

EVALUATING PRISONS,
PRISONERS AND OTHERS

Studies in Public Policy

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EVALUATING PRISONS, PRISONERS AND OTHERS

Greg Heylin

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The Policy Institute

in association with

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and Law Reform

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Executive summary

The objective of this Blue Paper is to demonstrate that evaluation of prison, of preventive social programmes, and of alternatives to prison is not only possible, but also useful.

In order to refine the focus of evaluation in regard to prisons, five areas are considered:

- the history of prison
- the literature on the failure of prison
- Foucault's analysis of power as exercised in prison
- the concept of power as the determinant of the knowledge which it is possible to produce
- the purposes of prison.

The history of prison suggests that, considered over the very long term, prison has not been very adaptable in the context of change and improvement, but that charismatic individuals have made a difference, even if sometimes only for a relatively short time. However, outcomes were not always as intended. Administrators who commission evaluations should adjust their expectations of evaluation accordingly.

Evaluation is put forward as one powerful means of countering the fatalism engendered by the literature on the failure of prison and Foucault's analysis of power. Evaluation can be applied to existing programmes and measures to establish the extent to which they produce worthwhile results, thus sidestepping potentially immobilising theoretical debates about the causes of crime.

The many varying and often conflicting objectives of prison are considered. The prison can be seen as a means of punishing, a form of retribution, and a deterrent, both to the individual who is incarcerated and to the population at large. It can also be a means of incapacitating a person for a period so that they are unable to commit further crimes. It is also the ultimate sanction in countries which do not have the death penalty. It is capable of containing individuals who are unwilling to co-operate. It can also be expected to rehabilitate offenders. Foucault saw the prison as a coercive

institution, where punishment was inflicted and power exercised, secretly and autonomously, largely cut off from the social and judicial worlds. Garland sees punishment in prison as a necessary evil, and also a tragedy beset by irresolvable tensions. It is against the background of these multiple conflicting objectives that evaluation takes place.

Rather than prison itself being the failure, it might be characterised as a container of last resort for those whom society has failed or who have failed in society. As it is society which instils norms, it is unrealistic to expect prison alone to succeed where society has failed. The high cost of prison in human and monetary terms is also noted. Arising from these points, it is proposed that evaluation effort should be devoted in particular to preventative social programmes and to alternatives to prison, in addition to the evaluation of prison itself.

The aim of the seven case studies in chapter 4 is to demonstrate that evaluation is versatile in relation to subject matter and to the methods or tools available, by the use of actual evaluations conducted on prisons and related areas. In this way, the policy maker can read and see the relevance of evaluation in a range of areas covering prisons, prisoners and many other relevant topics.

The case studies cover

- 1 early prevention of crime-related factors amongst children below the age of five
- 2 inter-agency crime prevention
- 3 unit fines
- 4 intensive community supervision for young offenders
- 5 boot camps
- 6 the incapacitation effect of prison
- 7 order and control in prisons.

The methods used in the case studies are also varied and comprise the following:

- i) narrative meta-analysis
- ii) process evaluation
- iii) simple before-and-after comparisons of administrative data with some interviews

- iv) comprehensive data collection and analysis, including interviews, official records and documentation
- v) limited data collection and analysis from different administrative systems
- vi) use of a statistical model and cross-checking with empirical data sets
- vii) an anthropological approach including exhaustive field work, examination of records and a review of academic literature in the area.

When the issue of evaluation is raised in a public policy setting, the answer is often in the affirmative, yet hesitant. Because many of the hesitations are not articulated explicitly, they might be more accurately characterised as resistances to evaluation rather than as arguments against it. When these resistances are attended to, learned from, and action taken accordingly, the likelihood of a relevant evaluation giving rise to positive changes will be increased. Resistances may relate to resources, impacts, questions about objectivity, measurement issues, and prison and prisoners. While it is unlikely that an evaluator will ever have to deal with many of these resistances in any single situation, the discussion of them in chapter 5 is intended to assist the evaluator and the policy maker who is considering the commissioning of an evaluation. This is because anticipating such problems, and preferably overcoming them in advance, are both superior to discovering them through costly experiences during the evaluation process itself. Given that evaluation in the criminal justice area is in its infancy in Ireland, the discussion of resistances in this paper should be seen as an effort to clear the way for evaluation, rather than to act as a brake on its evolution and development.

It is argued in this paper that the Department of Justice, Equality and Law Reform needs to focus attention on activities targeted at known crimogenic factors, whether those activities are under its direct responsibility or under the responsibility of another public body. The Department also needs to ensure that it, or any other lead agency, evaluates the impact of the relevant programmes on crime. As a first step, there needs to be provision for the capture of data for research purposes in relation to the planned development of new computer systems for the courts, the probation and welfare service

and the prisons, and also involving the improved Garda computer system.

While evaluation cannot be used in a mechanistic way to bring about change, and while some major developments in practice have ignored evaluation findings, evaluation can facilitate the process of change. One obvious way is through the careful evaluation of a pilot project and the equally careful mainstreaming of the lessons learned. It would appear, however, that significant change usually requires a political decision and a driving force. Evaluation can be supportive in refining the focus of the change or as a precursor of change.

Evaluation is not the final arbiter in relation to what policy or programme should be followed. There are three levels of questioning in policy decision-making processes. Questions about which programmes will work effectively and efficiently, in relation to their stated objectives, can be answered to some extent by evaluation. The questions about what will be tolerated by the public are a matter for politics. There is also a need to ask what should be done, which is a moral question. While these three levels of questioning are relevant to all policy matters, the moral dimension is heightened in the context of crime, crime prevention, punishment and rehabilitation.

A single policy intervention which will solve all known problems in relation to prisons and prisoners undoubtedly does not appear to exist in reality. Instead, there is a need to continue to refine those interventions which seem promising, to replace those which are found to serve no useful function, to develop new programmes in line with new understanding and new circumstances, and, insofar as possible, reduce the negative aspects and increase the positive elements of programmes which are an unfortunate necessity. In all of this evaluation has a key role to play as a useful input to decision-making and as a tool to support improvements in current policies and programmes.

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The views and findings contained in this report, and any errors, are mine alone.

Greg Heylin

Research purpose and evaluation as a tool

1.1 Introduction

The basic objective of this Blue Paper is set out below, followed by an outline of the research questions arising from the objective, a description of the methods adopted during the course of the study and an outline of the content of each chapter. After a description of a model of the evaluation process, and of some relevant recent developments in the Irish civil service in relation to evaluation, the chapter concludes with some background information on the Irish prison system.

1.2 Objective of the Blue Paper

The objective of this Blue Paper is to demonstrate that evaluation of prison, of preventive social programmes, and of alternatives to prison, is not only possible, but also useful. It is necessary to argue this point because the culture of evaluation, which has developed in recent years in relation to projects funded by the European Union (EU) Structural Funds, has not developed to the same extent in the areas of policy and practice covered by this Blue Paper. In addition, it is necessary to address the relative lack of evaluation in these areas in the context of specific legislative requirements in the Public Service Management Act, 1997.

In order to support the greater use of evaluation, it is the view of the author that a simple "how to" guide is not enough. Such guides take it as a self-evident truth that evaluation is worthwhile and that the only obstacle preventing evaluation is a lack of technical knowledge and familiarity. This is only part of the problem. It will be argued in this paper that useful lessons can be drawn from the contexts surrounding the evaluation of prison and related areas, that evaluation is possible and useful in practice, and furthermore that the potential concerns of those policy makers and administrators who remain unconvinced of the merits of evaluation can be addressed. Finally, however, it will be conceded that evaluation is not always an infallible or even an appropriate tool.

Arising from the stated objective, the following research questions are posed and answered in the Blue Paper:

- does a consideration of the history of prison produce any pointers for an evaluator of prison and related programmes?
- does an examination of Foucault's sociological analysis of power and the concept of "prison as failure" require the development of a more nuanced conception of evaluation?
- are there actual examples of completed evaluations and evaluation methodologies which have produced useful results in relation to prison, preventive social programmes, and alternatives to prison?
- given the relatively underdeveloped culture of evaluation in the areas covered by this Blue Paper, are there any pitfalls to be avoided in the conduct of evaluation, including potential resistances to evaluation, and is it possible to anticipate these in advance?
- finally, notwithstanding the underdeveloped culture of evaluation in relation to prison and its alternatives, are there any limits to evaluation which are worthy of consideration?

1.3 Chapter contents

The rest of this chapter deals with methodology, chapter content, a model of the evaluation process and some relevant recent developments in the Irish civil service in relation to evaluation. It concludes with some background information on the Irish prison system. Chapter 2 considers the history of prison, with a view to exploring the limits of its adaptability, so that the expectations of funders of evaluation and evaluators can be moderated accordingly. The experiences of earlier attempts at reform, and even at evaluation, are instructive for current policy makers and evaluators. Chapter 3 argues that an engagement with the literature on the failure of prison, on power as exercised in prison, on the relationship between power and the formation of knowledge and a consideration of the purposes of prison, all help to define the focus of evaluation. Chapter 4 argues the case for considering evaluation not just of prison and community sanctions, but of preventive measures as

well. It demonstrates through seven case studies, which use a variety of methodologies, that evaluation is both possible in practice and relevant to the concerns of policy makers. Chapter 5 explores the possible resistances to evaluation underlying the underdeveloped state of evaluation in the criminal justice area in Ireland. This is an attempt to anticipate and reflect on the potential pitfalls in advance so that lessons do not have to be learned through costly mistakes and evaluations which have less than optimal outcomes. Finally, comments on the broader role of the Department of Justice, Equality and Law Reform and on the limitations of evaluation are drawn together in chapter 6.

1.4 Research methods

The following research methods were used in the present study.

- A review of published reports on the Irish prison system and in particular those published by the Department of Justice, Equality and Law Reform.¹
- The author embarked on visits to a number of institutions in the Irish prison system, including familiarisation visits to twelve prisons, open prisons and places of detention in Ireland, and a juvenile detention complex run under the auspices of the Department of Education. Outside Ireland, an institution for young offenders and a large prison complex for those on longer sentences, each in a different European jurisdiction, were also visited.
- Interviews were undertaken with a number of senior officials in the Department of Justice, Equality and Law Reform who had extensive experience with prison operations.
- An extensive literature review was conducted, covering material on the history of prison generally and the limited published material on the history of the Irish system, together with an examination of the work of relevant academic writers, such as Foucault.
- A major part of the study was to develop criteria for the selection of case studies and a standard format for their

¹Documents published by the Department under its previous title of Justice were included.

description, together with an extensive literature search to locate the case studies themselves and associated critiques.

There is a difference between demonstrating that evaluation is useful and possible, and actually undertaking an evaluation in practice. Therefore, references to the Irish system should be read as comments to show the relevance of points made about evaluation and not as an attempt to evaluate the system.

1.5 Evaluation and prison programmes

The literature provides a number of definitions of evaluation.² The case studies collectively (chapter 4) give a clear impression of what can be included under the term. Following Boyle, three elements to evaluation can be identified:

- (a) evaluation is concerned with systematic data collection, covering a variety of topics,
- (b) evaluation is useful to specific individuals, and
- (c) evaluation may facilitate instrumental use (making specific action decisions) or conceptual use (thinking about issues, gaining new ideas and perspectives).³

It could be argued that, in terms of the public service, gaining new ideas and perspectives is not an end in itself, unlike in academic inquiry, but is a prelude to further evaluation or change. A further key element of evaluation is identified by the United Kingdom Treasury, namely that it is “a critical and detached look at the objectives and how they are being met”.⁴

A simple model of the evaluation process could be outlined as follows:

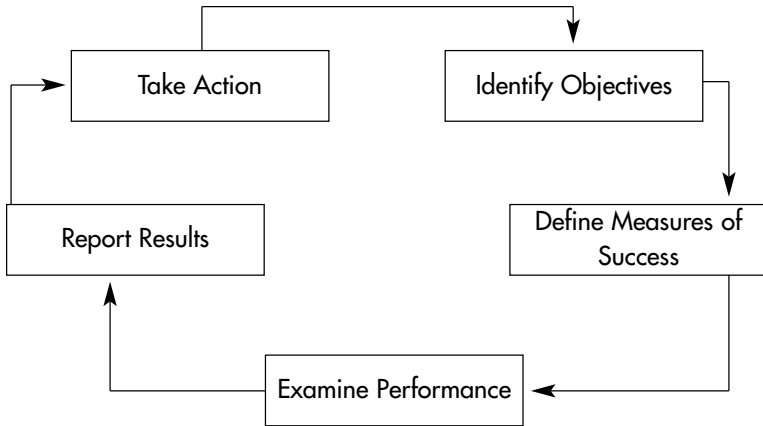
²Boyle, Richard, 1993, *Making Evaluation Relevant: A Study of Policy and Programme Evaluation Practice in the Irish Public Sector*, Institute of Public Administration: Dublin, p. 16 and European Social Fund Evaluation Unit, 1998, *Training for Prisoners*, European Social Fund Evaluation Unit: Dublin, pp. 5-8.

³Boyle, Richard, 1993, *op. cit.*, p. 17.

⁴This is quoted in *Review of Ongoing Evaluation Function in the Community Support Framework (CSF) for Ireland 1994-1999*, 1998, CSF Evaluation Unit: Dublin, p. 6, and is attributed by the Unit to the HM Treasury, 1988, *Policy Evaluation: A Guide for Managers*, HMSO: London.

- i) identify the programme or policy objective or objectives
- ii) define measures of success for the programme
- iii) examine in a critical and impartial fashion how successfully the objectives are being met
- iv) report results to the programme or policy sponsor
- v) the programme or policy sponsor takes action on the basis of the findings, i.e. revises the programme or the objectives in the light of the evaluation or terminates the programme
- vi) once the programme or policy is revised, or a replacement programme or policy has had sufficient time to become established, start again at (i).

Figure 1: The Evaluation Process



A further element of any programme is ongoing monitoring which operates on a continuous basis as above, except that the changes arising due to departures from targets identified through monitoring are usually purely administrative. To some extent the difference between monitoring and evaluation is therefore a matter of degree, with a series of off-target findings arising from a monitoring system leading to more searching questions through an evaluation.

While the CSF Evaluation Unit was necessarily concerned to draw out the problems associated with evaluation, it concluded that:

Overall, it is important not to forget how much has been achieved through the CSF evaluation process over recent years

in terms of the development and application of evaluation expertise in Ireland.⁵

Indeed, the CSF Evaluation Unit points out that expenditure on evaluation at in or around one percent of total expenditure, is broadly similar across operational programmes.

There are several reasons why evaluation has not taken hold in relation to prisons and related programmes but, looking to the future, there are many factors impacting on the system, which may act to embed evaluation in it.

Firstly, the criminal justice system was largely not in receipt of funding from the EU in the nineties and so was not subject to the rigours of the EU-driven evaluation culture in Ireland. Indeed, if both the prison service and the Probation and Welfare Service were spending one per cent of total expenditure on evaluation, they would be spending £2m on evaluation in the year 2000, with £210,000 of that to be accounted for by the Probation and Welfare Service.

There have been some improvements in recent years, with the advent of a research budget in the Department of Justice, Equality and Law Reform, for the first time in 1998. So enthusiastic was the response that an additional £60,000 had to be added to the original budget allocation of £250,000 before the end of 1998. There has been an allocation of £400,000 for 1999 and the same again for the year 2000. Indeed the present research was funded in major part from these allocations. The existence of some funding must be regarded as a positive signal in itself, and this must be consolidated and developed significantly in the future by the generation of further high quality research output relevant to the needs and challenges of the Irish criminal justice system.

A perusal of projects funded under the Department's research budget suggests a preference for descriptive research in relation to particular areas, including some process-oriented evaluation, and less enthusiasm for evaluation which attempts to measure impacts. In any event, the budget heading is for research and not for evaluation. However, experience gained commissioning and overseeing research projects will be available to the department in due course when it begins to undertake major evaluation projects.

⁵CSF Evaluation Unit, *op. cit.*, p. 37

Secondly, there has always been a real and practical constraint on impact evaluation posed by the paper-based recording systems in many areas, and only partial computerisation in others, under the aegis of the Department of Justice, Equality and Law Reform. In the context of the planned development of new computer systems for the courts, the prisons, the Probation and Welfare Service and the new system being used by the Garda Síochána, the proposed output from objective 77 of the Department's strategy statement – "the rapid, automated production of reliable annual statistics"⁶ to be achieved in the period 1999-2000 – is a worthwhile first step. In implementing any changes to data recording procedures by front line staff to achieve this output, future evaluation needs could be considered, in addition to management information requirements. The feasibility of recording data covering the last number of years on the new system for research purposes could also be explored. The question of allocating appropriate resources would arise if these suggestions were to be implemented. With the development of computerisation and a consistent data-set across the criminal justice system, agency-impact evaluations will become technically easier as time goes by.

However, there is an opportunity arising from the implementation of legislation which should encourage greater use of evaluation. The Comptroller and Auditor General may examine "the systems, procedures and practices"⁷ used to evaluate the effectiveness of operations in Departments and other bodies. When reporting on expenditure to the relevant Dáil committee, the Accounting Officer must describe how the effectiveness of operations is evaluated. Furthermore, a Secretary General and/or any officer who is assigned responsibility and is accountable for functions under the Public Service Management Act, 1997, must ensure among other things that value for money is obtained in relation to those functions. A Secretary General and/or an officer who is assigned responsibility for a function may be required to be called before a committee of either or both Houses of the Oireachtas in relation to any strategy statement

⁶Department of Justice, Equality and Law Reform, 1998, *Strategy Statement 1998-2000: Community Security and Equality*, Department of Justice, Equality and Law Reform: Dublin, p. 79.

⁷Section 9 (2), Comptroller and Auditor General (Amendment) Act, 1993 (Number 8 of 1993).

published and laid before each House. Finally, among the duties of a Secretary General is the requirement to report to the Minister on progress in implementing a strategy statement.

Despite the difficulties referred to, it is to be expected that with time these legislative requirements will translate into more regular use of evaluation as a tool of public service management. It is also possible that the more extensive use of evaluation in relation to EU Structural Funds expenditure may act as an example of good practice or may already have given rise to an administrative culture open to evaluation. In the latest national development plan significant funding has been allocated for rehabilitative work with prisoners and ex-prisoners. If the Department of Finance insists in practice on the same level of evaluation for Exchequer-funded programmes as for EU co-financed elements of the programme, there may be an increasing recourse to evaluation by the Department of Justice, Equality and Law Reform. If this does not happen unprompted, the Comptroller and Auditor General has the power to draw unfavourable comparisons when looking at evaluation systems in that Department compared with other departments, such as the Department of Enterprise, Trade and Employment, which have relatively long traditions of EU funding and EU-funded evaluation units.

Finally, the establishment of a Prisons Authority and a new structure to support court operations with adequate resources to undertake their tasks should free the Department of some of its day-to-day operational responsibilities. Changes to the reporting relationship of the Garda Commissioner to the Department are close to finalisation and an expert group report has recommended agentisation of the Probation and Welfare Service. These developments could divest the Department of many of its traditional operational concerns and permit it to take a more strategic view of the system and to address more critical questions. In addition, if the agencies are expressly charged with monitoring their own activities, the availability of regular monitoring data and management information systems could facilitate the work of the evaluator.

1.6 Background to the Irish prison system

In March, 2000, there were about 3,100 people involved in running the prisons at all levels, with about 2,800 prisoners incarcerated on a typical day, at an annual cost of about £165m.

A few background remarks on the Irish prison system follow, though the reader will need to look elsewhere for fuller descriptions and statistical profiles.⁸ From 1922 onwards the Irish prisons were taken over by the new state and in 1928 the Government abolished the Prisons Board inherited from the British and brought the operation of the prisons into the then Department of Home Affairs, later the Department of Justice. New prison rules were introduced in 1947, following the death of a prisoner after twenty-three days on hunger strike and the report of a delegation from the Labour Party which visited Portlaoise prison in 1946. These rules are still extant today.

As regards prison population, it declined from a daily average of 740 in 1943 to 369 in 1958, the lowest figure ever.⁹ Women made up 15% of the total at this time. In the sixties the prison population began to rise, to 560 in 1965 and then to 1,035 in 1972, remaining relatively constant until the late seventies when it began to rise again. This was in part due to the influx of subversive type prisoners sentenced by the Special Criminal Court from 1972 onwards, many on long sentences. The rise continued in the 1980s and there were 1,900 persons in prison in 1985. In 1980, the temporary release mechanism, introduced as a flexible humanitarian and reforming mechanism under the Criminal Justice Act, 1960, was used to shed prisoners in order to preserve single occupancy in cells. However, in spite of ongoing temporary releases, doubling up had to commence in 1983.

