also for the victims because people reoffend. We seem to have been very slow to learn from international best practice. It was said that there has been some progress. I agree that is the case but it has been minimal. What do the witnesses think could be done to address the fact we are in the Dark Ages in this country in terms of how we deal with prisons and prisoners?

The witnesses touched on the poor behaviour of the media and the unbalanced coverage of issues. Given the media's poor practice and behaviour around crime and the prison population, do they have any ideas of how to address that? The media will do anything or target anyone to sell newspapers. Is there any way to address the challenges in this regard?

My third question is about the community service orders. Does the witness have the figures for 2015 or 2016 for the number of people who were given community service orders? What

shape does that take? What type of structure is in place to facilitate the operation of those?

Ms Fíona Ní Chinnéide: The second question was on the media and the third was on community service. What was the first?

Deputy Mick Wallace: The first was on how we can drag the Department and the Government out of the stone age into the real world.

Chairman: It was not put in quite that way-----

Deputy Jim O'Callaghan: It was not put that eloquently.

Chairman: -----but we have the gist of it.

Ms Fíona Ní Chinnéide: I might leave that one last. With regard to the media, there are challenges as we know. The media has a very important function in terms of the public interest, but that is separate from what the public is interested in. There are huge problems with crime sensationalism. Cruel and unusual things have high news value, so when we have a media that is dependent on sales that is where the emphasis will be. Crime coverage is almost equal to entertainment. For example, a study of the *Irish Daily Star* found that most coverage was given to sport, next was entertainment and after that it was crime. It is among those categories, so I do not believe there is a golden nugget there. There are some good publicly funded investigative journalism projects that are very hopeful for the future. I point members to the TheDetail.TV which did the investigative journalism to reveal the lengths of time individuals are spending in solitary confinement in Ireland. That was the first time those figures had been made available. Not all media are bad. In that case it revealed that of 51 men held in solitary confinement in January 2016, 24 had been so held for more than six months and nine for more than one year. Peter McVerry has said that individuals have been held in solitary confinement conditions for years in some cases. The media have a very important role in terms of transparency and public interest, so we do not wish to tar them all with the same brush.

Regarding community service, the 2016 statistics and annual reports will not be published until spring or summer. In 2015, there were 1,937 community service orders made. That compares with 2,190 in 2014 and 2,354 the previous year. I do not have the previous report but it was higher again in 2012. There has been a year on year decrease in community service orders being handed down. There are big questions as to why that should be the case. The IPRT will publish research in April this year, which we will be delighted to share with the committee, which examines those factors. Much of it is due to the role of information among the Judiciary and confidence in the Judiciary in the community service order options that are available locally. Community service should happen in the community where people live and our understanding is that community service is not consistently applied, available or used around the country. Again, we are back to the evidence base. We must look at the evidence, see where the problems are and address them.

Ms Michelle Martyn: I wish to make an additional point about the media. It involves all of us trying to work together to educate both the media and the general public about crime and prison. In Sweden, for example, the newspapers have subscription rates so the issue with many tabloids does not happen there like that. In the case of prisoners, the media might say it is a public interest story when perhaps the prisoner is going to university after release, and then that upsets the rehabilitation goals. I do not know what the solution is but everybody must work together to try to address it. This issue is wider than just the prison.

Deputy Mick Wallace: I agree that the media have the potential to be an incredibly positive influence in a society. It would be great if we had independent, positive media. Regarding community service, I understand that in Europe much of it is done through the local authorities. People are given so many hours to do within the local authority and it is managed through the local authority system. The witness says the numbers are dropping here. I do not know if that system is used in Ireland. I am not sure how it is done which is why I asked what the structure is. For example, we are reducing the number of people involved in direct labour for the local authorities and there has been a huge move towards privatisation for a number of years. I do not know if the local authorities here were ever used for that purpose but the Europeans use such a system. There is potential for community service orders to be used in that area through that system. Let us say a judge orders a person to do 200 hours community service. How does the person do it? Who monitors it? What structure is in place for it?