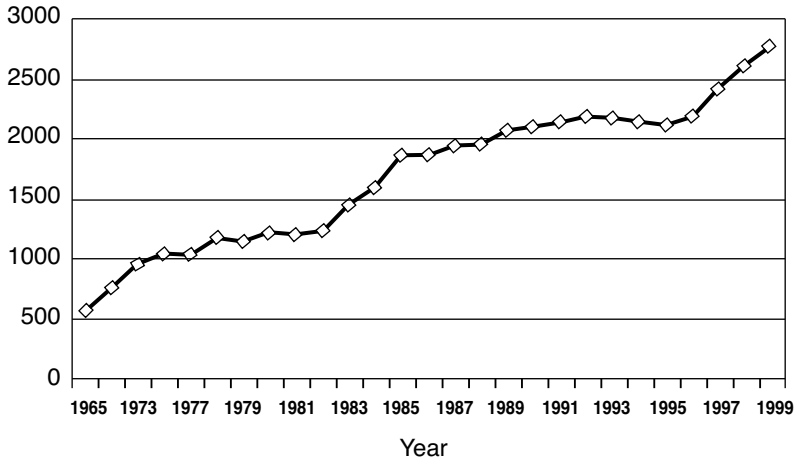
⁸The following material contains the relevant statistical data: Department of Justice, 1994, *The Management of Offenders: A Five Year Plan*, Stationery Office: Dublin; Stationery Office, 1985, *Report of the Committee of Inquiry into the Penal System*, Stationery Office: Dublin, 1985 (known as the Whitaker Report) and in particular the section by Osborough, W.N., "An Outline History of the Penal System in Ireland" (pages 181-191); Stationery Office (1997a) *Report of Prison Service Operating Cost Review Group*, Stationery Office: Dublin; Department of Justice (1997b) *Tackling Crime: Discussion Paper*, Stationery Office: Dublin; Department of Justice (1997c) *Towards an Independent Prisons Agency: Report of Expert Group*, Stationery Office: Dublin; Stationery Office, 1998, *Annual Report, 1997: Department of Justice, Equality and Law Reform*, Stationery Office: Dublin; Tomlinson, Mike, 1995, "Imprisoned Ireland", in Ruggiero, Ryan, Sim, eds. *Western European Penal Systems*, Sage Publications: London; O'Mahony, Paul, 1997, *Mountjoy Prisoners: A Sociological and Criminological Profile*, Stationery Office: Dublin.

⁹See Figures 2 to 4 following and Appendix 1 for greater detail on numbers in custody from 1965 to 1999.

The Whitaker Committee in 1985 included amongst its comprehensive set of recommendations a proposal to cap the number of prison spaces to be provided. It suggested that 500 of the existing prison population could be diverted from prison if its recommendations were followed.¹⁰ In *The Management of Offenders*, published in 1994, the Department of Justice noted a prison population of about 2,150¹¹ and recommended that the total number in prison should not exceed 2,200 to 2,300.¹²

Figure 2: Average daily number of persons in custody in Irish prisons and places of detention: 1965-1999

Numbers



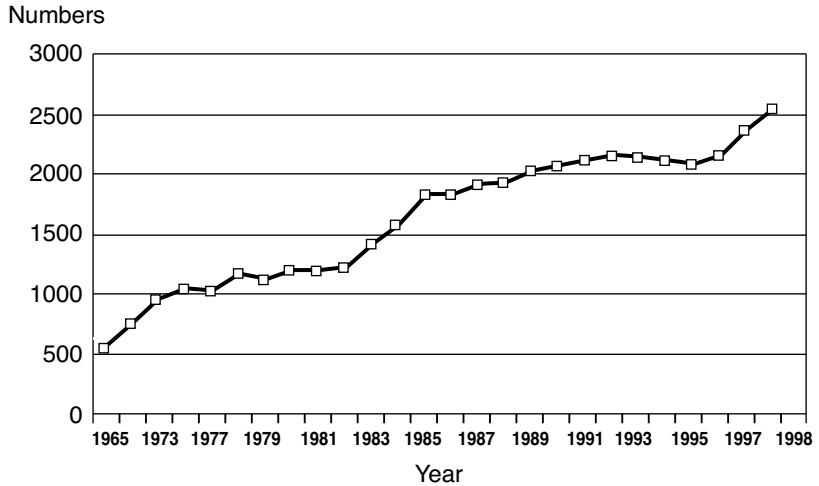
Source: Department of Justice, Equality and Law Reform

¹⁰Stationery Office, 1985, *op. cit.*, p. 17.

¹¹Department of Justice, 1994, *op. cit.*, p. 27 .

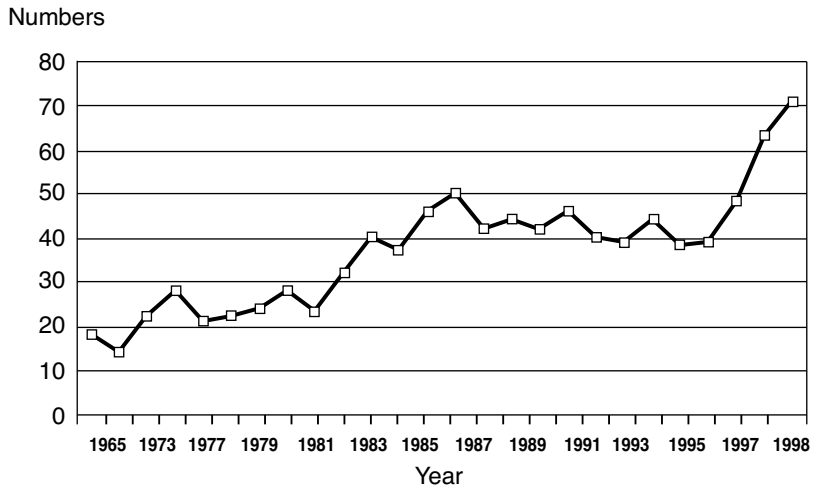
¹²*Ibid.* p. 32 .

Figure 3: Average daily number of males in custody in Irish prisons and places of detention: 1965-1998



Source: Department of Justice, Equality and Law Reform

Figure 4: Average daily number of females in custody in Irish prisons and places of detention: 1965-1998



Source: Department of Justice, Equality and Law Reform

However, in December 1996, 90 offenders were transferred to the newly opened Curragh civilian prison¹³, with a further 60 places becoming operational in 1998 in a new block in Limerick prison and 152 places in the same year in the new Castlerea prison. Women account for between 2% and 3% of the prison population, a low figure by international standards.¹⁴ The Department's strategy statement envisaged the provision of an extra 1,092 spaces in 1998-1999 and a further 1,000 spaces by mid-2002.¹⁵ In May 2000, with places built, being built and about to be built, a decision to build the final 700 spaces of the second thousand was announced. Currently work is continuing on the establishment of an independent prisons authority, first approved in principle by Government in November 1996.

Of course prison did not and does not stand in isolation as an institution of enforced detention. There are also institutions for the detention of children¹⁶ and arrangements for the detention of the insane.¹⁷ These institutions have run in parallel and have overlapped with the prison in relation to client groups.

It is only since the nineteenth century with the ending of transportation that prison became the dominant sanction for criminal acts. It remains so to this day, certainly in terms of resource use. For instance, in 1999, spending on the prisons constituted just under ten times the amount spent on the Probation and Welfare Service of the

¹³Stationery Office, 1998, *op. cit.*, p. 21 .

¹⁴See also Appendix 1; for the history of women in prison generally see Hahn Rafter, Nicole, 1983 "Prisons for Women, 1790-1980", in Tonry, Michael and Morris, Norval, eds, *Crime and Justice: An Annual Review of Research*, Vol. 5, University of Chicago Press: Chicago and London; Zedner, Lucia, 1995, "Wayward Sisters: The Prison for Women", in Morris, Norval and Rothman, David J., eds, *The Oxford History of the Prison – The Practice of Punishment in Western Society*, Oxford University Press: Oxford. For a view of the current international situation, see the relevant chapter in Stern, Vivien, 1998, *A Sin Against the Future: Imprisonment in the World*, Penguin: London.

¹⁵Department of Justice, Equality and Law Reform, 1998, *op. cit.*, p. 38.

¹⁶In relation to the Irish historical setting see Raftery, Mary and O'Sullivan, Eoin, 1999, *Suffer the Little Children – the Inside Story of Ireland's Industrial Schools*, New Island Books: Dublin. In relation to the juvenile reform school in the US see Schlossman, Steven, 1995, "Delinquent Children – The Juvenile Reform School", in Morris, Norval and Rothman, David J., eds, *The Oxford History of the Prison – The Practice of Punishment in Western Society*, Oxford University Press: Oxford.

¹⁷For an account of the Irish historical background see Robins, Joseph, 1986, *Fools and Mad – A History of the Insane in Ireland*, Institute of Public Administration: Dublin.

Department of Justice, Equality and Law Reform, and staffing levels in the former are more than ten times those in the latter. While prisons dominate, given the resources allocated and the significant impact on the lives of the people incarcerated, in fact in Ireland in any one year, there are far more people on the books of the Probation and Welfare Service than in prison at any particular point in time.¹⁸ It may well be that, in reality, considerable funds are also allocated to preventive interventions, but because these are widely dispersed under a number of budgetary headings and under the responsibility of a wide range of disparate organisations, it is not clear that alternatives to prison (including measures aimed at prevention) are being funded to the same degree as prison.

¹⁸ The following quote illustrates the position “On average, on a daily basis, there are approximately 5,000 offenders serving community based sanctions under the supervision of the Probation and Welfare Service, including over 900 offenders who have been required to perform community service by the courts and over 120 offenders on intensive probation supervision. This is about 2,000 more than the average number of persons who are in custody.” Speech by the Minister for Justice, Equality and Law Reform at Moyross, Limerick, 11 July 2000.

History of prison

2.1 Introduction

The conceptual model proposed in relation to evaluation presupposes a certain adaptability in relation to prison and programmes, so that changes proposed or seen as necessary after an evaluation can be implemented. The history of prison spans many centuries and continues to shape the prison of the present day as will be demonstrated below. The option of ignoring history altogether might seem tempting when one reads Hegel's aphorism: "What history and experience teach is this – that people and governments never have learned anything from history, or acted on principles deduced from it."¹⁹ However, an awareness of the history of prison can help inform the evaluator and the funder of evaluation of what is realistically possible at the present time, as well as alerting the evaluator to the experience of previous attempts to change prison arrangements.

It may be possible to make similar, but limited, claims in relation to the history of preventive social programmes and alternatives to prison. However, given the dominance of prisons in the criminal justice system today, the long history of prisons themselves and the space constraints of this paper, it has been decided to concentrate in this chapter on some pointers arising from the history of prison of relevance to evaluation.²⁰

2.2 Pointers from history

Prison dates back to at least 2050 BC, although it was a subsidiary form of punishment almost all of the time since then. The solitary

¹⁹McConville, Sean, 1995a, "Local Justice – The Jail", in Morris, Norval and Rothman, David J., eds., *The Oxford History of the Prison – The Practice of Punishment in Western Society*, Oxford University Press: Oxford. p. 139.

²⁰From the foregoing, it should be clear that it is not the aim of this chapter to give a concise history of prison, nor that it is necessary to make a historian of the evaluator or the policy maker.

cell also has a very long history. As early as the late fourth century AD a papal letter referred to a disciplinary cell in a monastery for errant clergy, in which forced labour took place. Thus the Roman household *ergastulum* for the punishment of delinquent slaves or household members found its way into the monastic setting.²¹ In 1775 Howard, the English Quaker prison reformer, had visited the Silentium, a reformatory for juveniles established in 1703 by Pope Clement XII in San Michele. It had applied the monastic discipline of solitary confinement and silent penance to the reform of prisoners. Through the Maison de Force in Ghent via Howard and Paul's prison in Gloucestershire, Pentonville prison and Mountjoy prison in Dublin, the solitary cell found its way into our modern prisons.²² The architecture of the Midlands prison, the most modern prison in Ireland, is based on the solitary cell. Given the cost and solidity of construction, the single cell seems to be a continuing approach to imprisonment into the twenty first century. Therefore, any evaluation proposal to adopt some form of communal living in prison is constrained to some extent by history and architecture.

However, the relative impermeability of the prison is not as ancient as the solitary cell. When Howard began inspecting prisons prior to the publication of his book *"The State of the Prisons in England and Wales"* in 1777 prisons were chaotic, though not necessarily anarchic places. Those prisoners who could afford it lived in relative comfort, sometimes being able to buy day passes out of the prison, while those without resources suffered. The walls were not much higher than eight feet as most prisoners were chained. Sometimes prisoners could beg from passers by through bars at street level. There was a constant flow of visitors who entered at the pleasure of the jailer. Tradesmen prisoners plied their trade and relatives brought in food daily, as prison food was either inadequate or non-existent. The reformers at the end of the eighteenth century introduced silent, solitary confinement behind high walls. With the provision of county food in the jails, visits were reduced to once

²¹Peters, Edward M., 1995, "Prison Before the Prison – the Ancient and Medieval Worlds", in Morris, Norval and Rothman, David J., eds., *The Oxford History of the Prison – The Practice of Punishment in Western Society*, Oxford University Press: Oxford.

²²Ignatieff, Michael, 1978, *A Just Measure of Pain – The Penitentiary in the Industrial Revolution 1750-1850*, Pantheon: London.

every six months for next of kin.²³ Prisoners were locked in and the public locked out, a situation which still informs the modern prison to some extent. In Ireland a convicted prisoner is now entitled to a single visit every week, which is normally half an hour in duration. However, in the mid-nineteenth century Crofton (see below) introduced open prisons, which persisted for a number of years. More than a century later open prisons were again established in Ireland. Therefore, efforts to increase contact between areas within the prison and with the outside world through EU projects such as Connect in the Mountjoy complex, arising to some extent from evaluation findings in relation to the Training Unit²⁴, do not have such a long historical tradition to overcome.

It was only at the end of the eighteenth century that the prison began to emerge as the primary form of punishment, a situation reinforced with the ending of transportation in 1853.²⁵ In Ireland, the prison population had been a mere 1,700 in 1787, and increased from 5,792 in 1815 to 13,564 in 1818.²⁶ However, moving forward to modern times, the prison population declined to 369 in 1958, its lowest figure ever. In the sixties the prison population began to rise with a further increase beginning in the late Seventies. The prison population is currently approaching the 3,000 mark (see Figures 2 to 4 in chapter 1 and also Appendix 1).

When historical and more recent developments are considered, it can be seen that the number of prison places has changed significantly over time. Therefore, the evaluator may conclude on the basis of research that the level of imprisonment should be higher or lower than it is today, without having to overturn any historical arguments pointing strongly one way or the other.

While a circular theory of penal history would be too simplistic, there are issues that recur. The evaluator may in certain circumstances agree that with the statement "*plus ca change, plus c'est la meme chose*". For instance the thirteenth century ecclesiastical prisons were expensive to run and funding was an issue. They were also

²³*Ibid.*, pp. 34-38; Robins, Joseph, *op. cit.*, pp. 32-33.

²⁴European Social Fund Evaluation Unit, *op.cit.*, pp. 119-123 and 133-138.

²⁵Spierenburg, Pieter, 1995, "The Body and the State – Early Modern Europe", in Morris, Norval and Rothman, David J., *op. cit.*

²⁶Carey, Tim, 2000, *Mountjoy – the Story of a Prison*, The Collins Press: Cork.

badly run until an inspectorate was initiated.²⁷ Funding and the merits of having an inspectorate are both contemporary themes. In England Elizabeth I introduced Poor Laws starting in 1572. These Acts defined the idlers and required them to work on pain of corporal punishment, or hanging for a third offence.²⁸ In the US today this approach recurs as the “three strikes and you are out” rule, which means that a third serious or violent felony conviction leads to a mandatory life sentence.²⁹

However, the most notable alternating themes to recur are the sometimes-conflicting objectives of rehabilitation and punishment. In Dublin the Richmond Penitentiary was opened in Grangegorman in 1820 with the express aim of rehabilitating prisoners. However, it closed again in 1831. Shortly afterwards the tread wheel and piling and re-piling of cannon shot were introduced in Kilmainham, reflecting a more punitive outlook. In 1854 Crofton introduced a radical rehabilitative regime in Ireland, which seemed to work (see below). Jumping forward in time and in another location, rehabilitation was a major force in American penology in the 1960s and 1970s. This phase has been followed by a very punitive emphasis, which has resulted in more than three times as many people in prison in 1995 compared with 1980.³⁰

The evaluator can be assured that public controversy in relation to evaluation results is not only a contemporary phenomenon. Crofton established intermediate or open prisons in Ireland in 1857.³¹ Convicts served an initial period in solitary confinement, then worked in association and earned marks to progress through four stages. After this, 70-75% were found to be suitable to transfer to the open prisons at Smithfield and Lusk in Dublin for tradesmen and Forts Camden and Carlisle in Cork harbour for public works. In the open prisons the prisoners worked with outside employers

²⁷Peters, Edward M., 1995, “Prison Before the Prison – the Ancient and Medieval Worlds”, in Morris, Norval and Rothman, David J., *op. cit.*

²⁸Mc Conville, *op. cit.*, pp. 281-283.

²⁹Stern, *op. cit.*, p. 63.

³⁰Stern, *op. cit.*, p. 61.

³¹Hinde, Richard, S.E., 1977a, “Sir Walter Crofton and the Reform of the Irish Convict System, 1854-61 – I”, in *The Irish Jurist*, Vol. XII, New Series, Part 1, pp. 115-147 and Hinde, Richard, S.E., 1977b, “Sir Walter Crofton and the Reform of the Irish Convict System, 1854-61 – II”, in *The Irish Jurist*, Vol. XII, New Series, Part 1, pp. 295-337.

during the day and returned to lectures and education in the evening in the prisons. After they had proved themselves they were released on ticket-of-leave.

Rev. C. B. Gibson was a public supporter of the intermediate system,³² but while writing a book critical of Crofton he engaged in a compromising correspondence about Crofton's shortcomings with Jebb, Crofton's opposite number in England. Gibson misquoted statistics in the book. In marginal notes made by the Under-Secretary at Dublin Castle, Sir Thomas Larcom, the situation was stated clearly. Of the 2,039 men discharged from the Intermediate Prisons in the period 1856-61, only 3.72% were re-sentenced by 1863. The corresponding figures for the ordinary prisons were 14.5% of 1,509 males. While the Social Science Association contested Gibson's facts and described some of what he had written as "disgracefully false"³³, two English pamphlets supported Gibson. Crofton himself felt impelled to write a pamphlet in turn pointing out the shortcomings of one of those pamphlets.

Nor has the controversy died with the protagonists. Carey³⁴ argues that the excellent results achieved by Crofton were in part due to his superior administration but also in part to the better class of predominantly rural Irish convict, who turned to crime during and after the famine, rather than because of family history or personal predilection, to the better social conditions to which they were released and to the generous financial incentives offered to convicts to emigrate (emigrants did not return to prison in Ireland and were thus counted as reformed in Irish figures).

While an evaluator may not be centrally concerned with the implementation of changes proposed by the evaluation, this is probably a primary concern of the funder of evaluation. If this is the case, then history has a valuable point to make. Charismatic individuals had a major impact while they remained in office, but systems established by them degenerated after their departure. Therefore, a powerful change agent is desirable to bring about improvements

³²Gibson was the Presbyterian chaplain to the prison on Spike Island in Cork Harbour and was initially a supporter of Crofton's. He then disagreed with Crofton's system after his representations to London to be given a house on Spike Island and a pension on retirement failed to produce results. In 1863, he produced a book entitled *Irish Convict Reform: the Intermediate Prisons, a Mistake*.

³³*Ibid.*, pp. 328.

³⁴Carey, *op. cit.*, pp. 112-117.

and systems need to be set in place to protect against the deprivations of time.

In Ireland, the primary example is Crofton, who presided over a period of reform in the Irish prison system (see above) between 1854 and 1862. The system declined steadily after his retirement so that twenty years later a Royal Commission on Irish prisons became necessary.

Earlier, campaigns by a small number of enlightened men, including Fitzpatrick, led to Irish legislation in 1786 establishing an inspector general of prisons.³⁵ Fitzpatrick, as first inspector general, managed to curb most of the abuses, particularly those of the keepers. However, before the reforms were consolidated Fitzpatrick turned his reforming eye to soldiers' diet and their transport by sea and left Ireland in 1793 to take up an army post. It took three years to appoint a successor, Foster Archer, who had no prior knowledge, training or interest in prisons.³⁶

Paul built a prison at Gloucester in 1792 inspired by Howard's views (see below). However, it was only through his personal supervision that the silent regime was maintained because existing staff were difficult to train into the new style of behaviour and more disciplined staff were not to be had. When he retired there was no one to maintain the regime at its full intensity. Shortly after Paul retired in 1818 serious overcrowding meant that more than one person was living in each cell and the system of solitude was finished.³⁷

Maconochie reformed the penal settlement of Norfolk Island in Australia in the 1840s. Norfolk Island was the penal settlement for those convicts transported to Australia who did not abide by the liberal regime, which allowed convicts work in the community. He implemented a system of prisoner self-government and the provision of marks for good behaviour and their deduction for bad behaviour. The more marks prisoners accumulated the sooner they would be released. His system was based on a short initial period of punishment, followed by public works and a third stage of employment on ticket-of-leave. When he gave the prisoners a day off and organised celebrations for them for the Queen's birthday the locals believed he was unhinged. He was dismissed in 1849. Soon Norfolk

³⁵This was forty-nine years before an inspectorate was established in Britain.

³⁶Robins, *op. cit.*, pp. 31.

³⁷Ignatieff, 1978, *op. cit.*, pp. 98-109.

Island had reverted to a reign of terror.³⁸

A further pointer from the history of prison is that outcomes often differed from intentions. Therefore, evaluators and funders of evaluation may find that an evaluation may give rise to unanticipated results. For example, Howard took as his own the motto from Seneca over the door at the Rasphouse in Amsterdam: "My hand is severe, but my intention is benevolent".³⁹ Although Howard believed that unbroken solitude would be too much for prisoners and favoured long periods of associated labour and communal exercise, Paul and others implemented the silent separate system far more rigorously. By the 1790s the reform movement had run its course. One major impact on the system was the committal of political prisoners arising from Jacobin publications and disturbances, some as the result of the suspension of habeas corpus. A campaign against solitary confinement was initiated in 1798 by a number of political prisoners in Coldbath Fields House of Correction in London. Paul was particularly upset that an enterprise founded on Christian philanthropy had been characterised in the common mind as unfeeling cruelty as a result of this campaign. When Pentonville was opened in 1842 the severity of solitary confinement became evident. By 1847 the eighteen months solitary confinement had been reduced to twelve, and further reduced to nine later due to the number of prisoners who experienced mental health problems. By 1854 the influential chaplain of Pentonville admitted that solitary confinement had no power to reform a man from vice to virtue.⁴⁰

The more recent history of Stateville prison in Illinois, USA, provides another example of unintended outcomes. Warden Ragen exercised his role in that prison in an autocratic style based on a strict adherence to rules for twenty-five years (1936-1961). During the succeeding liberal regimes not only did physical conditions in the prison deteriorate, but also violence between prisoners and guards increased and more prisoners were punished. Some of the methods used to reassert control were more draconian than those used by the earlier regime.⁴¹

³⁸Hirst, John, 1995, "The Australian Experience; The Convict Colony", in Morris, Norval and Rothman, *op. cit.*

³⁹Ignatieff, 1978, *op. cit.*, pp. 53.

⁴⁰Ignatieff, 1978, *op. cit.*, pp. 200.

⁴¹Sparks, Richard, Bottoms, A.E. and Hay, Will, 1996, *Prisons and the Problem of Order*, Clarendon Press: Oxford.

Finally, evaluation should be informed by Ireland's own unique history. The use of fasting dates from much earlier than might be expected: in pre-Viking times, an individual of less exalted rank could deploy a public one-day fast, often at the gate of the king's castle, as a powerful lever for obtaining redress in relation to personal grievances.⁴² This is because the concept of personal honour was very important for Irish kings and a loss of face in a public forum was to be avoided. At the beginning of the twentieth century, the prison hunger strike, also used by the suffragettes, became a potent political weapon in the War of Independence. Though the threat of hunger strike remains in ordinary Irish prisons to this day, its full symbolic force remained dormant until it was used by republican prisoners in Northern Ireland in the early 1980s. Because of its historical connotations it is probably a more potent weapon in Ireland than in other countries.

An ancient Irish provenance also attaches to the idea of the fine as reparation for an offence. In pre-Norman times payment could atone for almost any crime, including murder. As late as 1537 the jurors of Waterford complained in a report that Lady Catherine, widow of Lord Power was releasing thieves on the payment of a means related fine. The ancient Irish texts seem to be silent in relation to prison as a punishment with the exception of the holding of a hostage by a wronged party until a fine was paid.⁴³ In modern days relatively large numbers of fine defaulters are being imprisoned. Perhaps the rediscovery of the historical precedent for fines might direct evaluation towards exploring the development of a more robust modern Irish system of fines and reparation as alternatives to prison.

The long history of Irish political prisoners dates back to the incarceration of many of those involved in the 1798 rebellion. In the newly established state, the internment of republicans was introduced, on seven occasions, sometimes for very short periods.⁴⁴ From 1972 convicted subversives have been imprisoned mainly in Limerick

⁴²MacNiocaill, Gearóid, 1972, *Ireland Before the Vikings*, Gill and Macmillan: Dublin.

⁴³Kelly, Fergus, 1988, *A Guide to Early Irish Law*, Irish Institute of Advanced Studies: Dublin.

⁴⁴The occasions were: up to 1924, 1926, 1931, 1933, 1939 (along with the death penalty for treason), 1940 (opening of the Curragh, Co. Kildare) and in 1957-61, again in the Curragh. Lyons, F.S.L., 1973, *Ireland Since the Famine*, Fontana: Glasgow.

and Portlaoise. The concept of the political prisoner, therefore, has had currency for a considerable time in Irish history, albeit with different emphases depending on the time and the point of view.

An inspectorate of prisons was not established in Britain until 1835, at which time the Irish experience was quoted as a precedent. Crofton's open prisons were ignored in Britain but studied and commented on by many continental penologists. After the suspension of transportation in 1853 the English prisons became overcrowded and the first ticket-of-leave man was sent home amid general public panic. The next eleven years saw riots at the ending of transportation within both male and female prisons and public anxiety without. Meanwhile those on ticket-of-leave were effectively barred from employment and vilified in the press.⁴⁵ This was in sharp contrast to the positive Irish experience of the ticket of leave in Crofton's day (see above).

The fact that Ireland has its own history of imprisonment with unique features is important in the context of evaluation. Evaluations from other countries do have much to teach us, because our own culture of evaluation in relation to prisons and related areas is under-developed. However, an uncritical copying of outside experience would appear to be imprudent without adapting that experience to our current situation. In order to understand the current situation, an appreciation of the relevant general history and of the particularities of the Irish experience are necessary.

2.3 Lessons from history for the evaluation process

The central objective of this paper is to demonstrate that evaluation is possible and worthwhile. This chapter has highlighted various lessons from the history of prisons, both in Ireland and world-wide, which should inform the evaluation process, and ultimately improve it. Some tentative pointers for the evaluator of prisons and alternatives, and for the funder of evaluation, emerging from this chapter are as follows.

- i) Evaluators should address the issue of past experience with the subject matter of their research: some elements of prison are very old and may be more difficult to

⁴⁵Ignatieff, 1978, *op. cit.*, pp. 200.

change as a result. Therefore, any rationale for change emanating from evaluation findings may meet with resistance, be it in the form of inertia in the system and/or resistance to change. In contrast, other elements of prison may not be so old, and this can allow the evaluator to propose changes, knowing that historical inertia and opposition may not be an obstacle to implementation.

- ii) Evaluators should be aware that some issues recur in relation to initiatives and practices in prisons and in the criminal justice system, and a consideration of the historical experience facilitates a critical analysis of contemporary proposals for change.
- iii) Evaluators should expect controversy and animated debate on their analysis and findings on prisons. Seemingly detached evaluation was the subject of public controversy almost a century and a half ago. An awareness of the possibility, and maybe even an expectation, of controversy can help the evaluator maintain a detached approach, but can also help alert the evaluator to avoid statements which polarise the debate and prevent open discussion.
- iv) Evaluators should be aware that charismatic individuals have had a major impact on prisons while they remained in office. This highlights the need not only for a powerful agent of change to implement the results of an evaluation, but also for evaluation to frame proposals to avoid the apparent tendency for reformed systems to degenerate over time.
- v) Evaluators should be careful when attempting to graft changes from other jurisdictions in an unreflective way. Ireland has its own unique history. Looked at from a positive standpoint, local history may make the system more amenable to other changes, which may not be as favourably received in other jurisdictions with different histories.

Understanding prison and evaluation

3.1 Introduction

This chapter takes the following question as its point of departure: do perspectives from the sociological literature on

- i) the failure of prison
- ii) the analysis of power as exercised in prison and as the determinant of the knowledge which it is possible to produce
- iii) the purposes of prison

undermine any attempt at evaluation or require the nuancing of the concepts, processes and models used in evaluation? It will be argued in this chapter that an engagement with this literature helps to define where the evaluation effort in relation to prison and its alternatives is best focused. Consequently, the findings and arguments contained in this literature do have an impact on how evaluations in this area should be conducted.

The first question to be considered is the so-called failure of prison and arising from that the evaluation of changes in rates of recidivism associated with different interventions. More fundamental questions in relation to how power is exercised in prison and as a determinant of the generation of knowledge, including knowledge arising from evaluation, are then examined. The fatalism engendered by Foucault's analysis of power and the role of evaluation in finding a way beyond this fatalism is described. An analysis of the purposes of prison leads to the conclusion that the scope of evaluation needs to be extended beyond the prison in order to produce relevant findings to inform policy.

3.2 Foucault and the failure of prison

The model of evaluation proposed in chapter 1 envisages evaluation being used as a mechanism to refine, improve or replace programmes. If it is argued that prison is a failure and impervious to

change, then the evaluation of prison would seem to be a relatively uninteresting, depressing and probably wasteful use of resources, since there would seem to be little to gain from assessing a policy programme which is acknowledged to have failed. Foucault claimed that prison was, and continues to be, a failure. He identified six critiques of prison, which were current in the literature in the middle of the nineteenth century, a time when prison was coming to the fore as the primary punishment. It can be argued that these critiques are still current by juxtaposing quotes from recent Irish publications, which are apposite or supportive. In the box below, the statements in italics are from Foucault and the quotes are from Irish publications.

Box 1: Foucault's critiques and the Irish prison system

Prisons do not diminish the crime rate: ⁽ⁱ⁾ "If there was one point on which there was virtual unanimity, it was that imprisonment is not a successful strategy for reducing crime."⁽ⁱⁱ⁾

Detention causes recidivism; those leaving prison have more chance than before of going back to it: "It seems clear that there is a vicious cycle of imprisonment/release/further crime/ imprisonment that applies to the majority of those who are locked up and it is in society's interest to find some way of breaking the cycle."⁽ⁱⁱⁱ⁾

The prison cannot fail to produce delinquents. It does so by the very type of existence it imposes on its inmates: "The possible rehabilitative effects of education, training, welfare and guidance are offset by the triple depressant of overcrowding, idleness and squalor which dominates most Irish prisons."^(iv)

The prison makes possible, even encourages, the organisation of a milieu of delinquents, loyal to one another, hierarchised, ready to aid and abet any future criminal act: "Indeed, for many it (prison) can be the school which educates inmates to graduate to more serious crime."^(v)

The conditions to which the free inmates are subjected necessarily condemn them to recidivism: "As a result, after even a relatively short term in prison, it can be very difficult for offenders to restart a normal life, making it much more likely that they will turn to crime."^(vi)

Lastly, the prison indirectly produces delinquents by throwing the inmate's family into destitution: "Such deprivations and constraints are not all a prisoner suffers: they are usually accompanied by social stigmatisation for life ...

Box 1: Foucault's critiques and the Irish prison system contd.

and, in many cases, irretrievable breakdown in family life and relationships."^(vii) "While having a criminal father or a criminal brother will, on the whole, increase the chances that an individual will be involved in crime, the relationship is only of moderate strength."^(viii) "about half of the sample (of prisoners in Mountjoy), who came from unusually economically deprived home backgrounds."^(ix)

- (i) The six statements are from Foucault, Michel, 1977, *Discipline and Punish: The Birth of the Prison*, Penguin Books: London, pp. 264-8.
- (ii) Institute of Public Administration, 1998, *National Crime Forum Report*, Institute of Public Administration: Dublin, p.139.
- (iii) Stationery Office, 1985, *op. cit.*, p. 83.
- (iv) *Ibid*, p. 90.
- (v) Institute of Public Administration, *op. cit.*, p. 139.
- (vi) *Ibid*, p. 145.
- (vii) Stationery Office, 1985, *op. cit.*, p. 38.
- (viii) O'Mahony, Paul, 1997, *op. cit.*, p. 50.
- (ix) *Ibid.*, p. 22.

Foucault further claimed that the fundamental nature of prison has persisted over time. In support of this contention he described seven fundamental principles of the prison, which he illustrated with quotes from reports in the middle of the nineteenth century and in 1945, concluding that they reappear almost word for word in any period of reform. Indeed, it is possible to provide quotations from the contemporary *The Management of Offenders*⁴⁶ and in particular from the draft prison rules in that publication to show that these principles also characterise the current Irish prison system.

The seven principles are as follows. Prison is intended to correct and rehabilitate the offender. To help control the prisoner, he or she is classified. Small privileges are withdrawn for bad behaviour and a privilege (remission) is granted for good behaviour. Work in prison is an obligation and a right. Education is provided in the prison. Technical expertise such as that provided by the psychiatrist, the doctor, the welfare officer and the psychologist are drawn on to help supervise the offender. Outside bodies such as the probation and welfare service and voluntary bodies are called on to supervise the offender when he or she leaves prison.

⁴⁶Department of Justice, 1994, *op. cit.*, p. 22.

The conclusion from Foucault is that prison is a failure because of its intrinsic nature and that prison has been unchanging in its fundamentals since it became the dominant form of punishment a century and a half ago. It would appear, following Foucault, that evaluation of prison is pointless as prison is a failure and therefore, the conclusion of evaluation research is pre-determined. In addition, putting forward any proposals for change would appear to be pointless if the unchanging nature of prison over time is accepted.

Five of the six arguments advanced by Foucault relate to personal recidivism and his first fundamental principle of prison relates to rehabilitation. It is against the standard of recidivism rates that the failure of prison is to be measured in this context. Not all prisoners are or become recidivists. Success in relation to those who spent one period in prison never to return again is not considered by the proponents of the failure of prison argument. The partial success of interventions which lead to relative reductions in rates of recidivism is also not considered. Typically interventions produce only marginal reductions in recidivism. However, these marginal reductions are better than no reductions at all. The point has been made that if a drug on clinical trial had even a fraction of the impact that effective programmes addressed to reducing recidivism have, then the drug would immediately be made more widely available on ethical grounds to reduce human suffering while trials were finalised.⁴⁷

The argument about the failure of prison does not appear to be significantly modified by partial successes suggested by evaluation. It is grounded in deeper theories about the nature of power, which are considered in the next section.

3.3 Foucault, power and knowledge

Power is central to Foucault's thought.⁴⁸ For Foucault power is generative, without power we would not have social structures as they

⁴⁷McGuire James, ed., 1995, *What works: reducing re-offending – guidelines from research and practice*, Wiley: Chichester.

⁴⁸See Foucault, *op. cit.* For critiques of Foucault, see Garland, David, 1990, *Punishment and Modern Society: A Study in Social Theory*, Clarendon Press: Oxford; Ignatieff, 1978, *op. cit.*, Ignatieff, 1983b, "Total Institutions and Working Classes: A Review Essay", in *History Workshop: A Journal of Socialist and Feminist Historians*, Issue 15; McGowen, Randall, 1994, "Power and Humanity, Or Foucault Among the Historians", in Jones, Colin and Porter, Roy, eds., *Reassessing Foucault: Power, Medicine and the Body*, Routledge: London.

exist. Power is also all-pervasive, there is no escaping it. In a sense power is a machinery no one owns. Instructions may be passed down the hierarchy to the individual prison officer, but his or her power derives from the structure of the prison. This system, like all systems, has an inertial logic, which makes it extremely difficult to change. Power is diffused throughout the system so that each actor in the system, even those at the top, feels powerless to bring about change. Power is not seen as one explanation among others but as the fundamental explanation of why things happen.

In examining the prison, Foucault focused on where power reaches into the very grain of individuals. This might be termed a microphysics of power. Training of the body is brought about by ever more subtle means. Timetables break up the prisoner's and the guard's day. The granting and withholding of small privileges are further means of exercising power and control. The operation of these subtle systems is the essential mechanism of power. Foucault saw the occasional exercise of physical restraint, a seemingly strong manifestation of power, as a failure of the fundamental power mechanisms. He saw the prison as a coercive institution, where punishment was inflicted and power was exercised, secretly and autonomously, largely cut off from the social and judicial worlds.⁴⁹

For Foucault, the knowledge which it is possible to produce, including for the purposes of this paper the knowledge generated by evaluation, is dictated by the disposition of power in society. For instance, as criminology emerged as a science it took as its subject the recidivist locked in prison. Particular power relations had produced the prison population and other power relations within the prison made it not just a place of confinement, but also a place of observation and study. Records existed in prisons which criminology used as its subject matter. It took a long time for criminology to revisit its initial thoughts on the social origins of crime because data did not exist on this topic and gathering it was much more difficult than studying those in prison. More fundamentally, to question the social order was potentially more disruptive of existing power relations than studying prisoners. For Foucault the ivory tower of academe does not exist. Academic inquiry is constituted by power, as is evaluation. Therefore, it is naïve to regard any evaluation as an objective statement of the situation, as far as Foucault is concerned.

⁴⁹Foucault, *op. cit.*, pp. 129-30.

A number of themes were taken from Foucault and were stated and restated in a growing literature. The nihilism at the core of Foucault's thinking was amplified by criminologists and Matthews was one of those who summed up the result:

This is the impossibilist stance in a nutshell. Prisons are a disaster, community corrections are invariably worse, realistic reform cannot be achieved without a fundamental transformation of the social structure, which is unlikely to occur in the foreseeable future, so there is nothing that can be done.⁵⁰

For every solution that the well-intentioned reformers could develop, the criminologists could identify associated problems.

Ignatieff argued⁵¹ that the social historians of the 1970s, himself included, put too much emphasis on the concept of power and on the relations of domination and gave too central a role to the state in relation to punishment. He called for empirical research around these topics. An author who addressed this question is the subject of the next section.

3.4 McMahon, evaluation and moral action

McMahon⁵² studied prisons in Ontario, a province that was used as a paradigm of net-widening. Net-widening meant that interventions which were meant to be alternatives to prison were used as an addition to prison. People who would not have been sent to prison when it was the sole sanction were subjected to supposed alternatives to prison. The result of net widening was that more people were subject to sanction when supposed alternatives were made available.

⁵⁰Matthews, R., 1987, "Decarceration and Social Control: Fantasies and Realities", in Lowman, J., Menzies, R.J., and Palys, T.S., eds., *Transcarceration: Essays in the Sociology of Social Control*, Gower: Aldershot. p. 127.

⁵¹Ignatieff, Michael, 1983a, "State, Civil Society and Total Institutions: A Critique of Recent Social Histories of Punishment", in Cohen, Stanley and Scull, Andrew, *Social Control and the State: Historical and Comparative Essays*, Martin Robertson: Oxford; pp. 75-101 (pages 77-99 in particular); Ignatieff, 1983b, *op. cit.*, pp. 167-173.

⁵²For an account of her work, see McMahon, Maeve, 1990, " 'Net-widening': Vagaries in the Use of a Concept", in *The British Journal of Criminology*, Vol. 30, No 2, 121-149; McMahon, Maeve, 1992, *The Persistent Prison: Rethinking Decarceration and Penal Reform*, University of Toronto Press: Toronto.

McMahon found that data about Ontario had been analysed in a crude fashion, sometimes making simple errors such as confusing committals and prison places, and then the results were over-generalised. She found that in fact there had been a reduction in the prison population in Ontario in the post-war period, as a result of alternatives to prison. She also noted significant developments of alternatives to prison throughout the world in the 1950s and 1960s.

McMahon agreed with Foucault that power and the formation of knowledge intersect and reinforce each other. However, she also concluded that one's frame of reference defined and limited the story that one could tell, or even what one could see. She noticed that social science tended to dwell on ominous, rather than admirable, aspects of developments. When one asked which forms of power were preferable, given that power is all-pervasive, there was no answer given. It seemed that all penal control was bad and again borrowing from Foucault's critique, the most recent proposals were the worst of all.

As against this nihilism she posed a new question: have there been developments of penal policy, even temporarily, where progressive aspects were to the fore? She asserted that a simplistic optimistic perspective on rehabilitation is not justified, but there have been times when rehabilitation has had positive impacts.

To the question what, if anything, should be done⁵³ McMahon gave three responses which have definite implications for evaluation. Her first response was that "an important task is to develop concepts which facilitate analysis of modification, emancipation, and progress"⁵⁴ in the modern penal system. It is the argument of this Blue Paper that evaluation is one intellectual means for analysing what works and what is progressive rather than succumbing to a nihilistic view obtaining before Foucault and McMahon. This argument had been grasped and acted on in Britain.

Academic consideration of prisons and crime which generate questions rather than answers, coupled with debates among the general population which produce more heat than light, can give rise to a certain perplexity on the part of policy makers in seeking to address complex policy problems. Contention between proponents of different theories did not occur for the first time with the advent

⁵³McMahon, 1992, *op cit.*, pp. 21.

⁵⁴McMahon, 1990, *op cit.*, pp. 145.

of the new right⁵⁵ and the new left,⁵⁶ or with Foucault, Ignatieff, Matthews and McMahon. One response to earlier debates in Britain was the establishment of the Home Office Research Unit in 1957, and the establishment of the Institute of Criminology at Cambridge independent of the Home Office in 1961. This marked the beginning of a pragmatic approach to criminology and was known as administrative criminology. It avoided theory building and clinical studies of the causes of crime, preferring to pursue knowledge which could be obtained more readily and could have a more immediate impact on the policy process.⁵⁷

Such an approach sits very easily with the focus of the present study on evaluation as a tool to assist in decision-making and to support change. No less than five of the seven case studies in the next chapter⁵⁸ are attributable directly to either the Home Office (crime prevention – section 4.3; unit fines – section 4.4; and incapacitation – section 4.7) or to Cambridge, funded by the Home Office (intensive supervision in the community – section 4.5; and order and control in prison – section 4.8).