Ms Fíona Ní Chinnéide: I am not aware of the models the Deputy mentions regarding the local authorities elsewhere. It raises an interesting point. We believe there should be an obligation on local authorities to co-operate certainly around prisoner re-integration, among other areas. For example, we have seen a local authority in Cork presenting obstacles to the establishment of a step-down facility for women offenders coming out of prison. It is an interesting area on which there should be more focus and attention.

Ms Michelle Martyn: The community service orders are carried out through the Probation Service and through projects on probation. That service would monitor the community service orders.

Chairman: Deputy Jonathan O'Brien wishes to make a supplementary point. Before he does that, I should point out to Deputy Farrell that we are almost at the conclusion but you are welcome.

Deputy Jonathan O'Brien: Regarding that step-down facility in Cork, I am from Cork and it is not so much the local authority that opposes it as the members of the local authority, for political reasons. There is a difference, believe me. Senator Black talked about people who go into recovery and emerge from it and mentioned that one third end up relapsing. Very little research has been done on the reasons that they relapse. The reasons are very broad and they vary. People can relapse when they come out of a rehabilitation or residential centre and they face one of the major obstacles, which is housing. In many cases, they have no option but to go back into homeless shelters where drug use is prevalent and that contributes to them relapsing. There are many other issues, but I agree there is very little research.

The issue I wish to discuss is drug addiction within the prisons. A total of 85% of women and 70% of men in the prison population have an addiction. Why is that? I believe it is because we have a system in which addicts are criminalised. Over 80% of all drug convictions in the State - it I believe it is 86% but I am open to correction - are convictions for being caught with drugs for personal use. If we addressed that, what impact would it have on penal reform and sentencing?

I have a follow-up question to that. When one gets a drug conviction, it is a conviction for life. Even if those convicted go into rehabilitation, come out clean and never reoffend, they have drug convictions hanging over them for the rest of their lives, which can have very severe consequences for those individuals for the rest of their lives. What role do spent convictions have in this regard, particularly for those individuals who have addictions? This Government and the previous Government have talked about spent convictions a lot but we have seen very

little action in this regard. I believe spent convictions have a huge role to play in penal reform and sentencing. The goal should be to try to avoid a prison sentence. However, if somebody is convicted, I do not believe that the conviction should stay with him or her for life. One gets a conviction and does one's time and punishment. Part of this is being rehabilitated back into the community. It is counterproductive on the one hand to try to rehabilitate those convicted back into society to stop them from reoffending but, on the other, to tell them they must carry convictions for the rest of their days. The latter is just wrong. What are the witnesses' opinions on this?

Ms Fiona Ní Chinnéide: At root, we do not believe that people with substance misuse issues should be criminalised in order to access treatment. That is a fundamental issue. The same applies to women in particular. There is a cohort of women for whom prison is a place of respite. There is no more damning indictment on society than the fact that anybody should think prison is the safest place to be. There is a huge issue beyond prison concerning the provision of safe, supported housing in the community that needs to be addressed. The same applies to children. There is documented overuse of remand for children in order to access mental health assessment in Oberstown, which is another issue. Approximately 50% of children in the detention school system are on remand at any one time. This compares with 15% of the adult population. Put simply, nobody should be criminalised to access treatments and services they need in the community, and that is a full stop.

The Deputy asked about the decriminalisation of drugs for personal use. We do not believe this would necessarily have a huge impact on the prison population. We know that CityWide and other groups that are better informed than we are in understanding the paths of desistance towards recovery of addictions have proposed this, so we stand by their proposal. If somebody has addiction issues, I do not think personal use will be the problem; the problem will be all the other crime that comes with an addiction, namely, shoplifting, burglary and other crimes. To that end, I could not agree with the Deputy more about spent convictions legislation and the need to acknowledge and respond to people who have demonstrated that they have moved away from their offending behaviour. We ask people to stop offending and we need to acknowledge when they stop and reduce any barriers they might continue to face through having a criminal record, such as in accessing jobs, training, education, travel and even home or car insurance. The Irish Penal Reform Trust has campaigned on this issue since at least 2008. It is a huge issue.