McMahon's second response to the question of what, if anything, should be done was that there is a need to clarify the values and sociological indicators underlying desirable developments in the penal realm. She called on criminologists to move more deeply into the areas of social and moral philosophy, because neglect of values led to a political void rather than a vision. Foucault failed entirely to consider the intentions of individuals and in particular any personal ethical values or compassionate concerns, which historians see as causes of change. For Foucault these are at best incidental, and at worst covers for new uses of power. He also

⁵⁵Tame, Chris R., 1991, "Freedom, Responsibility and Justice: The Criminology of the 'New Right'", in Stenson, Kevin and Cowell, David, *The Politics of Crime Control*, Sage Publications: London.

⁵⁶Young, Jock, 1997, "Left Realist Criminology: Radical in its Analysis, Realist in its Policy" in Maguire, Morgan and Reiner, eds. *The Oxford Handbook of Criminology*, Oxford University Press: Oxford.

⁵⁷Garland, David, 1997, "Of Crime and Criminals: The Development of British Criminology", in Maguire, Morgan and Reiner, eds. *The Oxford Handbook of Criminology*, Oxford University Press: Oxford.

⁵⁸The case studies in the next chapter were selected according to specific criteria to show a broad range of methodologies and to highlight different approaches in relation to prevention, prison and community sanctions.

neglected social activity, much of which is based on co-operation, reciprocity and the gift relationship.⁵⁹ The issue of values or moral choices and evaluation is considered below (section 6.4).

McMahon's third response to the question what, if anything, should be done was that "more consideration of the experiences of those subject to imprisonment and alternatives is also required."⁶⁰ The views of those subject to imprisonment are contained in the case study on order and control in prisons (section 4.8), and, to a lesser extent in the case study on boot camps (section 4.6). The views of the young people and their parents were an important element of the evaluation of intensive community supervision for young offenders (section 4.5).

Having considered the responses to the failure of prison argument, the task of evaluation in the prison context might be restated or redefined in the following terms: given that the objective of prison is to rehabilitate and reduce recidivism, its purpose is to examine programmes to establish their effectiveness or otherwise in achieving these goals. However, there is an assumption that the sole purposes of prison are rehabilitation and recidivism. The first step in the model of evaluation proposed in chapter 1 is the identification of the objective or objectives of the programme. The next section considers other objectives of prison, apart from rehabilitation and the reduction of recidivism.

3.5 Purposes of prison

For Foucault prison remained an instrument of power.⁶¹ He saw it as a failure in the context of a rehabilitative purpose. However, there are other views about the purpose of the prison, and different explanations for its persistence. Alternative purposes relate to prison as functioning as a deterrent to crime, as a place of punishment, as an institution to which there is no alternative and as a dumping ground.

The deterrence purpose may be stated as follows: the incarceration of the individual is intended to deter him or her from committing further crimes (particular deterrence) and also to deter the population at large from imitating his or her criminal behaviour (general

⁵⁹Ignatieff, 1983a, *op. cit.*, pp. 87-88 and 98.

⁶⁰McMahon, 1990, *op. cit.*, pp. 145.

⁶¹On the purposes of prison, see Garland, 1990, *op. cit.*, chapters 7, 8 and 12.

deterrence). Another purpose is incapacitation. While the individual is in prison, he cannot engage in criminal activity outside prison (see case study at section 4.7).

Durkheim suggests that prison can represent a non-rational and emotive desire by the population at large to punish those who break the law and to exclude them from the community, in spite of the long-term costs. It can be argued that while prison may not succeed as a crime prevention mechanism, it is successful in inflicting punishment in the form of hardship, deprivation and personal suffering (see chapter 2). It may serve as a socially acceptable form of retribution against the individual.

With the ending of the death penalty and transportation, only prison remains as the ultimate sanction. Furthermore, prison is capable of dealing with recalcitrant individuals who refuse to cooperate. It may also be that the investment in prisons is such that it would be very costly to abandon them and develop alternatives. In this context the justification for prison is that it would be economically problematic to stop using it and use alternatives instead.

For Foucault the prison in its fundamental reality was a machine or technology for social control. However, this is an unduly mechanistic view of the prison. Prisoners resist the regime (see the case study on order and control in prisons at section 4.8); society has views on punishment, as do politicians, administrators, those who control the finances, those who work in the prisons and would-be reformers. Therefore, a more apt description of the environment in which the prison survives would be a micro politics of power where the different forces contend, make compromises and influence the prison.

Some researchers⁶² on control and order in maximum-security prisons believe that Foucault's account of power lacks the necessary sense of pathos. Garland sees punishment in prison as a necessary evil, and also a tragedy beset by irresolvable tensions. Social institutions like the prison usually contain within themselves traces of the contradictory functions they are expected to fulfil by the different interest groups.⁶³

An important point in relation to a consideration of the objectives of prison is the clustering of extreme personal adversity in the lives

⁶²Sparks, Bottoms and Hay, *op. cit.*, pp.354.

⁶³Garland, 1990, *op. cit.*, pp. 282 and 292.

of some individuals. It is known that the earlier a boy offends the more likely he is to become a multiple offender.⁶⁴ The case study on protecting very young children from delinquency (subsection 4.2.3) shows that there are chains of risk factors, which interact and make negative results increasingly likely. A very striking aspect of a comprehensive profile of the limited population of Mountjoy prisoners⁶⁵ was the clustering of extreme personal adversity. Those who had already experienced many disadvantages were much more likely to experience more personal adversity in prison than those who had less severe experiences.

Rather than prison itself being the failure, its purpose might be characterised as a container of last resort for those whom society has failed or who have failed in society. Prison can be seen as a temporary repository for those whom other social institutions have failed to socialise or contain, or for those who are too troublesome to ignore.

3.6 Conclusion

The continuing failure of prison to eliminate recidivism and prevent crime may be understandable. After all, inducing conformity with social norms lies largely outside the scope of the prison, in families, schools and peer groups of young people. Therefore, looking at prison in isolation and evaluating prison in isolation gives a distorted view. It is essential for policy makers to broaden their view to be aware of the other interventions put in place to address a range of personal adversity at a number of ages. Evaluations can show which interventions have positive impacts on criminal behaviour and advance the debate from the level of political slogans such as "tough on the causes of crime", to the focussing of resources on actions which are shown to have some effect. Evaluation has a key role to play in a continuing process to refine those interventions and policies which seem promising, to replace those which serve no useful function and to develop new programmes and policies in line with new understanding and new circumstances.

The high cost of incapacitation as a means of preventing crime (subsection 4.7.2) and the high absolute cost of a prison place

⁶⁴Farrington, David P., 1996, *Understanding and Preventing Youth Crime*, Joseph Rowntree Trust, York Publishing Services: York.

⁶⁵O'Mahony, P., *op. cit.*, pp. 133-155.

provide a strong motivation to answer the question: is there a more cost effective way of dealing with those who commit crime? This is an important question which evaluation can help to answer.

Including case studies from a wide range of areas in the next chapter is one way of demonstrating the relevance and usefulness of evaluation to the formulation of policy. It also demonstrates that evaluation is possible and is a versatile tool.

Case studies

4.1 Introduction

This chapter attempts to demonstrate that there are examples of evaluations and evaluation methodologies which have produced useful results in relation to prison, preventive social programmes, and alternatives to prison. It has been argued in the last chapter that the policy maker would be well advised to consider the ways in which evaluation might be used to explore the relative merits, costs and demerits of a wide variety of interventions to assist in deciding on the best allocation of resources to tackle criminal behaviour. This conclusion arises from a consideration of the literature on the failure of prison, the functions of prison, the high cost of incapacitation as a response to crime and the relatively high cost of a prison space in comparison to places on preventive and social programmes and community based sanctions.

While conducting research on early school leavers⁶⁶ the author was struck forcibly by the consistency of the message from practitioners and policy makers alike: intervention at the earliest possible stage is essential.

The Forum was strongly impressed by the virtual unanimity of the experts it consulted, in stressing the importance of prevention.⁶⁷

This evidence on early school leaving is reinforced by the message of the case study on protecting very young children from delinquent behaviour (subsection 4.2). There is a consensus that the early age at which anti-social acts begin is typical of the chronic offender.⁶⁸ The question of early prevention is emphasised. Therefore, when sourcing

⁶⁶National Economic and Social Forum, 1997, *Early School Leavers and Youth Unemployment*, Forum Report No. 11, National Economic and Social Forum, Dublin.

⁶⁷*Ibid.*

⁶⁸Farrington, D. P., *op. cit.*, p. 3.

examples of evaluation in relation to prevention for this paper, the net was cast widely. It is suggested that the arguments already put forward would support the recommendation that policy makers take a holistic or systemic view when approaching evaluation in relation to custodial or community sanctions and look first at prevention.

In selecting case studies another criterion adopted was to ensure a broad range of evaluation methodologies. The aim is to show that evaluation is possible, is useful and is versatile in relation to subject matter and methods or tools used. No Irish case studies were chosen, given the underdeveloped state of evaluation in this area in Ireland, the likelihood that the limited Irish research would be familiar to policy makers here, and the wealth of evaluation studies available elsewhere.

Geographical diversity was not one of the selection criteria for the case studies. Only material in English was considered and, therefore, the case studies selected are English and American.⁶⁹

Given the author's background as a career civil servant and that this Blue Paper was undertaken for the Policy Institute, it is not surprising that there was an implicit bias towards an administrative criminology perspective. The focus of administrative criminology (see explanation of administrative criminology in section 3.4 above) is on finding solutions to problems rather than formulating theories of crime, and the former approach is more likely to be of interest to those, such as public servants, charged with resolving problems in the short term, rather than only understanding the problems. This bias towards administrative criminology became explicit when the sources of the case studies were considered.

The focus of the present study is evaluation itself. Therefore, the substantive findings of the case studies are not to be taken as a set of policy recommendations for the Irish criminal justice system. They may, however, prove useful in provoking thought and discussion. Before looking at the seven case studies in depth, Box 2 below contains a brief paragraph on each one, outlining the methodology used and mentioning one or two major findings, thus allowing the reader to find the case study of particular interest.

⁶⁹Many articles from Australia, New Zealand and Canada were not readily available within the timescale of the research, although McMahan, referred to in the previous chapter, worked in Canada and studied the system in Ontario.

There are two possible topics which space and time conspired to exclude. The first is an evaluation of an employment programme for ex-offenders. Because of their prison record obtaining legitimate employment is made more difficult for ex-prisoners, and in the absence of employment, offenders are more likely to return to crime. A case study on this topic would have completed the cycle. However, it is possible to look at the historical section and the work by Crofton in the middle of the nineteenth century as a preparation for the world of work which was evaluated through comparison of those released from the open prisons with those released from other prisons (see chapter 2). There are of course more modern examples.⁷⁰ It would also have been desirable to include a case study on restorative justice as another alternative to prison in some cases and as an element of rehabilitation for prisoners in other cases. The primary aim of restorative justice is to make good in some way the damage to society in general and to the victim in particular caused by a criminal act.

The main point made in this chapter is that evaluation is possible, relevant and useful, concerning prison and also in many other related areas. Indeed, it is strongly suggested that evaluating prison alone without complementary evaluations of other areas would tend to give a very incomplete and probably misleading picture.

A more detailed account of each of the seven case studies now follows. The same format is used for each of the evaluations. There is a short introduction on the background followed by a discussion of the methods used. Next there is an account of the main findings and in conclusion there is a general comment on each evaluation and its findings in relation to the Irish context.

Box 2: Summaries of Case Studies discussed in Chapter 4

Case Study 1: Prevention

The first case study (section 4.2) related to interventions which targeted children aged zero to five in an effort to prevent chronic delinquency and subsequent chronic recidivism. The method used was narrative meta-analysis and selective meta-analysis, a form of summarising research findings in a research field which provides a good overview of what seems to work and why. However, in

⁷⁰European Social Fund Evaluation Unit, *op. cit.*, pp. 76-84 and 41-142.

Box 2: Summaries of Case Studies discussed in Chapter 4 contd.

summarising, much detail is lost; therefore careful and critical reading is required. Questions may be asked about the rigour of the search methods used to find relevant literature, the author's level of familiarity with the studies summarised and his or her care in relation to drafting. The study found that targeting known risk factors helped make for a successful intervention. In the most successful interventions considered, the child's cognitive development and the parents' parenting skills and educational and employment aspirations for themselves were supported and developed.

Case Study 2: Inter-agency crime prevention

The second study (section 4.3) looked at the process involved in inter-agency crime prevention activity, rather than on the impact of the activity on the crime rate. This focus on how things were done and the ways people and agencies worked with or against each other would complement an evaluation of the impact of the activities. The study did not endorse any one form of leadership, and found that effective co-ordination tended to be labour intensive and time consuming and required considerable organisational skills and appreciation of inter-agency and intra-agency politics.

Case Study 3: Fines

The evaluation on unit fines (section 4.4) considered before and after examinations of official records to look at the impact of a pilot programme which was about to become a national system. The evaluation was very positive, overly so as it turned out in practice. The case study highlighted the dangers of generalising beyond the research data in drawing conclusions and of taking undue comfort in an evaluation of a pilot programme when the system introduced nationally was significantly different from that evaluated.

Case Study 4: Community supervision for young offenders

Intensive community supervision for young offenders was evaluated using outcome, process and cost studies (section 4.5). There was comprehensive data collection, drawing on interviews, supplemented by official records and documentation. Statistical testing methods were also used to validate the findings. The study tentatively concluded that intensive supervision in the community was modestly better than prison in reducing recidivism. It also concluded that intensive supervision was more effective than prison in developing the participants' social ties, which it was expected would tend to reduce offending.

Box 2: Summaries of Case Studies discussed in Chapter 4 contd.

Case Study 5: Boot camp

The boot camp evaluation (section 4.6) found that the tougher regime had no major effect on recidivism compared with prison and had neither a general deterrent effect on the population at large nor a particular deterrent effect on participants. The method was based on data collection from boot camps and prisons, supposedly statistically matching local prison populations with corresponding boot camp populations to form control groups.

Case Study 6: Incapacitation

The case study on incapacitation (section 4.7) is an evaluation of a system objective – the prevention of crime in the community by the prisoner while he is in prison. Using a model and supplementing those findings with empirical data on samples of offenders it was found that a 1% reduction in the crime rate would require a 25% increase in time spent in prison.

Case Study 7: Control and order

The evaluation on control and order in high security prisons (section 4.8) used extensive fieldwork involving interviews with prisoners and prison staff and many hours of direct observation in the prisons selected. Documents and statistics were also consulted. A review of the literature produced a general introduction to the problem of order and control in prisons. The method employed was primarily anthropological. The importance of staff/prisoner relations was stressed in the findings. The legitimacy of the prison system in the eyes of prisoners was also emphasised.

4.2 Protecting very young children from delinquent behaviour

4.2.1 Background

The first case study in relation to evaluation and prisons relates to children from conception to the age of five approximately.⁷¹ It is included because there is a consensus that the early age at which anti-social acts begin is typical of the chronic offender. Therefore, there is a need to consider early prevention. The case study draws

⁷¹Yoshikawa, H., 1994, "Prevention as Cumulative Protection; Effects of Early Family Support and Education on Chronic Delinquency and Its Risks" in *Psychological Bulletin*, Vol. 115 No.1, pp 28-54.

together the findings from a number of disciplines to show that preventive efforts in early childhood warrant serious attention as one effort among others to reduce juvenile crime. The study focuses on chronic delinquency, rather than delinquency in general, because a relatively small number of chronic offenders is responsible for most juvenile offences. It appears that severe anti-social behaviour at an early age persists into adolescence and heightens the risk of chronic delinquency. Current research also appears to support the view that chronic offenders tend to be versatile and engage in a range of anti-social actions.

4.2.2 *Method*

This evaluation takes the form of a narrative meta-analysis followed by a selective meta-analysis, a process where the researcher gathers a large number of studies together and describes their outcomes in summary form. A number of case studies are then focussed on, which illustrate points emerging from the overall summary description and describe salient points arising from these in more detail. This is an extremely useful approach as it gives a general overview of the type of interventions which work and the factors they affect. Summarising by its nature requires that details be glossed over. An aspect of five or six studies can be summarised in one sentence. Another sentence may summarise a summary of a range of programmes. The result is that the particular contexts of individual programmes and even the nuances of the findings of a particular study are lost. Therefore, the reader is dependent on the degree of care and thoroughness of the researcher to some extent. Critical questions may be asked about the academic rigour of the search methods, the level of familiarity with the studies summarised and even the care in relation to drafting. For instance, there is a significant difference between stating that a factor is associated with delinquency and stating that it causes delinquency. There is also a world of difference between a result which is measured as against a result which is estimated. Care is therefore needed in reading a meta-analysis and in summarising it further, as in this case study.

It is worth noting that at a number of junctures in this meta-analysis a view which is supported by research is described and then studies supporting the opposite view are referenced. This indicates both a level of even-handedness on the part of the researcher and an absence of unanimity in the literature. Studies are described and in

a few instances simple vote counting between studies is undertaken (i.e. the number of studies supporting a position, the number with contrary evidence and the number which are inconclusive). This is typical of meta-analysis, though new statistical techniques have been developed to amalgamate results from very different projects to produce statistical measures of various links, correlations and hypotheses.⁷²

4.2.3 Findings

After proposing a particular model of prevention the findings in relation to the risk factors associated with chronic delinquency are described, followed by a consideration of the key elements of a number of successful early childhood interventions.

The model of prevention considered in the article was first proposed in relation to cardiovascular disease. It targets a number of risk factors identified by research on the assumption that these factors actually help cause the anti-social behaviour. The model also operates on the basis that tackling a number of risk factors is better than addressing one or two because this reinforces the preventive outcome.

The research literature shows that principal early risk factors for chronic delinquency do in fact interact and reinforce each other as follows:

- for instance low birth weight, premature birth and other medical stresses at birth have a stronger link with later anti-social behaviour when they occur in poorer homes and in families with a number of adversities
- later behavioural problems are more likely in children who have been brought up in an atmosphere of family discord if the child also experiences poor parenting
- children with an insecure attachment to their parents are more likely to engage in subsequent anti-social behaviour if there has been poor parenting or if the family has experienced significant stress or low social support
- the vicissitudes which affect poorer families interact to increase the risk of delinquency

⁷²For a general discussion of these methods, see Rosenthal, Robert, 1991, *Meta-analytic Procedures for Social Research*, Sage: London.

- in addition, a community composed of poorer families directly affects the way family members interact and indirectly increases the risk of delinquency.

At the same time as chains of risk factors are interacting with negative results, there are also chains of interacting protective factors with the potential to prevent negative outcomes. These have also been researched and may be summarised as follows:

- positive child rearing practices and verbal ability appropriate to the age of the child were found to protect against anti-social behaviour among low-income children.
- social support for the parent was in turn found to protect against bad parenting practices among families generally.

A selective review of interventions showed that many risk factors in many settings, including delinquency itself, could be positively affected by a combination of family support and early education. Four projects which had been evaluated with follow up for up to twelve years after the intervention showed positive impacts on anti-social behaviour, chronic delinquency, adult criminality, socio-economic status, cognitive ability and parenting behaviour. This would suggest that chronic delinquency was reduced through good parenting and cognitive development.

There were four distinguishing elements in these projects. Firstly, they explicitly sought to affect both the child and the family as a whole. A home visitor provided the parents with emotional support and information on child rearing and information and support on the parents' ambitions in relation to their own education and employment. Parents meeting together also provided support to each other. The children received daily pre-school care with an educational input. Secondly, the interventions lasted between two and five years in each case. A minimum of two years appeared to be essential to achieve lasting results. Thirdly, the projects were also focussed on the first five years of life of the child. Some started with the parents before the child was born to ensure adequate ante-natal care and a reduction of complications at birth. These complications have been linked in the literature with chronic delinquency. While ante-natal intervention was not essential it did appear that positioning the intervention somewhere in the first five years of life was

critical, especially given the early onset of anti-social behaviour among chronic offenders. Fourthly, urban low-income areas were targeted in each intervention. The problem of stigmatising children as potential criminals was avoided because the stated objectives of the projects were to help children and families to develop to their full potential rather than the prevention of delinquency.

The author cautions against regarding early intervention as a panacea. Children who received one year in a Head Start programme, which aimed to compensate children at an early age for the lack of a home environment capable of providing rich early learning experiences, were better academically than similar low income children who did not benefit, but still lagged behind middle class children in the same schools. Overstating the benefits of early intervention may reduce the perceived need for further ongoing interventions and support to the detriment of disadvantaged young children and teenagers. Extreme caution is also required in generalising from four very well resourced projects, with staff committed to proving the success of the demonstration projects, low staff-child ratios and less than 200 subjects between all four projects. For a variety of possible reasons, the positive effects in relation to anti-social behaviour and delinquency applied only to the boys on the programmes. More research is needed in relation to the prevention of delinquency amongst girls. However, the relatively low numbers of female offenders makes rigorous longitudinal research difficult to undertake. There is a danger that the experiences of boys which have been researched may become normative for interventions aimed at potentially delinquent girls. Finally, early intervention projects can and have had negative impacts.

4.2.4 *Comment*

In Ireland, and to some extent in Europe, the catch-cry in relation to the multiplicity of pilot and demonstration projects undertaken with EU assistance is mainstreaming.⁷³ In other words, projects which have been shown to be effective as experiments should,

⁷³For example, in the employment equality area on the grounds of gender, see Doyle, Anne, 1999, "Employment Equality Since Accession to the European Union", in Kiely, Gabriel, O'Donnell, Anne, Kennedy, Patricia and Quin, Suzanne, eds., *Irish Social Policy in Context*, University College Dublin Press: Dublin, p. 120.

according to their proponents, become national programmes with national funding. Apart from the resource question, the research does point in passing to the difficulties which might be anticipated in trying to maintain the high level of commitment and focus usually obtaining in a small pilot project throughout a national programme over a number of years. It is possible to extend a pilot successfully, but the success cannot be taken for granted.

The study would also appear to support multi-agency working, the favoured approach to a myriad of social ills in Ireland at present. However, the research does suggest that it is not enough to get agencies working smoothly together with some common aims; they also have to target factors which have been shown by research to be linked to the issue – in this case the prevention of chronic delinquency.

Finally, and also in passing, the study mentions the problem of stigmatising subjects if a programme is explicitly targeted at those at high risk of delinquency. There is a tension here with which the Department of Justice, Equality and Law Reform must learn to work. On the one hand, if it allows other agencies to develop programmes to tackle social issues germane to their own areas without any criminal justice perspective the resulting projects may or may not impact on delinquency and offending. On the other hand if it takes too central a role the project may stigmatise those young children and the families it is trying to help. The study suggests a resolution of this tension in the context of early childhood interventions. Projects which directly target parenting and intellectual development with a view to improving the lot of the family and the child generally may also have positive preventive effects on chronic delinquency, and may be marketed with the emphasis on the former, thus minimising the chances of stigmatising the subjects of the intervention.

4.3 Inter-agency crime prevention: the process

4.3.1 Background

Increasing official attention was paid to the issue of crime prevention in Britain in the 1980s. The Home Office Crime Prevention Unit was established in 1983, evaluations and studies of existing initiatives were undertaken, new initiatives were launched, circulars were issued and reports published. In the early nineties the focus was

clearly on partnership arrangements involving a broad range of agencies, rather than solely on the police. In 1992 an evaluation was commissioned to examine the processes underlying inter-agency co-operation, as distinct from the impacts of this co-operation.

4.3.2 *Method*

About thirty areas with inter-agency crime prevention arrangements were visited over the two years of the evaluation. Two of these areas had been studied in depth previously and six more were studied in depth by this evaluation. The areas chosen allowed comparisons to be made in relation to a wide range of variables. The main data gathering method was through interviews, with questions drafted to take account of the perspective of each individual interviewed. All participants in the inter-agency arrangements in the in-depth areas and one or two key individuals in the other areas were interviewed. Overall about one hundred individuals were interviewed. Through interviewing a wide range of individuals it was possible to get a more rounded view of what was happening. Relevant documentation was also studied to cross check the information given orally.

However, it was only possible to concentrate on strategy level committees and some practitioners. Action groups at local level tasked with implementation were not studied in any real depth. Also it was not possible to make quantitative judgements on general comments as the numbers of those interviewed in particular groups (e.g. lower ranking police) were limited. The study by definition focussed on process and was not in a position to relate the process to the impact of crime prevention interventions.

4.3.3 *Findings*

The findings of the evaluation⁷⁴ on the processes underlying inter-agency crime prevention are given below. The different roles of the police, local authority housing departments, locally elected councillors, the probation service and voluntary groups are first outlined.

⁷⁴Liddle, M and Gelsthorpe, L., 1994a, *“Inter-agency Crime Delivery: Organising Local Delivery”*, Crime Prevention Unit Paper 52, Home Office: London; Liddle, M and Gelsthorpe, L., 1994b, *“Crime Prevention and Inter-agency Cooperation”*, Crime Prevention Unit Paper 53, Home Office: London; Liddle, M and Gelsthorpe, L., 1994c, *“Inter-agency Crime Prevention: Further Issues”*, Crime Prevention Unit Supplementary Paper to Papers 52 and 53, Home Office: London.

This leads on to the issue of consultation. Finally, some findings of the evaluation in relation to structures, co-ordination, leadership, monitoring and evaluation and information gathering are outlined.

The police tended to be prime movers in any multi-agency arrangements to prevent crime. However, a number of senior police officers purposefully took a 'back seat' in order to encourage partnership, sacrificing power in the interests of co-operation. However, it was not possible to identify a single police view, because the police force in the UK is a large and complex organisation. Many senior officers recognised that a willingness to engage in co-operative ventures with other organisations was a requisite for promotion in their police careers. Many of the police at lower ranks did not seem to share this view. In addition, those investigating serious crimes tended to see crime prevention as a less prestigious and less important police role. As those most familiar with the official crime statistics the police had an important role in providing information. There was limited recognition of the need to look at unreported crime affecting women and ethnic minorities arising to some extent from the concentration on official crime statistics.

Local authority housing departments tended to be able to justify situational crime prevention (e.g. locks and bolts) more easily than social crime prevention to their superiors and colleagues. However, a number of housing departments were also concerned about tenant satisfaction and quality of life and in making public authority estates more manageable.

Locally elected councillors were seen as useful participants in inter-agency arrangements. They generated support and resources for crime prevention work and provided some level of public accountability. However, they also introduced a degree of political volatility into proceedings because of vested interests not directly related to crime prevention. Some members of groups felt inhibited in what they could say with councillors present and others were concerned about confidentiality when particular estates or families were discussed. A number of councillors also subscribed to the view that crime prevention was a matter for the police alone and were reluctant to commit resources to multi-agency working. A few participants felt the councillors had little expertise to add to that of the appointed experts and should not be involved.

Senior probation officers were committed to crime prevention, but their practical involvement varied. In some areas where the emphasis was on situational crime prevention (e.g. better locks and

bolts) their involvement was minimal. In other areas they were prime movers in situational crime prevention. They deployed labour under community service orders to secure crime targets. In relation to social crime prevention they encouraged their officers to address the root causes of crime within communities.

Voluntary groups were under utilised in many areas, leading to confusion and duplication where existing crime prevention arrangements were in place locally. Existing local groups were seen as minor players. In one case local groups were seen as well intentioned people engaged in a talking shop while the professionals with power to make things happen met in another group. This kind of rivalry led in practice to the postponement of some crime prevention work.

The lack of involvement of local groups also included lack of consultation. Some professional people saw consultation as raising community expectations which agencies could not respond to because of lack of resources. This could erode public involvement and ownership. Consultation could itself be costly in terms of resources. In terms of time, a consultation process could lead to a slow start in crime prevention activity to the frustration of the agencies. It could also uncover negative views of the agencies at local level. However, consultation could provide information to guide targeting of effort and could generate public ownership, leading to more durable and effective interventions.

It was suggested by a number of those involved that formalising well-functioning informal arrangements for the sake of having a structure could limit activity on the ground. Informal arrangements allowed local flexibility and the ability to respond quickly to crime prevention issues. Because they were based on personal contacts they sidestepped the often-thorny questions of leadership and hierarchy. With formal arrangements agencies could believe that they had fulfilled their crime prevention obligations in full by sending a representative to meetings. This excuse was not available in an informal arrangement. On the negative side, informal arrangements were liable to disruption by changes in key personnel, usually had a limited scope and were difficult to monitor and evaluate. Informal arrangements could lead to confusion and extreme difficulties, especially with respect to sharing of confidential information in the absence of formally agreed guidelines.

The study found that effective co-ordination tended to be labour intensive and time-consuming and required considerable organis-

ational skills and appreciation of the inter-agency and intra-agency politics involved. The key role of the co-ordinator was to translate rhetoric about partnership into language that each agency in turn could appreciate and support.

The question of leadership in a multi-agency setting was sometimes avoided altogether in order to emphasise partnership. However, in terms of committing resources and taking action there was a need for a lead agency or a prime mover. This position evolved all the time, depending on the activities being undertaken. No single theoretical model of leadership could be endorsed by the evaluation as the best way of doing things.

A number of factors led to an absence of monitoring and evaluation arrangements, which are interesting in the light of the arguments outlined below in chapter 5. There was often a lack of clarity in relation to the purpose of operations undertaken, which made it harder to focus on evaluation. Monitoring was a costly undertaking which used scarce resources. Groups did not necessarily wish to monitor or evaluate an intervention. Forms of evaluation were poorly understood and this led to poor monitoring records being gathered. Crime data was also selectively quoted in a cynical fashion to support specific interventions. Funding arrangements could dictate a focus on hard officially recorded crime or on quick results. A preoccupation with quick results led to quick and easy evaluation where it occurred at all. Finally, the study was based on relatively new inter-agency arrangements, which were preoccupied with immediate establishment and consolidation issues, rather than on evaluation.

It is worth noting one comment of the evaluation on information gathering:

No answers concerning either strategy or the shape of particular schemes will somehow drop out of even the most rigorous crime and social profile. The thrust of policy in this sphere must arguably come from elsewhere, and information collection be harnessed to shed greater and more detailed light upon priorities which are themselves a result of consultation and political debate.⁷⁵

⁷⁵Liddle, M and Gelsthorpe, L., 1994c, *op. cit.*, p. 12.

This point will be returned to in the final chapter.

4.3.4 *Comment*

In Ireland the concept of partnership arguably enjoys a wider currency than in Britain. However, in Britain it would seem that inter-agency work on crime prevention is more developed than here. In Ireland, the Strategy Statement⁷⁶ of the Department of Justice, Equality and Law Reform identified a strategic approach to crime prevention as a cross agency or crosscutting issue, requiring active inter-agency links. It also identified itself as the initial lead Department. Agencies which may become involved in crime prevention in Ireland will probably transfer their experience of partnership working from other areas to crime prevention. However, it is useful to see the particular issues arising in a crime prevention context from the evaluation.

A significant point made by the evaluation is that crime prevention is a peripheral concern of a number of agencies, but the central concern of no single agency. The evaluation points out that *how* inter-agency action is approached requires attention as well as *what* the agencies do. The evaluation would also suggest that a careful and considered start with a view to the long-term could be more productive than a purely short-term focus. A number of areas of potential misunderstanding and conflict are also highlighted. The cost of co-ordination and the particular skills required are also highlighted.

The points made in the evaluation in relation to monitoring and evaluation arrangements are worth noting. In particular, descriptive research which elucidates the facts will not produce answers on strategy or on the shape of better schemes. This requires consultation, political debate and ultimately decisions.

4.4 Unit fines

4.4.1 *Background*

In England and Wales the amount of a fine which was to be imposed by any court as a result of a breach of statute law was usually limited by the relevant statute and the amount to be imposed in a particular case was decided by the judge in accordance with a tariff.

⁷⁶Department of Justice, Equality and Law Reform, 1998, *op. cit.*, p. 86.

Magistrates were required to take account of the offender's ability to pay when imposing a fine, but in general this was not fully taken into account in practice. The result was a high rate of committal to prison for non-payment of fines.⁷⁷ In much of Europe and in the US the concept of the day fine has been developed and applied. The seriousness of the offence is measured by a number of units and the value of each unit is then determined in relation to the offender's daily income. This is seen as fairer in that fines bear equally on people of different means. In particular the risk of fining people more than they can afford is reduced. A proposal for unit fines based on weekly income was inserted in the wide-ranging Criminal Justice Bill, 1990, for England and Wales. Before the Bill became an Act the current evaluation⁷⁸ was undertaken in four magistrates' courts in England and Wales.

4.4.2 Method

The experiment consisted in the design of a simple means assessment form and the facilitation of four magistrates' courts to implement a unit fine system using local knowledge in relation to income. Data was collected for the six months prior to the experiment and for up to twelve months after it began. There was also contact with magistrates and clerks in relation to the schemes.

Seemingly positive numbers supporting the new system were accepted uncritically by the evaluators. There was no evidence of statistical testing to establish if the results were statistically significant or were merely chance occurrences. The samples (7,000 unit fines as against 6,000 fines under the previous system) were respectable. However, when divided by four courts and seventeen offence types, a number of the resulting cells were too small to make analysis meaningful. This was overcome by amalgamating offences into generic offence types.

The overall focus of the evaluation appears to have been to demonstrate increasing compliance by potential defaulters, the majority of whom were on low incomes. This meant for example

⁷⁷Wasik, Martin, 1997, "England Repeals Key 1991 Sentencing Reforms", in Tonry, Michael, and Hatlestad, Kathleen, *Sentencing Reform in Overcrowded Times – A Comparative Perspective*, Oxford University Press: Oxford.

⁷⁸Moxon, David, Hedderman, Carol, Sutton, Mike, 1990a, *Deductions from Benefit for Fine Default*, Research and Planning Unit Paper No. 59, Home Office: London.

that one table which showed that the disparities in relation to fines had decreased for the poorest was not analysed in relation to those who paid fines at more than the minimum. This showed an increase in the disparities in fines above the minimum. Therefore, it was not correct to state in the evaluation that “a result was greater consistency between courts when fining people of similar means than had been the case previously”.⁷⁹ This is important because of subsequent developments. The pilot scheme was constrained in relation to imposing higher payments by those with higher income because of a doubt about the legality of this approach in a pilot scheme which was not backed by legislation.

The evaluation tended to be at pains to paint a positive picture. For instance one analysis of committal figures for fine defaulters showed a fall of about 25%. This analysis compared absolute figures for two different periods, ignoring seasonal distortions which had been shown to exist by the evaluation. A further table in relation to committals for default showed a static picture when absolute numbers were considered. However, a 15% reduction became apparent when these defaulters were considered as a proportion of the total fines imposed. Positive results in absolute terms were quoted uncritically in the first instance and positive results in relative terms were quoted in the second instance when the absolute results seemed neutral.

In the first paragraph of the conclusions section the following appeared: “There is overwhelming support for the principle of unit fines from organisations concerned with criminal justice. Press coverage suggests that they would also have public support, and there has been little adverse reaction to the experimental schemes.”⁸⁰ These statements were not based on the evaluation work which precedes them. The evaluators’ enthusiasm might have been overlooked but for subsequent developments.

4.4.3 Findings

The following were the main findings of the evaluation.

- The courts were able to obtain means data without difficulty and without increasing the time taken to process cases.

⁷⁹Moxon, David, 1997, “England Abandons Unit Fines”, in Tonry, Michael and Hatlestad, Kathleen, *Sentencing Reform in Overcrowded Times – A Comparative Perspective*, Oxford University Press: Oxford, p. 139.

⁸⁰Moxon, D., Hederman, C. and Sutton, M., 1990a, *op. cit.*, pp. 22.

- Each court adopted its own robust measure of reckonable income based on a simple means form, as clerks and magistrates felt it was essential to keep the calculations simple.
- Many people very clearly paid at the maximum because the maximum amount for a unit was low.
- There was no shift to a greater use of fines in relation to other sentencing options in the period during which the new arrangements were monitored.
- The poorest offenders paid less under the pilot unit fines system. At one court where the maximum unit payment was highest the better off paid more.
- A small survey of people paying at the maximum in the court with the highest maximum indicated that many people could afford to pay more. This was possibly the court with the most affluent clientele.
- Disparities between courts in fines imposed on the poorest offenders were significantly reduced.
- The average time taken to complete payment fell by one quarter at three of the courts and there was no change in the fourth despite an increase in the average sum imposed.
- There was a significant drop in the proportion of those fined who were subsequently imprisoned for default. In the three courts with a high number of committals for default the numbers fell by about a quarter. However, there were still 324 committals in a six-month period.
- There was a consensus amongst magistrates and court staff at the four courts that unit fines were an improvement on the previous system and each court continued to use their own unit fine system after the six-month experiment terminated.
- The evaluators felt that it would be important for courts to adopt a common basic approach to assessing disposable income. There was some variation between the four courts in the experiment.

4.4.4 *Comment*

The Criminal Justice Act, 1991, was brought into force on 1 October 1992 after a major preparation exercise involving considerable

training of those expected to implement its many provisions. Encouraged by the positive evaluation, the Government included unit fines.⁸¹ Almost immediately a number of anomalous fines were publicised in the media and there was a realisation that unit fines could have a serious impact on the middle classes. In addition some members of the judiciary publicly criticised separate sentencing provisions of the Act.

The Home Office had commissioned a survey of practitioners to gauge reaction to the Act. The survey⁸² was taken against the backdrop described above. It found that unit fines were one of three topics causing serious concern. Three quarters of magistrates and Crown Prosecution Service personnel, two-thirds of court clerks and 55% of defence solicitors thought the new system was worse than the old. Though the probation service showed the highest support for unit fines only 43% of staff thought the new system was better than the old.

There were a number of reasons the unit fines system as implemented gave rise to problems. The experiment saw a range of values for the unit fine from stg£3 to stg£10 or stg£20. The Act provided a range from stg£4 to stg£100, and at the same time permitted magistrates to levy fines up to stg£5,000 instead of stg£2,000 as before. When combined with the simple means testing this permitted higher unit fines to be levied on middle class offenders. Magistrates felt this did not take account of the fact that as income increased, commitments tended to increase also.

There was no obligation to complete a means form before a trial and where a person pleaded guilty by post the court might have no information on means to consider. There were a number of responses. Some courts choose to levy the highest stg£100 unit so as not to give an advantage to those who did not disclose their means, on the grounds that they could seek to have the amount changed with reference to their means subsequently. This course gave rise to two of the cases highlighted in the media.

Unlike the situation in other jurisdictions which impose day fines, all offences were included under the British unit fine system.

⁸¹Moxon, D., 1997, *op. cit.*, pp. 139 and 139-143 for subsequent developments described below.

⁸²Mair, George and May, Chris, 1995, *Practitioners' Views of the 1991 Criminal Justice Act: A Survey of Criminal Justice Agencies*, Research and Planning Unit Paper 91, Home Office: London.

This was thought to be simpler administratively. However, it gave rise to particular problems with fixed penalty fines such as those applying to minor motoring offences. The lowest unit fines were increased to the fixed penalty but higher unit fines were not reduced. Motoring organisations counselled people with moderate means to pay even unjustified fixed penalty fines to avoid the risk of a magistrate imposing a substantial unit fine.

Seven months after it was introduced the unit fines scheme was abolished as too rigid and too mechanistic. It was replaced with a provision permitting courts to relate fines to means.

This case study cautions against evaluators making claims for schemes which are not firmly based on the evaluation work and policy makers apparently accepting these claims. It especially cautions against generalising from an evaluation of a pilot scheme to a significantly different nation-wide scheme. The evaluation in question here would have been far better if it had carried suitable health warnings in a prominent position. It must be conceded that it is easier to be critical with the benefit of hindsight.

Deductions of fines from state transfer payments would appear to be closely related to the effective working of a unit fines system. A paper exercise⁸³ using a number of estimates based on different samples estimated that the 17,000 fine defaulters sent to prison in England and Wales in 1989 could be reduced to 4,000 if such a scheme were in place.

In Ireland committals for fine and debt default are running at between 15% and 20% of total committals to prison per annum. Because many people make payment after a short time in prison and many committals are for relatively short periods in any event only 1.5% of the prison population on any day is accounted for by fine or debt defaulters.⁸⁴ Even if this number of committals could be totally abolished it would free only a small number of prison spaces. However, anecdotally there is concern among prison staff who must make numerous committals for very short sentences served by many fine defaulters. Committal is itself a labour intensive and sometimes very costly activity for the criminal justice system. In the eyes of prison staff the work and cost are obviously disproportionate to the original fine. More fundamentally in some cases the offender can decide to undergo an expensive committal to prison

⁸³Moxon, D., Hederman, C. and Sutton, M., 1990a, *op. cit.*, p. (iii).

⁸⁴Dáil Debates, 1 March 2000.

even though the court has decided initially that this is not the appropriate sanction. There is also a danger that as overcrowding is alleviated by new prison places, at least some of these expensive spaces will be filled by fine defaulters. On the other hand, a more cost effective and reliable fine system might encourage a shift to fines as a preferred sentencing option in more cases.

These points are not lost on opposition and backbench politicians. A Private Members Enforcement of Court Orders Bill, 1998, was debated in the Dáil, but voted down on 24 February, 1999. This provided among other things for the deduction of fines in instalments from earnings or welfare payments, but not for a unit fine system.⁸⁵ A recent report from the Oireachtas Committee on Crime⁸⁶ makes a number of apposite points and recommendations. Fines are less likely to be used in Ireland than in England and Wales especially for indictable crime. It recommended the introduction of a day fine system based on a structured means test, a wide range of enforcement options for the courts in relation to the fine and a selection of penalties which could be invoked in cases of non-payment.

4.5 Intensive community supervision for young offenders

4.5.1 Background

In England intermediate treatment refers to a range of programmes and activities for young offenders and for other young people deemed to be at risk. Courts may add an intermediate treatment requirement, for up to 90 days' activities, to a supervision order (a probation order for a young person) and some other young people are persuaded to attend voluntarily. In the 1980s youth justice workers began to orient the programme towards serious or persistent young offenders at real risk of a custodial sentence, who would be required to attend. These programmes were known as 'heavy end' intermediate treatment. A national survey of policy and practice was published in 1990.⁸⁷ In the late eighties fieldwork for an out-

⁸⁵*Irish Times*, 25.02.99.

⁸⁶Houses of the Oireachtas, 2000, *Report of the Sub-Committee on Crime and Punishment of the Joint Committee on Justice, Equality, Defence and Women's Rights on Alternatives to Fines and the Uses of Prison*, Houses of the Oireachtas: Dublin.