The Criminal Justice (Spent Convictions and Certain Disclosures) Act was finally introduced in January 2016, signed into law in February and commenced in April. We find it extremely disappointingly limited. We acknowledge that it will be of benefit to many people but it is extremely limited in its application and we believe it fails to support rehabilitation of people with more serious offending. As it stands, there is no limit to the number of minor motoring offences and public order offences that can become spent, but only one other conviction can become spent. If one has two or more other convictions, neither can become spent. It is a huge issue. The current position does not take into account in any way the circumstances that may have contributed to a person's offending behaviour at the time, which could have been youth, addictions, poverty or any range of other circumstances. It presumes that one contact with the criminal justice system is enough for people to escape all these circumstances of disadvantage and marginalisation, which we know is not the case. We also know that people grow up, move away from crime and move on. We hear from people so often who are now in their late 20s, have got married and have kids. They want to move to Australia and they have moved away from the impulsive, low-self-regulated immature behaviour they engaged in when they were

18, 19 or 20 but these convictions pursue them 20, 30 or 40 years after the fact. If one has two separate convictions for shoplifting, for example, from 20 years ago, they are still on one's record indefinitely. We would strongly welcome a review of, and more attention being paid to, this issue. We have generous provision for offences committed by people when they are aged 18 or younger, and there is a proposal, reported in the newspapers last week, that these provisions could be extended up to the age of 24 at a minimum. We would strongly recommend this as a first point, but the overall point is whether we are giving people second chances. Are we acknowledging that they have moved away from their offending behaviour? No one is suggesting that convictions be removed from one's criminal record overnight. One demonstrates that one has moved on, and then society needs to acknowledge people's efforts.

Deputy Jonathan O'Brien: An example of that would be a person with whom I was dealing and who has applied to join the Army but who had a motoring offence for driving with no insurance ten years previously. It was used as the reason for the rejection of his application. Strangely enough, he was told he was not capable of driving a tank or an armoured vehicle because he had a conviction for motoring offences. This is ten years after the fact.

Chairman: Would Ms Martyn like to add a point?

Ms Michelle Martyn: I wish to highlight the importance of post-release planning before the person comes out. It was reported to us that the Prison Service releases people on a Friday evening but the community-based organisations are not aware that the individuals are released at this stage. Therefore, post-release planning is critical, particularly in cases of addiction because the time following release from prison is the time when somebody is most likely to overdose. As Deputy O'Brien said, housing and accommodation are also important.

Chairman: Ba mhaith liom mo bhuíochas a ghabháil do bhaill an choiste as a bheith páirteach sa díospóireacht. Ba mhaith liom ár mbuíochas a ghabháil do Ms Ní Chinnéide agus Ms Martyn. I convey the thanks of the committee to both witnesses. Their contributions were excellent and hugely informative and the meeting was an excellent start to the project on which we are now embarking.

Penal policy, sentencing and prisons was a broad area to address. For members' information, we may very well contract it to some of the contributions where we are not stuck in having to do the report as already titled. It is within our gift to do so. This will be part of the discussion we will have in a few minutes' time.

Before suspending the public session of our meeting for five minutes, I invite members and both Ms Ní Chinnéide and Ms Martyn to join us for a photograph outside. We look forward to emblazoning said picture on our report once it is completed. Again, on behalf of the committee, I thank the Irish Penal Reform Trust and wish the two witnesses the very best in their continuing work. We will meet outside. We have not done this for a while. Here we go.

Sitting suspended at 10.40 a.m. and resumed at 10.45 a.m.

The joint committee went into private session at 10.45 a.m. and adjourned at 11.45 a.m. until 9 a.m. on Wednesday, 15 February 2017.