⁸⁷Bottoms, A.E., 1990, *Intermediate Treatment and Juvenile Justice: Key Findings and Implications from a National Survey of Intermediate Treatment Policy and Practice*, Institute of Criminology, University of Cambridge, Department of Health, Great Britain, HMSO: London.

come, process and cost study took place, a summary of which⁸⁸ was eventually published in 1995.

4.5.2 *Method*

The data collection on this project was comprehensive, and involved interviews with a wide range of relevant individuals and an examination of official records and documentation.

The group in custody was a control for the heavy end intermediate treatment group and the ordinary supervision order group was a control for the other intermediate treatment group. Random allocation was not feasible. The study included detailed statistical checking of data including crosschecking using other statistical methods. On the cost analysis a full range of costing techniques was used.

The four areas covered were a northern city, a southern shire and two metropolitan boroughs. There were difficulties with parental consent and fieldwork problems which meant that full data was not available for all offenders and the administrative process fieldwork for the shire had to be abandoned. There was also a delay of about six years between initial fieldwork and final publication of a summary report.

4.5.3 *Findings*

Five questions were asked in the research and the cost study was a sixth element. The first three questions referred to outcomes and the next two to administrative processes. The questions follow with an account of the findings under each.

- 1) How does intermediate treatment, and particularly heavy end intermediate treatment, affect a young person's subsequent history of offending and is it more or less effective than other forms of intervention at reducing criminal behaviour?

When the rate of re-offending within fourteen months of the end of the programmes was considered, there was no statistically significant difference between the rate for heavy end intermediate treatment and custody (74% versus 81%) and between other intermediate treatment

⁸⁸Bottoms, A.E., Knapp, M., Fenyo, A., 1995, *Intensive Community Supervision for Young Offenders: Outcomes, Process and Cost*, Institute of Criminology: University of Cambridge.

and plain supervision (65% versus 61%). When it was noted that the more serious offenders were given the first two options, no single method appeared statistically better than the others at reducing offending. The study did tentatively conclude, however, that heavy end intermediate treatment was modestly better than the others.

- 2) What forms of intermediate treatment are most effective in reducing criminal behaviour?

Centre-based heavy end intermediate treatment programmes which had a relatively ordered approach and authoritative leadership style, coupled with a strongly caring focus, were better than a scheme which provided individual packages of activities at different locations. The latter scheme was a rural scheme. This would seem to endorse what the offender treatment literature says about the importance of pro-social modelling (i.e. giving offenders a strong lead as to future behaviour within a framework with which they can identify), according to the study. It was also supported by findings of a Scottish study⁸⁹ on heavy end intermediate treatment. The heavy end intermediate projects were seen as very helpful by offenders and their parents even though they substantially restricted the freedom of movement of the offender during leisure time.

- 3) What effect does intermediate treatment have on the young offender as a person?

A personal and social problems checklist was administered after sentencing, one month after the programme and twelve months after the programme. All groups had similar levels of self-perceived problems at sentencing; all groups showed a similar decline one month after their programmes, and a smaller decline eleven months later. When the group in custody was tested against all the rest it had higher levels of self-perceived problems twelve months after their programmes, although there was no difference one month after. This result could not

⁸⁹Bennett-Emslie, G., McClintock, F.H., Robertson, A., Van Teijlingen, E. and Wade, E., 1990, *Intermediate Treatment in Scotland*, Research Report to the Social Work Services Group, Education Department, Scottish Office (unpublished).

be explained statistically by reference to post-treatment offending patterns. The study could not show whether poorer social ties caused more crime or more crime caused poorer social ties, though it has been suggested that post-treatment social ties can lead to lower levels of criminality.

- 4) Do local administrative practices act as a constraint on the best development of intermediate treatment?

The study came to twenty-one conclusions under this heading. One conclusion is of particular interest given the focus of the present publication on evaluation. As changes in the quality of local delivery and management can occur quickly, ongoing monitoring is necessary to detect early signs of decline in the quality of programme delivery so that corrective action can be taken.

- 5) What effect does intermediate treatment have on custodial sentences?

UK national data supports the view that heavy end intermediate treatment contributed to the substantial reduction in custodial sentences for juvenile offenders in the 1980s. However, when one looks at individual projects one sees that a good quality intervention is not necessarily sufficient to reduce custody in a local area. A range of environmental factors, including sentencing policy, need to be considered.

The study contained the results of confidential discussions with twelve local benches dealing with juvenile offenders. Even though there were differences in sentencing philosophies, a consensus on intermediate treatment emerged. Magistrates had no particular belief in the efficacy of custody in reducing crime, except as temporary incapacitation, but believed it was essential as a sanction of last resort. Rehabilitation was seen as an important aspect of the work of the juvenile court. To be credible to the magistrate, heavy end intermediate treatment needed to make demands on the offender as a punishment, help the offender to reduce his re-offending and have realistic policies for breaches of the programme. Magistrates also needed to be assured that project workers

were professionally credible and needed to have a degree of personal trust in the project leaders. Magistrates would be encouraged to send young people to projects they had visited recently, provided they were impressed with what they saw. As a footnote on sentencing the study found that there was little evidence of net widening with heavy end intermediate treatment, as participants were genuinely at serious risk of custody.

- 6) In relation to cost, the four categories (heavy end and other intermediate treatment, supervision and custody) used sixty services provided by different agencies. The weekly costs in descending order were custody, heavy end and other intermediate treatment, and supervision. The differences in cost between the four categories were reduced if costs for the entire period an individual was involved with the category were compared rather than cost per week. Custody was only between 6% and 20% more costly than heavy end intermediate treatment. (It is worth noting that the differential could be different in Ireland where custody is approximately twice as costly per prisoner as in the Britain.) For individuals in heavy end intermediate treatment the cost varied by a factor in excess of twenty, depending on the services they needed.

4.5.4 *Comment*

It is worth noting that one of the reasons for the poor performance of the heavy end intermediate treatment in relation to reducing re-offending was the philosophical orientation of the workers deriving from the juvenile justice movement and the new orthodoxy. The juvenile justice movement was one of the forces behind the development of heavy end intermediate treatment. It had a clearly worked out philosophy sometimes known as the new orthodoxy. It viewed the juvenile justice system as a system, regarded custody as bad for young offenders and intermediate treatment as better for them. It also held that much adolescent offending was transient. Therefore, it was sufficient to hold offenders in the community until their offending diminished. The study points out that the transience argument is more evident among adolescents generally than among persistent adolescent offenders, the typical subjects of heavy end

intermediate treatment. The new orthodoxy also believed that the concentration of effort should be on offences and offending behaviour rather than on social work interventions. Due to the new orthodoxy the intermediate treatment workers did not focus on factors which could help explicitly to reduce offending such as cognitive-behavioural approaches to reducing impulsivity, nor did they attend to offenders' informal social links after treatment. In addition little effort was made to involve parents even though almost half the parents were willing to be involved. This is an example of theoretical and philosophical positions reducing the effectiveness of a programme. Because it was part of a received wisdom it probably required outside evaluators to point out its impact.

The study supports the view that it is not easy to design programmes which produce large reductions in recidivism for a significant proportion of all participants over a significant period of time. Therefore, as well as careful design, timely evaluation of programmes is also required. Thorough evaluation can uncover hidden assumptions which lead to deficiencies in the implemented programme, as in this case. Evaluation can also show how programmes have departed from the original design. In certain cases, such as programmes for sex offenders, no programme at all can be less damaging in relation to outcome than a faulty programme.⁹⁰ Results cannot be taken for granted and costs need to be carefully compared. However, costs should not dominate to the exclusion of other arguments in policy decisions on alternatives, though of course cognisance must be taken of them.

High-end intermediate treatment was capable of containing a punitive element while still maintaining legitimacy in the eyes of participants, which made its other objectives easier to achieve. However, if the punitive element were to be increased it could lead to a loss of this legitimacy and thus to reduced effectiveness.

The longer term personal gains made by participants on high-end intermediate treatment compared with those in custody is significant and may lead to reduced re-offending.

⁹⁰Mann, Ruth, 1996, "Reducing the Risk of Sexual Reoffending", in Braggins, Julia and Martin, Carol, eds., *Managing Risk: Achieving the Possible – Report of ISTD's Annual Residential Conference, 19-21 April, 1995*, Institute for the Study and Treatment of Delinquency: London.

Finally, it is worth noting the modest aspirations for a US juvenile intensive supervision unit (ISU), proposed by an evaluator.⁹¹ The evaluation had established that the intensive supervision programme posed no greater threat to public safety than a traditional strategy based on incarceration followed by parole:

The litmus test for the effectiveness of the ISU will remain whether it produces outcomes that are at least as good as incarceration. The achievement of better outcomes, if that happens, would represent icing on the cake.

A further quote from a recent British publication⁹² underlines this point empirically:

After taking into account all possible relevant factors there was no discernible difference between reconviction rates for custody and community penalties. Results of similar comparisons suggest little real difference in reconviction rates for earlier years.

4.6 Boot camps

4.6.1 Background

Boot camp programmes are based on military boot camps and are sometimes known as shock incarceration programmes in the United States. They were introduced in Britain after a Conservative Party manifesto in 1979 promised “a short sharp shock for young criminals”.⁹³ The first American boot camp was set up in 1983. Participation in military drill and ceremony, physical training and military style discipline and courtesy are all aspects of the boot camp regime as well as a more demanding schedule with less free time.

The primary aim of boot camps in the US seems to have been to reduce prison populations by providing a shorter but more intense

⁹¹Wiebush, Richard G., 1993, “Juvenile Intensive Supervision: The Impact of Felony Offenders Diverted From Institutional Placement”, in *Crime and Delinquency*, Vol. 39, No. 1, 1993, p. 85.

⁹²Kershaw, Chris, 1999, “Reconvictions of offenders sentenced or discharged from prison in 1994, England and Wales”, The Home Office Research Development and Statistics Department: London. p. 1.

⁹³Thornton, David, Curran, Len, Grayson, David and Holloway, Vernon, 1984, *Tougher Regimes in Detention Centres: Report of an Evaluation by the Young Offenders Psychology Unit*, HMSO: London. p. 1.

sentence in place of longer prison sentences. They are also intended to reduce recidivism either by deterrence or by rehabilitation. Some programmes were expected to produce better community relations by increasing public safety and providing publicly acceptable alternatives to incarceration. Because they are perceived as tough on crime and presumed to be less costly they have been enthusiastically received in the US by the public and by politicians. Some programmes have also been employed to improve prison control and management.

The evaluation⁹⁴ studied State-level boot camp programmes in eight states. The typical programme catered for young male offenders, with age restrictions ranging from 16-18 at the minimum to 23-25 at the maximum though one programme took offenders as old as 34. Almost two thirds of programmes specified non-violent offenders, and almost all took only those who had never been to prison before. The two extremes in relation to the programme were represented by Georgia and New York. In Georgia there were 250 spaces, the duration was 90 days and offenders spent two hours per week on rehabilitative exercises. In New York the programme lasted 180 days, there were 1,500 places, with participants involved in rehabilitation for 5.6 hours a day in a therapeutic community. New York participants could be as old as 30 and participation was voluntary, with a longer prison sentence as the alternative; 69% graduated. In Georgia 91% graduated; sentencing decisions remained in the hand of the judge who committed young first time offenders to the boot camp.

4.6.2 Method

The eight states selected seemed to have different programmes and different criminal justice systems as well which gave rise to a fair degree of variability. The states gathered the data for the study and different data was sometimes gathered for different states. In two cases the analysis on recidivism revealed that the comparison groups were clearly not independent with respect to the supposed control groups. In addition, there seemed to be an unspecified difficulty in gathering more data which could have given a clearer picture, especially in relation to the impact of boot camps on prison crowding.

⁹⁴MacKenzie, Doris Layton and Souryal, Claire, 1994, *Boot Camps for Adult and Juvenile Offenders: Multisite Evaluation of Shock Incarceration*, National Institute of Justice: Washington DC.

4.6.3 Findings

- 1) The first evaluation question was in relation to changed attitudes on the part of offenders between the beginning and the end of the programme. Boot camp participants had a more positive attitude to the boot camp over the course of the programme. A statistically matched population of prisoners tended to have no change in attitude or a more negative attitude to prison over the course of their sentences. There was no evidence that attitudinal change varied with the different types of camp regime. Both boot camp participants and statistically matched prisoners had less anti-social attitudes at the end of their periods of incarceration than at the start. However, the boot camp participants and thus their matching prison sample represented the less violent and less serious offenders, rather than a typical prison population. Neither time devoted to rehabilitation nor the possibility of voluntary exit had a statistically significant impact on attitudes to the programme. However, more time devoted to rehabilitation, voluntary participation and greater programme rigour as measured by the numbers dismissed led to greater reductions in anti-social attitudes in fact. This was because arithmetically the elimination of the most anti-social through dismissal led to a decrease in the anti-social attitudes of those remaining on the programme.
- 2) The impact of boot camp programmes on recidivism was at best negligible. Those released from boot camps performed just as well as those released from longer prison terms with respect to recidivism. There was no evidence that boot camp offenders "go wild" after release from the rigid structure and rules of the programme, with the exception of Georgia, the most militaristic site evaluated.
- 3) The adjustment to community supervision of boot camp graduates was not any different to that of comparative groups in four of the five states studied on this topic. Adjustment was measured in terms of engaging in employment, education, stable living and financial arrangements and treatment. This ran counter to the presumed advantage of boot camps in engendering

personal responsibility, accountability, confidence and self-discipline. The one state where boot camp graduates appeared to do better had a higher dismissal rate during boot camp phase and might have, therefore, “creamed” the best adjusted offenders. Alternatively they might have had some extra quality input in relation to rehabilitation which was not captured through the data examined by the evaluation.

- 4) Factors which can influence the effect of boot camps on prison populations were discussed in the evaluation. A model to examine the impact of these variables established that the main impact on prison spaces would be through selecting prison bound rather than parole bound offenders. This would be more likely to happen if corrections department officials rather than judges selected the candidates for boot camps.⁹⁵

4.6.4 *Comment*

Another study⁹⁶ puts forward an interesting analogy. In the military boot camp a group of individuals is moulded into a cohesive team which will respond without question to authority. This obedience to orders is ultimately for use in extreme life threatening situations. It is an initiation into a minimum period of military service of two years, following the same structures and rules of behaviour applicable in the boot camp. During this period the person has a job, clothing, a place to live and possibly personal support and structure. The correctional boot camp on the other hand is about changing an individual's behaviour and teaching co-operation. At the end he returns to an environment that may well be chaotic and which in any event has already failed him. The high attrition rates for intense supervision programmes after boot camp are a pointer in this regard.⁹⁷ These differences suggest limits to what boot camps alone can achieve.

⁹⁵Morris, N. and Tonry, M., 1990, *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System*, Oxford University Press: Oxford.

⁹⁶Bourque, B.B., Cronin, C.C., Pearson, R.F., Felker, D.B., Han M. and Hill, S.M., 1996, *Boot Camps for Juvenile Offenders: An Implementation Evaluation of Three Demonstration Programs*, National Institute of Justice Research Report, US Department of Justice, Office of Justice Programs.

⁹⁷*Ibid.*, pp. 82-83.

The US research is supported by the findings of earlier British research⁹⁸ which found no discernible impact on recidivism, no statistically significant better behaviour by offenders on the first boot camps and no change in crime nationally or locally from the announcement of these boot camps (i.e. no general deterrent effect). In one centre the offenders preferred drill to monotonous work and also preferred the variety of the timetable compared with the standard prison regime. In this case there seemed to be no extra deterrent effect on individuals either (i.e. no particular deterrent effect).

One commentator in Britain⁹⁹ speaking generally about punitiveness stated that it may pose as strength but should be interpreted as a symptom of weak authority and inadequate controls. Harsh punishment of convicted offenders magically compensates for the failure of the state to reduce crime to a level acceptable to the population in general. The use of the word "magically" refers to the gap between research based policy advice and the political action taken, according to the commentator. He also suggests that the punitive approach cuts across the very basis of other strategies based on cooperation and negotiation to mobilise community and other state resources to support the criminal justice system in crime prevention.

4.7 Incapacitation

4.7.1 Background

Incapacitation is one of the most tangible and intuitively appealing objectives of prison. If a prisoner is in prison he cannot at the same time be outside committing crimes. Incapacitation appears to raise none of the intangible questions which arise when considering the deterrent or rehabilitative effects of prison. Therefore, it can be used to justify the building of more prison spaces.

4.7.2 Findings and method

This evaluation,¹⁰⁰ which was based on figures for England and Wales, asked and tried to answer three questions. Each question is

⁹⁸Thornton, Curran, Grayson and Holloway, *op. cit.*

⁹⁹Garland, David, 1996, "The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society", in *The British Journal of Criminology*, Vol. 36, No 4, pp. 460.

¹⁰⁰Tarling, Roger, 1993, *Analysing Offending Data, Models and Interpretations*, HMSO: London.

dealt with in turn, with a statement of the question and the overall finding, followed by a description of the method and a more detailed description of the finding. This research could be regarded as a system level evaluation directed at the incapacitation objective of the entire prison system.

- 1) What is the incapacitation effect of the current and past prison system?

The research stated that the entire prison system reduced recorded crime by between 5.8 % and 9%, which is broadly in agreement with figures produced by US research.

Method

The model is a relatively simple equation built up from the average annual rate at which offenders commit crime, the probability of being apprehended, cautioned or convicted for a crime, the probability of being sentenced to prison having been convicted, the average time spent in prison and the residual duration of the criminal career.

A review¹⁰¹ of a number of similar incapacitation effect studies found that the model was sensitive to the figure used for the average annual rate of offending. The lower the number of crimes committed by each offender in a year the lower the incapacitation effect. This makes intuitive sense. The four studies quoted above used figures of 1.3, 3.3, 6, and 14 offences per prisoner per annum respectively. Tarling derived a figure for the average rate of offending (5.5, 6.7 and 10.5 for the three years respectively) by dividing the total number of crimes committed in a year by the total number of offenders found guilty or cautioned in a year. This, he states, is an upper bound on the average as it assumes that all recorded crimes are committed by those who are caught. This is a heroic assumption. Empirical research in America came up with annual offending rates of between 9 and 13.¹⁰²

¹⁰¹Cohen, J., 1983, "Incapacitation as a Strategy for Crime Control: Possibilities and Pitfalls", in Tonry, M. and Morris, N., eds., *Crime and Justice and Annual Review of Research*, Vol. 5, University of Chicago Press: Chicago.; Cohen, J., 1978, "The Incapacitative Effect of Imprisonment: A Critical Review of the Literature", in Blumstein, A, Cohen, J., and Nagin, D., eds., *Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates*, National Academy of Sciences: Washington DC.

¹⁰²Blumstein, A., Cohen, J., Roth, J. A., and Visher, C.A., 1986, *Criminal Careers and 'Career Criminals'*, Vols. I and II, National Academy of Sciences: Washington DC.

There are two unknown figures. The first is the rate of offending of those who are not caught. In England and Wales in 1980, the middle year for Tarling's findings, the police cleared up 35% of recorded crime and 22% of crimes led to a conviction or a caution. In Ireland the detection rate for indictable crime was 44% in 1998, having varied through the mid, early and late thirties before that. The second unknown figure is unrecorded crime. The British Crime Survey for 1987 suggests that the level of crime is about four times that of the recorded levels, with huge variations between crime types. In Ireland, figures derived from one survey suggests that the level of crime may be twice the recorded levels.¹⁰³ The rate of offending for those who commit these unrecorded crimes is also unknown.

While the model was rigorously derived,¹⁰⁴ it does not take account of co-offending and substitution. Young people in particular commit crime with others. If one person is caught it is not clear that this will stop the group offending. In addition, while the individual will not be able to offend outside prison while serving a custodial sentence, no account is taken of other people taking over his offending, for example in a drug distribution network. Therefore, from the point of view of the community, incapacitation may have even less impact than the figures above suggest. Tarling stated that he subsequently corrected for co-offending, which lowered the incapacitation figure. He does not explain how he did this.

The study used a figure for the probability of re-offending from a six-year follow up survey of prisoners¹⁰⁵ to derive a figure for the residual criminal life of prisoners after a sentence. The American study with the highest incapacitation effect (20%) used a simplified model which did not take into account the likelihood of an individual ceasing his criminal career during a sentence. This overestimated the incapacitation effect and did not take account of knowledge about criminal careers.

¹⁰³Central Statistics Office, 1999, *Quarterly National Household Survey – Crime and Victimization*, Stationery Office: Dublin.

¹⁰⁴Avi-Itzhak, B. and Shinnar, R., 1973, "Quantitative Models in Crime Control", *Journal of Criminal Justice*, 1, pp. 185-217 and Shinnar, S., and Shinnar, R., 1975, "The Effect of the Criminal Justice System on the Control of Crime: a Quantitative Approach", in *Law and Society Review*, 9, pp. 581-612.

¹⁰⁵Phillpotts, G.J.O., and Lancucki, L.B., 1979, *Previous Convictions, Sentence and Reconviction*, Home Office Research Office Research Study No. 53, HMSO: London.

Findings

The figures for the incapacitation effect of the entire prison system for three different years, using the full model and a simplified model, are detailed in Table 1 as follows.

Table 1: Estimated reductions in the level of crime through incapacitation of the entire English and Welsh prison systems; selected years

Year	Incapacitation effect	
	Full model	Simplified model
1975	6.2%	8.1%
1980	5.8%	7.2%
1986	7.3%	9.0%

Source: Tarling (1993)

The small incapacitation effect overall is due to the small percentage of those convicted in Britain who are committed to prison and the short sentences served. A number of other studies in America and Sweden found incapacitation figures from up to 4%,¹⁰⁶ up to 8%,¹⁰⁷ not more than 10%¹⁰⁸ and 20%.¹⁰⁹

- 2) What are the effects on recorded crime of an increase or decrease in imprisonment?

The research found that to achieve a reduction of 1% in recorded crime would require an increase in time spent in prison of about 25%.

¹⁰⁶Clarke, S.H., 1975, "Getting 'Em Out of Circulation: Does Incarceration of Juvenile Offenders Reduce Crime?" *Journal of Criminal Law and Criminology*, 65, pp. 528-35.

¹⁰⁷Greenberg, D.F., 1975, "The Incapacitative Effect of Imprisonment: Some Estimates", in *Law and Society Review*, 9, pp. 541-80.

¹⁰⁸Sjöberg, L., 1978, *Broth, Brottslingar Och Effekter Inom Rattsvagendet en Systemanalytisk Studie*, TOS: Stockholm.

¹⁰⁹Shinnar, S. and Shinnar, R., 1975, *op. cit.*, pp. 581-612; Peterson, M.A. and Braiker, H.B. (1980) *Doing Crime: A Survey of California Prison Inmates*, Rand Corporation: Santa Monica, California.

Method

The comments on the model made under 1) above and those about substitution and co-offending apply here also. It is also worth noting the age of the data sets used. A little caution is needed in extrapolating from these samples to the current day.

Findings

Using a number of methods different estimates were calculated for the increase in imprisonment required to reduce crime by one per cent. The model used for question 1) was first used to produce figures of 18% (1975), 20% (1980) and 16% (1986).

The next method was to look at three different samples of prisoners. If these people had received 18-month mandatory sentences with one-third remission for their previous conviction, the number of crimes which would have been prevented and the amount of extra time in prison which would have been served were determined for each person in the sample. The results appear in Table 2 below.

Table 2: Incapacitation impacts of a mandatory minimum 18 month sentence for all offences derived from three samples

<i>Sample from</i>	<i>1957</i>	<i>1971</i>	<i>1987</i>
<i>% offences prevented</i>	17.4	24.7	26.1
<i>% increase in time served in prison</i>	400	700	660
<i>% increase in prison time for 1% crime reduction</i>	22	28	24

Source: Tarling (1993)

It is useful to compare the figures in the last row of Table 2 with the figures derived by the first method above (18%, 20% and 16%), which are minima. It was also known that for the 1971 sample 23% had re-offended within one year, so it was possible to take this as a forward looking figure for the crime which would have been prevented by imposing an 18 month mandatory sentence with one third remission.

Tarling refers to an earlier study undertaken by him ¹¹⁰ where it was possible to calculate the actual rate of re-offending for each prisoner in a 1972 sample. If the rate of remission was increased for this sample from one third to a half there would be an increase in recorded crime of 1.2%, applying the rate of re-offending, while the time spent in prison would decrease by definition by 25%. If, instead of increasing remission, there was a blanket reduction in all sentences by four months, crime levels would increase by 1.6% and the time spent in prison would decrease by 40%.

- 3) What about targeting the increase in imprisonment on the most persistent recidivists?

The research failed to find an effective selection system in the criminal justice system which would predict those most likely to offend in the future so that they could be incapacitated. It also drew attention to the moral arguments against punishing people for what they will or may do.

Method and findings

The inevitable question arising from the high cost in terms of incapacitation required to reduce crime is the possibility of identifying the offenders who either commit the most serious offences or a large proportion of offences. It is known that a large proportion of offending is accounted for by a relatively small number of offenders. If these individuals could be identified and held in preventive detention it would make a disproportionate impact on crime levels and might not be so costly. This immediately raises ethical issues about detaining people for what they will or may do rather than for what they have done. There are also a host of practical issues. The major practical issue is the provision of accurate prediction tools for behaviour. So much of the data on offending relates to those who have been in prison and also to those with long criminal careers. It is true that those who have been imprisoned on multiple occasions are far more likely to return again to prison. However, to some extent preventive detention is too late after a large number of crimes have been committed. Those in prison are selected by the sentencing

¹¹⁰Brody, Stephen, and Tarling, Roger, 1980, *Taking Offenders Out of Circulation*, Home Office Research Unit Research Study No. 64, HMSO: London.

system and are a subset of those awaiting sentencing. It is, therefore, inadvisable to extrapolate findings from those in prison to those who are not yet sentenced. However, prediction is needed at the sentencing stage. Also a number of prediction scales depend on data supplied by the prisoner, which may be honestly if not entirely accurately given for scientific enquiry, but are liable to manipulation if sentencing outcomes depend on them. The absence of data supplied by the offender can reduce the accuracy of the prediction tools.

It is difficult to predict individual offending from negative life experiences. Multiple offending seems to be related to the degree of deprivation rather than representing an absolutely different category. Therefore it is all the more difficult to isolate. This has not prevented the use of preventive detention in the past for the insane, juveniles, people considered to be feeble-minded, inebriates and women.

4.7.3 *Comment*

The first point is that the model is just that: a model. To judge the degree of validity of the results, it is important to know the assumptions being made and the parameters being applied. In relation to the data sets, as well as being old they are not Irish. While it is unlikely that there is an absolutely unique system in Ireland, the use of temporary release and the criteria governing it are bound to have an impact on the type of offenders remaining in prison. Sentencing practice is also likely to have an impact.

The additional incapacitation arising from additional prison spaces will be related to the average rate of offending of those arriving into prison, not those already there. If it is assumed that the most persistent re-offenders are already in prison then there will be increases in incapacitation, but at a declining rate.

Apart from O'Mahony's work,¹¹¹ there is a dearth of empirical knowledge even on the convicted offender population in Ireland. The combined total of offenders in the three sample data sets used by Tarling is almost equal to the number of committals to the whole Irish prison system in 1999. It might, therefore, be possible to develop a single data set for the whole Irish prison system suitable for research under the Prisoner Information System,¹¹² part of a

¹¹¹O'Mahony, P., *op. cit.*

¹¹²Department of Justice, Equality and Law Reform, 1998, *op. cit.*, pp. 77-78.

major investment in computer systems across the criminal justice system planned and currently being implemented by the Department of Justice, Equality and Law Reform.

Most of the US material dates from the mid-Seventies and these findings, as well as some of the British-based systemic evaluation described above, were published in Britain as early as 1980. Policy in these countries was not influenced by the research; in fact the contrary was the case. It is argued¹¹³ that the dramatic increases in the American prison population arose from a lack of faith in the rehabilitative project in the 1970s rather than from any research in the area of incapacitation. Of course there was not a large volume of research on incapacitation. A further point arising from this is the need to remember that prison serves more than the single purpose of incapacitation. It also aims to punish, deter and rehabilitate.

It is unlikely that any Government would close some prisons on the basis of a few incapacitation studies alone. In order to do that, the Government would need a conviction that it was the right course to take, to have faith in the alternatives and be willing to live with the risk of a small number of mishaps. In this context, evaluations such as the one described here can help encourage debate, persuade and bolster conviction. It is understandable that incapacitation evaluations will not lead automatically to general decreases in the prison population because risk averse politicians and public servants may be alarmed at the prospect of freeing known criminals if this should give rise to even a small increase in crime. The problem may not be with the percentage increase in crime, but in the absolute nature of the suffering inflicted on victims of serious crime. This is in spite of the expertise developed over years releasing relatively large numbers on temporary release because of persistent overcrowding in prison.

As well as encouraging closer scrutiny of the other objectives of prison this evaluation, in highlighting the magnitude of the cost of reducing crime levels through incapacitation, invites closer examination of alternatives to prison.

¹¹³Zimring, Franklin and Hawkins, Gordan, 1995, *Incapacitation: Penal Confinement and the Restraint of Crime*, Oxford University Press: New York.

4.8 Order and control in prisons

4.8.1 *Background*

Sparks, Bottom and Hay undertook a comparative study of order and control in two dispersal or maximum-security prisons in England – Albany and Long Lartin. Both prisons were built in the late Sixties/early Seventies. Between the late Sixties and the mid Eighties official thinking favoured dispersing maximum security prisoners together with other prisoners in a number of dispersal prisons, rather than concentrating all the highest security prisoners in one or two small prisons. A research advisory group on the long-term prison system established by the British Home Secretary in 1984 suggested five areas of research including a project on control problems and the long-term prisoner. This was completed and submitted to the Home Office and subsequently expanded into a book,¹¹⁴ which is the basis of this case study.

4.8.2 *Method*

The extensive fieldwork is the most striking feature of the method employed in this evaluation. In 1987/8 the two field evaluators spent several hundred hours observing and talking to officers and prisoners in Wakefield dispersal prison as a preliminary to undertaking the study of the two chosen prisons. This was designed to gain the trust of those in the prison concerned, to gain enough knowledge to have some credibility with those they were about to study and to be able to understand what they were being told and to ensure that they sought and got access to all relevant documents and places. The pilot phase was followed by two consecutive five-month periods in Albany and Long Lartin in 1988/89. The work in the prisons involved many hours of observation, general interviews with staff and prisoners, specific interviews about particular control incidents, examination of relevant documents and statistics and a constant dialogue and self criticism generated between these experiences and data and theoretical writing on the subject. A report was submitted to the Home Office in 1990 and after detailed study of relevant literature a more extensive treatment of the subject was published in 1996.

The exhaustive nature of the work and the pilot work in particular were important from the evaluators' point of view because they

¹¹⁴Sparks, R., Bottoms, A.E. and Hay, W., *op. cit.*

regarded the researcher newly arrived in the prison as “an ignorant, a potential object of sympathy or scorn”¹¹⁵ and as “an ignorant spy”.¹¹⁶ They concluded their reflection on the methodological problems with three pointers for researchers in prison. Firstly, it is necessary to spend considerable time in the prisons, because both staff and prisoners spend so much time there and a certain respect will be gained by someone who does likewise and thus knows the routine and the geography first hand. Secondly, it is important to talk informally to people and learn their language and perspectives. Thirdly, it is important to be curious and ask pertinent questions but it is equally important to answer questions frankly. Covert research is untenable in principle and not feasible in practice. It could be said that the evaluators took an anthropological approach to their work.

4.8.3 *Findings*

In what follows the sequence of topics is: the perennial problem of control, a comparison of Albany and Long Lartin, legitimacy, staff views, prisoners’ views, the vulnerable prisoner unit in Albany, sources of control problems, distribution of disciplinary offences in space and time, control incidents and unrecorded violence.

Order is a perennial problem in any prison for administrators, guards and prisoners alike. It is a daily concern distinct from the high profile public disturbances such as roof top demonstrations or hostage taking. However, these major disturbances are never far from mind when dealing with day-to-day order. There are different conceptions of order and of means of control to achieve the desired order. There are also different ways of creating order from different environments according to the evaluation.

A brief comparison of the two prisons in question will illustrate the different environments in which the study took place. Albany was the most restrictive of the dispersal prisons. It had a history of disturbances culminating in a major disturbance in 1985. Long Lartin was the most liberal of the dispersal prisons, the last one to continue the ideal of the sixties – a liberal regime within a secure perimeter. Albany punished more prisoners for more offences than Long Lartin. The emphasis in relation to control in Albany was situational (i.e. controlling movement and lock up arrangements).

¹¹⁵*Ibid.*, pp. 340.

¹¹⁶*Ibid.*, pp. 349.

While Long Lartin also had the physical features of a maximum-security prison, it tended to emphasise a social approach to control in that setting.

However, the regimes were not as radically different as staff and prisoners felt. For instance, neither prison achieved its education and industry hours per week targets. While prisoners had greater freedom for unaccompanied movement in Long Lartin, it was along secure corridors monitored by closed circuit television.

A central conclusion of the evaluation is that the administrators of a prison, like the administrators of any organisation, must attend to the legitimacy of the organisation. In prison legitimacy requires fairness of procedures, consistency in outcomes (because individual outcomes are known very quickly by the entire prison population), and a basic regime meeting commonly expected minimum standards. The Woolf report¹¹⁷ pointed out that disturbances occurred where prisoners felt a lack of justice. Justice is not just a matter of pleasing prisoners, but has some basis in reasonableness with respect to the norms of society. It would appear from the interviews in the evaluation that officers were often keenly aware of the importance of taking account of the customary expectations of prisoners and prisoners had a precise sense of what they could legitimately expect.

What the basic grade prison officers do and how they do it are central to the type of order a prison tries to establish and its chances of success. There is a constant dynamic of conflict, compromise and mutual influence between officers and prisoners. In interviews with officers the importance of legitimacy was grasped implicitly. It would be impossible, according to officers, to act on every infringement of the rules so fairness and consistency were required, but there were always grey areas where discretion was required. There was also a very consistent view on the personal attributes required of a good officer: resilience, evenness of temper, good humour, common sense and maturity.

In Long Lartin staff were more likely to acknowledge that the prisoners were entitled to a certain amount of personal autonomy as adults serving long sentences. Staff also felt it was more difficult to work in the less structured environment of Long Lartin. On the other hand in Albany officers argued that more stringent application of rules produced greater clarity for prisoners. Both groups felt they

¹¹⁷Woolf, Lord Justice, 1991, *Prison Disturbances*, April, 1990, HMSO: London.

had close relations with the prisoners, based on flexibility in the case of Long Lartin and consistency in the case of Albany.

In Long Lartin the prisoners recognised that material conditions were better than in other prisons and that they were trusted to a certain extent. One prisoner said the line marking the limits of acceptable behaviour was curved in the prison, while another said that the objective was to seduce one into conformity, rather than to brutalise one. Prisoners were clear about the consequences if they acted in a way considered serious by the authorities. Prisoners in Long Lartin just about tolerated the sex offenders amongst them in exchange for the relatively liberal regime. However, sex offenders felt considerable tension and felt it was unsafe to move about freely. A few had adopted in practice the 'psycho' persona – a loner willing to meet violence with more violence – in order to overcome the passive stereotype of the vulnerable prisoner. Those prisoners who disliked the regime in Long Lartin did so with a rare passion. There was a small group who found conditions so difficult that they repeatedly sought segregation for their own protection.

In Albany prisoners felt they were in a very strict regime and tended to focus all the more on any inconsistencies in treatment between individuals, between wings or between the main prison and the vulnerable prisoner unit. The rigours of the regime were blamed on the number one governor or the Home Office. Most officers were well regarded, especially if they left the prisoner alone as much as possible and were civil, good-humoured and fair when dealing with the prisoner. This was in spite of the fact that unknown to the prisoners the local prison officers association had called for the stricter regime. Violent attention was diverted away from the few sex offenders in the main prison by the existence of the vulnerable prisoner unit and by a desire to maintain chances of a transfer away from Albany.

In the vulnerable prisoner unit in Albany the regime was as strict as in the main prison to ensure parity with the main prison, to protect the vulnerable from attack and suicide and to prevent homosexual practice and rape, according to the authorities. This was in spite of the fact that incidents in the unit tended to be less frequent and less severe than in the main prison. Officers were aware that there was a danger of an overweening authority being exercised over acquiescent subjects and had spoken to some colleagues about their over zealous approach. The vulnerable prisoners felt relatively

powerless to resist, as they were anxious to remain in the unit. The alternative was 23-hour lock up in an ordinary prison where they would be constantly taunted, threatened and isolated. They felt that the regime was stricter than it needed to be. The attitude to staff was the opposite of that in the main prison. Prisoners were resigned to the regime but objected to staff attitudes and feared that staff actions might provoke a serious violent outburst by prisoners.

There were three forms of endemic control problems. The first was interpersonal violence ranging from a scuffle in a food queue to gang war. The next range of problems arose from the informal economy for drink, drugs and gambling and related mainly to debt problems and extortion. The third major form of control problem related to protest, disobedience, verbal abuse and sometimes litigation. The presence of sex offenders and debt were the two major sources of control problems identified by prisoners. In Long Lartin, the existence of a cash economy led to high levels of debt and some prisoners felt unprotected. The absence of cash in Albany meant that the economy was smaller. As a result drugs circulated on the basis of friendship networks rather than as a trade.

Food was identified as a major source of grievance as it emphasised the prisoners' dependency. A complaints book was available, although a wing based facility for cooking snacks during evening association might have been a more effective response according to the evaluators. The disadvantages of such an arrangement include the availability of knives and hot water on the wing and potential disputes over access to the facility.

Recorded disciplinary offences for Albany only were analysed. Offences peaked on Mondays and Tuesdays and reached a low on Saturday. The vast majority of offences took place in residential areas rather than in workshops or classrooms. Two fifths of offences took place in the morning work period and one fifth in the next most troublesome period, the afternoon work period. One fifth of offences occurred at morning and afternoon work start times and at morning unlock. It is also worth noting that while Albany had a prisoner profile which would suggest more assaults on staff would occur than in Long Lartin, there were actually a greater number of assaults on staff in Long Lartin.

The evaluation focused on a small number of logged control incidents; interviews were undertaken with all the main participants. The strict regime at Albany and the profile of the offenders

seemed to generate a high likelihood of sporadic acts of violence, though the level of supervision meant that these were likely to be detected sooner and thus were less serious. In Long Lartin relatively unencumbered association meant that more complex social relationships could develop and fuel fewer but more serious acts of violence.

However, an attempt to explore violence, which did not feature in records of offences or incidents, throws an interesting light on the situation. The recorded numbers of false alarm bells, genuine alarm bells and head injuries indicated a possible higher level of tension and of violence in Long Lartin than in Albany.

The evaluation also considered movements from normal location as a control response to problems of order. However, for reasons of space and because the British practice arises in the context of specific British prison rules on the issue, a consideration of this aspect is omitted.

4.8.4 *Comment*

The first question arising from the research is which regime is better. In Long Lartin a more social approach had prevented major disturbances over a fifteen-year period. However, a minority of prisoners were intensely unhappy about the regime. On the other hand Albany used quite intrusive situational methods which did reduce the opportunity for disturbances. The study concludes that both methods of control were workable options, but that the choice between the two was a matter for policy and ultimately for a moral decision. We will return to this point again in the conclusions chapter below (subsection 6.4).

The study emphasises two main points. Firstly, relations between staff and prisoners are central to any model of control. Secondly, while certain individuals may be more prone to disruption than others it is important to focus on the system as a whole and on its legitimacy as a system. The authors note, however, that contemporary approaches in Britain again emphasise individualised control of problematic behaviour.

In Ireland, with the release of maximum-security paramilitary prisoners and the building of more prisons, the future direction of the management of maximum-security prisoners and by implication the management of prisoners of lower risk, is ripe for debate. Given the relatively small size of the Irish prison system it will be necessary to devise our own mechanisms. In particular, higher staff prisoner

ratios and situational responses (e.g. lock up and segregation) alone are unlikely to be sufficient to deal with sporadically violent and dangerous prisoners. While the evaluation took place in maximum security prisons, the researchers would argue that the issues of legitimacy and staff/prisoner relations are just as relevant in relation to maintaining order among lower risk prisoners.

The seven examples described in this chapter show that evaluation is possible, versatile in relation to methodologies and subject matter to be evaluated and, finally, both relevant and useful in practice. The next chapter explores the nature of potential resistances to evaluation emanating from administrators and professionals involved in the systems and proposes actions which might help in overcoming them prior to, or during the conduct of, evaluations.

Resisting evaluation

5.1 Introduction

This chapter addresses the following research question: given the under developed culture of evaluation in the areas covered by this Blue Paper, is it possible for funders of evaluations and evaluators to anticipate resistances to evaluation so that they are aware of them in advance and take action to deal with them? If this is possible, it could reduce instances of the discovery of resistances, whether in practice or afterwards in reflection on costly mistakes made in large-scale evaluations.

There are many helpful manuals on how to undertake evaluation.¹¹⁸ However, when the issue of evaluation is raised, the answer from the various stakeholders (research sponsors, managers and employees in the system, administrators etc.) may be a hesitant yes, in spite of the existence of manuals and examples of relevant evaluations in other organisations or other countries. The reservations about evaluation may be articulated explicitly or may exist in the background organisational ethos, or may only become evident when one looks at how evaluations are conducted, or what happens to completed evaluations in an organisation.

When the resistances to evaluation described in this chapter are married with a determination not to change, it may emasculate, delay or even block an evaluation. However, resistances by their nature are not usually simple discrete arguments amenable to a rational counter argument. They may be based on a complex of inter-related feelings, hunches, common sense, experience and that definite, but indefinable, quality of soundness. Because many of the hesitations about evaluation are not explicitly articulated they might be more accurately characterised as resistances to evaluation rather than arguments against it. Resistances need to be listened to as warnings against some of the pitfalls of evaluation. When these

¹¹⁸For an excellent introduction to the topic of evaluation in the public service see Boyle, 1993, *op. cit*

warnings are attended to, learned from, and pre-emptive action taken accordingly, the likelihood of a relevant evaluation and beneficial changes to a programme as a result will be increased. Some of the arguments raise issues to which there are no easy responses. This should not be taken as an excuse not to evaluate at all.

A number of points can be supported by comments about other countries in the literature. However, the resistances being considered are not usually amenable to simple empirical verification by surveys or other direct means. By its nature, therefore, this chapter is speculative in the sense that it is not always supported by citations from the literature. However, the speculation is not groundless, based as it is on the author's experience of evaluation and performance monitoring systems in a number of public service organisations, discussions with experts in the area of evaluation on the topic of resistances and participation in meetings of a consultative group of civil servants convened by an academic on the issue of evaluation in the public service.

Only a handful of the resistances are specific to prison or the criminal justice area, though there is every reason to believe that the majority of the more general reservations will also resonate with practitioners in these areas. The intention is to provoke practical reflection and debate and thus produce insight and action which could help to overcome resistances which may hinder the process of commissioning or undertaking evaluation.

It is necessary to group the resistances because of the large number of issues to be addressed. The indicative headings are as follows: resources, impacts, an objective view, what to measure, and prison and prisoners.

5.2 Resources

5.2.1 *Inadequacy of time or resources to evaluate*

It has been argued that policy making in relation to prisons is operations-driven, with individuals overwhelmed by the volume of work which crosses their desks, making strategic planning difficult (see also chapter 1).¹¹⁹ The following quote from the Department's

¹¹⁹See Department of Justice, 1994, *op. cit.*, paragraph 14.7(3); O'Donnell, Ian, 1998, "Challenging the Punitive Obsession", in *Irish Criminal Law Journal*, 8, pp. 51-66; Stationery Office, 1997c, *Towards an Independent Prisons Agency: Report of Expert Group*, Stationery Office, Dublin. p. 25.

own report, *Towards an Independent Prisons Agency*, spells out the position in stark but realistic terms.

The overall impact of this concentration of management time in the Department of Justice on the minutiae of managing the prison system is twofold:

- Firstly, an inadequate proportion of time is spent on policy evaluation, for example alternatives to prison custody, and planning; and
- Secondly, the management at prison level lacks sufficient authority and accountability.

This leads to over-management at central level of day-to-day problems to the detriment of strategic thinking and policy-making. It also undermines the development of a strong local management function and leads overall to ill-defined lines of accountability in the system.

In the context of the Government's policy on strategic management, this configuration of responsibilities as between the Department and the Prison Service is anachronistic and would require radical adjustment, quite apart from the decision to establish an independent agency to manage the Prison Service¹²⁰

Even if they are able to articulate a need for evaluation, administrators and policy makers who are responding for long periods to events at crisis pitch may be less able to give the time necessary to outside evaluators to help them collect information and gather intelligence about the system. They may also be in a poorer position to absorb the lessons arising from the process of evaluation. The evaluation may be seen as another task on top of other more pressing tasks rather than a valuable process of learning and reflection. There is also a tendency to see policy makers and time in the civil service as almost infinitely elastic in assisting with evaluations and in implementing recommendations. In contrast, because of the exigencies of the service, the release of operational staff in the prisons for involvement in evaluations and follow up on recommendations

¹²⁰Stationery Office, 1997c, *op. cit.*, p. 25.

has to be quantified and covered by overtime.¹²¹

The beginning of a response to the resource problem is emerging with the allocation of staff to establish the new Prisons Service. Additional staff has also been approved for the headquarters of the new service. To date, however, there is little evidence of a realisation that the distancing of the operational work by and large from the Department will allow it to have a clearer focus on policy issues, including evaluation of prisons and alternatives to custody. This function will also need resources, but as important, it will need a realisation that evaluation is fundamental to both the articulation of policy and the guidance of practice. It also suggests that the costing of evaluation needs to include an allocation of policy makers' and administrators' time to participate in the evaluation and to implement its findings. The high cost of prison and the usefulness of evaluation in identifying more effective use of resources form compelling arguments for the commitment of staff resources to undertake and facilitate evaluation.

A related concern under this heading is the fear that where there are inadequate resources available to deliver an existing service, an evaluation may come to critical conclusions. A competing fear in this area may be that an evaluation could find that there are adequate resources but they are not applied effectively. This would give rise to the need for change which may not be easy to accept or to bring about.

Evaluation is not for the faint-hearted. If there is no will to face the consequences of a thoroughgoing evaluation, then change may not be possible. However, if the need for change is ignored for long enough, external forces may eventually be brought to bear and change thrust upon the system from outside rather than managed from within.

Where the resources for the provision of a service are scarce, it may well be argued that spending on evaluation is a waste, and could be more effectively devoted to direct provision. This argument requires those seeking evaluation to ensure that the evaluation

¹²¹See as one example the table of recommendations in European Social Fund Evaluation Unit, 1998, *op. cit.*, pp. 151-159. In relation to recommendation 2.2, the costs of instructors time in prison is acknowledged under cost implications, but the cost of formulating proposals, (for example, involved in the time commitment required for representation on committees) by administrative officials in the prisons area are stated as none.

is rigorous enough to identify areas where the programme could be improved. The necessary changes suggested by evaluation need to be carried through into practice, thus demonstrating the value of the expenditure to sceptics.

This argument against evaluation has much more plausibility in the context of a pilot programme where the cost of evaluation may represent a significant proportion of the cost of direct provision. The argument could be even more plausible where the pilot programme is being used as a stopgap means of providing a mainline service.

5.2.2 *Evaluation may lead to demands for funding.*

The recommendations for change arising from an evaluation may require resources to secure implementation. This can be a double-edged sword. A government department may be able to use an evaluation report to secure extra resources from the Department of Finance. However, the department may also be subject to the demands of pressure groups, which use the findings of the evaluation to demand resources that are not forthcoming, creating political problems for the department and minister concerned. This leads immediately to the next argument.

5.2.3 *Resource allocation is not based only on evaluations.*

It could be argued that facts get in the way of arguments for resources. Politicians are swayed by public opinion, the media and other pressures. In the area of health economics, for example, four rules of a higher order than cost effectiveness for the allocation of resources have been identified.¹²² It has been argued that the massive expansion in the number of prisoners in the US in the Eighties and Nineties was partially justified, possibly after the event, on the basis that incapacitation of convicted criminals reduced crime. This was in spite of the limited and initially conflicting research findings in this area¹²³ (see also the case study on incapacitation at section 4.7

¹²²These are the rule of rescue, the rule of litigation, the rule of inquiry and the rule of democracy. See Lyons, Ronan, 1996, "The Allocation of Health and Social Care Resources: Protecting the Interests of a Growing Elderly Population", in National Council for the Elderly, *Proceedings of Conference – Planning Health and Social Care Services for the Elderly: Implications of the Projected Increase in Our Elderly Population (1991-2011)*, 24 November, 1994, National Council for the Elderly: Dublin.

¹²³Zimring, Franklin and Hawkins, Gordan, 1995, *op. cit.*

above). Therefore, an administrator might conclude that it would be more beneficial to concentrate one's campaign for resources on factors other than evaluation.

Political decision-making must of necessity take account of many levels. Evaluation can help to inform and shape decision-making and public debate away from unreflective reactions and prejudices and towards a more rational allocation of resources. It will be clear from the historical, sociological and theoretical contexts for evaluation discussed above that there are many issues potentially fraught with deep feelings. Funding decisions or policy initiatives with significant funding implications can be made after a crime or event which captures public attention for whatever reason.

Political concerns will continue to shape decisions in relation to undertaking evaluations. On the one hand, a political reluctance to do anything, including evaluating, to disturb an unsatisfactory situation may be due to fear of extreme reactions or consequences, the scale of the response required to tackle the underlying problem, or an inability to see a workable proposal for improvement. On the other hand, the anticipation of a public scandal or an actual scandal may provide an impetus for evaluation and ultimately act as a lever for change. In the face of public outrage an evaluation may provide space to make a considered response. Alternatively, it can be used as a political gambit to be seen to do something and in order to postpone action, possibly indefinitely.

There is a perception in administrative circles that the media focus on negative aspects and on potential areas of conflict and that achievements are not given due recognition when evaluations are reported. This can form a climate which makes the provision of extra resources in an area problematic from a political point of view. Take for example the headline in the Irish Times on 3 August 1998: "Almost half detox prisoners back on heroin". It did not state in the headline that half of the prisoners who had undergone drug detoxification were still off heroin. This was a success story against a background of a survey of Mountjoy prisoners,¹²⁴ where, of 66 heroin users, 57 went back on heroin on release from prison, the majority within a day of release. The problem with this form of publicity is not only that it may be scientifically inaccurate, but also that a negative

¹²⁴O'Mahony, P., *op. cit.*, p. 108.

notion gains currency with implications for resource allocation.¹²⁵ The use of the publication of an evaluation as an opportunity to engage in public debate and educate public opinion is not without difficulty if the evaluation or its findings are complex or nuanced.

The thrust of the strategic management approach is towards a more managerial approach to resource allocation. For example, the Comptroller and Auditor General (Amendment) Act, 1993, enables the Comptroller and Auditor General to undertake a value for money audit of public bodies, involving economy, efficiency and the adequacy of systems to appraise effectiveness of operations. The absence of evaluation might well give rise to negative comment in this regard. In line with the managerial approach, a statutory requirement for a periodic review or evaluation of a policy after a stated number of years is one mechanism for overcoming reluctance to evaluate politically sensitive areas. The political reluctance to evaluate certain areas may, however, extend to adopting a legislative approach in this regard. It remains to be seen how the managerial approach will fare over time in the emotive areas of crime and punishment.

5.3 Impacts

Evaluation cannot be expected to provide the single correct solution which is so self-evidently convincing that there is no alternative but to implement it, given the existence of ambiguities, ambivalences and conflicting objectives. To produce such a solution may sound like an unrealistic expectation of evaluation. However, this expectation in some form can shape the response to evaluation. Evaluation helps in the often-painful process of decision making, clarifying issues and sometimes posing questions. Prisons, preventive social programmes and alternatives to prison abound in complex questions that do not admit of easy answers, as is evident from the historical, sociological and theoretical settings described above in chapters 2 and 3. Even in cases where the evaluation seeks a simple yes/no answer, the decision to act on the recommendations made in evaluations must be made by the decision-maker funding the evaluation and not by the evaluators.

¹²⁵Gilling, Daniel, 1997, *Crime Prevention: Theory, Policy and Practice*, UCL Press: London.

Ultimately implementing change requires management commitment. There can be a sense of pessimism and a view that evaluation will not change senior, middle, or junior managers, supervisors, front line staff, the union or whoever else is perceived to be the block on change. This sense of hopelessness can arise in a prison setting because of an established micro politics of power, where staff and prisoners alike live or work in a disrupted society where there is a tendency to feel alone and powerless. However, the evaluation process itself, if carried out in a participative way, focussing on how situations can be improved, may give an impetus to change. Practical ideas may be put into action even before the evaluation report is completed. The report may, in identifying problems, enable those involved to see the situation in a new way and bring a realisation of the need for change and realistic proposals for new ways of acting.

A further set of arguments against evaluation centre around the notion that very little may be possible and staff and participants may be demotivated if evaluation shows how little they are in fact achieving. Clear targets arising from evaluation can help staff and participants to re-focus their energies on what is achievable. Realism is essential in commissioning an evaluation and in setting targets afterwards. It may be necessary to start with extremely modest targets, and progress to marginally more ambitious targets with time. Alternatively, it might be advisable to set indicators only, with a view to small, unspecified increments of improvement over time, using disimprovements as signals that remedial action is required. However, it is equally essential not to allow low expectations to become self-fulfilling prophecies. One's approach to prisoners may be influenced by one's view on the philosophical question as to whether prisoners (and people generally) are determined by their circumstances or have the ability to make somewhat free choices. It may also be necessary to make a pragmatic decision to take action in relation to what is immediately achievable with a view to returning at a later stage to tackle more intractable issues, after recording some success in relation to the more easily addressed issues.

A further argument against evaluation poses itself as a question: is it possible to know what success and failure mean in the context of prison? There are two aspects to this argument. Firstly, the client group is so disadvantaged that targets applicable elsewhere may not be appropriate in prison. Secondly, there is the more fundamental

question about the so-called failure of prison. It can be argued that prison will never succeed in any significant way at rehabilitation because the strongest inducements to conformity lie in society outside the prison. There are also other essential objectives of prison which may act against the rehabilitative role: incapacitation, punishment, dealing with recalcitrant individuals and acting as an ultimate penalty in society.

In relation to the so-called failure of prison, it is necessary to look to the evaluation of preventive and diversionary measures and also to the evaluation of post-release programmes. Simple recidivism measures may clearly demonstrate the seeming failure of prison. However, there are more ways than this to judge the efficacy of prison or other programmes. It may be, for instance, that a person has experienced so many disadvantages that the mastery of a clerical task or the gaining of a certificate may improve their perception of themselves to such an extent that they become less frequent visitors to the padded cell even though they are just as frequently incarcerated. Or the person may end their criminal career at thirty-five, while they are still capable of the physical exertion required, rather than at forty-five when it becomes physically problematic. Both may be limited successes of prison, but both scenarios would still contribute to the broad overview of the so-called failure of prison. Statistical tools such as survival models and stochastic models may be used to address partial impacts of the prison system or the broader criminal justice system. Models which address the time to next offence or the time between offences may also give some indication of the effectiveness of an intervention.¹²⁶

Finally, there may be a reluctance to seek rigorous measures of impact because it is only when impact is measured that evaluation gives rise to difficult decisions. It may be comforting to have carried out various studies and published them, but without rigorous impact measurements. There is also an explanation in the Irish case as court, probation and prison data on offenders are not linked and much of the data up to very recently was on paper rather than on computer. This makes the accumulation of impact measures exceedingly laborious and costly. Computerisation should address the technical aspect of this argument.

¹²⁶Tarling, R., *op. cit.*, chapter 6 for survival models and chapter 7 for stochastic models.

5.4 An objective view

There can often be a cynical view about evaluation that whoever pays the piper calls the tune; the evaluator will find what they are paid to find. The first response to this argument is to point to the professional integrity of the evaluator. It is important that an external evaluator be as impartial as possible and not swayed by the size of the public sector in the evaluation economy and the high profile of large evaluations. The use of steering committees, of the academic peer review process and other review procedures¹²⁷ can facilitate the production of a high quality, impartial report. However, the evaluation process can be intensely political and, following Foucault, there is no escape from power issues. The drawing up of terms of reference and the selection of an outside facilitator are themselves part of the process of power. The best that may be possible is to acknowledge as openly as possible the different interests at stake and proceed accordingly.

If one is concerned that an evaluation is as objective as possible and seen to be objective then an external evaluator has significant advantages over an internal evaluator. One major overhead for the external evaluator and for those inside the organisation assisting him or her is familiarising him or her with the data, the history, the different views of the situation, and the policy-making context. As one prison research team put it: "the researcher coming from outside is effectively an ignoramus, a potential object of sympathy or scorn".¹²⁸ An outside evaluator has the appearance of independence, but lack of familiarity with the area and the actors may permit one or other group to capture or win over the evaluator. On the other hand an outsider is freer to ask fundamental questions about the justification and rationale for a programme and may even question the continuation of the programme. For this reason the outsider may also appear more threatening.¹²⁹

While an insider has less chance of being seen to be independent, an inside evaluation has certain advantages. An insider knows the

¹²⁷See for example CSF Evaluation Unit, 1998, *op. cit.*

¹²⁸Sparks, Richard, Bottoms, A.E. and Hay, Will, *op. cit.*, pp. 340.

¹²⁹Mayne, John, Divorski, Stan, and Lemaire, Donald, 1999, "Locating Evaluation: Anchoring Evaluation in the Executive or the Legislature, or Both or Elsewhere" in Boyle, Richard and Lemaire, Donald, eds., *Building Effective Evaluation Capacity*, Transaction Publishers: Somerset, p. 3.

history, the players and the context, thus saving a lot of time on explanations. The insider is also well placed to act as an ongoing agent of change to improve the programme or service within the organisation once the evaluation is completed.¹³⁰ A lone individual employed by the organisation may, however, be very vulnerable if their work challenges accepted wisdom within the organisation. Hence the need for an outside referee/mentor, unambiguous terms of reference and clear reporting lines to, and support by, senior management as in the case of internal auditors.

Another objection to an evaluator is that they will provide their own opinions rather than facts. This is an understandable response from policy makers in an area which is particularly prone to passionately held views. However, it is a fallacy that the gathering of more and more information or facts will lead mechanistically to an ineluctable insight into the one correct answer. It is often more important to ask more fruitful questions than to gather more facts. Having examined Foucault's insights it is necessary also to be cautious about any assumption that facts in themselves have a special objective status. The facts which are presented as against those which are not and the reasons why certain facts are emphasised also have lessons to teach us about power and its distribution. For example, it is sometimes the case that small pilot projects are subject to detailed evaluation while mainline programmes are not evaluated at all. In political and practical terms it is easier to evaluate and modify or drop a small pilot programme, which may even be a fixed term project, than to evaluate and modify or terminate a large mainline programme which has been in operation for many years. This is an example where the objectivity of the funder of evaluation as distinct from the evaluator may be called into question. Lack of attention to the power issues associated with facts may give a needlessly narrow picture of the programme being evaluated.

Caution in relation to facts is no excuse for permitting poor quality evaluations to take place. There is a premium on clear specification of the issues for evaluation, good selection procedures and ongoing supervision and quality control. A poor quality evaluation may recommend unjustified or unworkable proposals which can add extra complexity to an already complex environment and lead to the waste of resources if the proposals are followed.

¹³⁰*Ibid.*, p. 16 (in both cases, of the pre-publication draft).

Evaluation can help to return such a programme to its original objectives. In the specific area of sexual offender programmes it has been argued that programmes which are not precisely focused and executed can actually be more harmful than having no programme at all.¹³¹ Therefore, a poor quality evaluation which does not accurately measure the drift in a sex offender programme can actually lead to a harmful programme continuing with an apparently clean bill of health.

5.5 What to measure

The power issues around facts have already been discussed (section 5.4), as have means of measuring small increments of improvement and some problems in relation to measuring impact (section 5.3). The discussion now turns to a range of further issues around measurement and evaluation. The first issue relates to hidden activities.

A work to rule can be a very effective form of industrial action because rule bound activities usually require some human flexibility in order to enable the organisation to function efficiently and effectively. In a prison setting a breach of rules may range from a dereliction of duty with potentially dangerous outcomes, through a necessary compromise to ensure the smooth running of the schedule of activities, to a creative response with very positive outcomes. Staff may fear that the description and quantification of these types of activity by an evaluator might jeopardise the positive outcomes and even result in disciplinary action.

The response to a departure from the rules depends on the circumstances of the case, personal management style and organisational ethos, especially in relation to risk taking. One manager may see a neglect of duty where another sees a better way of doing things requiring either a rule change or a continuing blind eye. As well as security considerations, rule bending may be associated with actual or perceived favouritism, which may breed a sense of grievance, especially in a closed community like a prison. It has been pointed out that front line prison officers may be in a double bind when it comes to rules.¹³² If they enforce rules prisoners may accuse them of

¹³¹Beckett, R., Beech, A., Fisher D., and Scott, Fordham A., 1994, *Community-based Treatment for Sex Offenders: an Evaluation of Seven Treatment Programmes*, Home Office Publications Unit: London, pp. 31-32.

¹³²Mathieson, T., quoted in Sparks, R., Bottoms, A.E. and Hay, W., *op. cit.* p. 46.

being inflexible and if they use discretion, they may be accused of being inconsistent and unfair. Prisoners may also go over the head of the officer to a more senior officer, to the governor, or to the minister. This gives rise to a disrupted society in which everyone, including prisoners and those close to the top, feel that power resides elsewhere. The enforcement of rules as they relate to order and control was considered in the case study discussed at section 4.8 below.

A variety of responses may be open to or required of the evaluator where an infringement of the rules come to light. If the infringement is peripheral to the evaluation and is of a minor nature it would probably be best ignored. Otherwise the evaluator may be seen to be too closely aligned with management and lose co-operation and valuable sources of information, especially in a highly unionised environment. However, an evaluation of actual work practices may require that the infringement be noted in the evaluation with varying degrees of specificity depending on the context. If the infringement is extreme and is potentially harmful to life, health or property there may be an ethical requirement to bring the infringement to attention immediately. In summary, rule infringements may or may not be problematic for the evaluator and the course of the evaluation depending on circumstances.

In a more general sense it has been argued that evaluators need to find out what is really happening behind the quantitative summary, to get a qualitative feel for a programme or project. Otherwise one may be evaluating the impact of a programme which one assumes was implemented as intended, but was either never implemented or was implemented, but not as intended. In order to ensure that this type of error does not occur, evaluators must spend time getting a feel for projects on the ground in addition to examining quantitative measures. This is particularly important for outsiders in a prison setting.

A further concern of those being evaluated may be that they are expected to perform different and sometimes-conflicting functions so that none of them are carried out adequately. Evaluation may be beneficial in describing the conflicting objectives as a first step to changing the situation. Obviously change may involve the dropping of some tasks or a prioritising between them. As stated above (section 3.5), however, social institutions like the prison usually contain within themselves traces of the contradictory functions they

are expected to fulfil by different interests. It may not be possible to resolve these contradictions within the prison; it may be necessary to find a way of living with them. Alternatively some of the issues may be better addressed outside prison and may require informed public debate.

In relation to targets, the following colloquial statement is a reasonably precise summary of the situation: "what you measure is what you get, whether that is what you actually want or not". For example, in Britain quantitative targets were set for the number of neighbourhood watch schemes which were to be established. This led to the establishment of large numbers with no emphasis on quality. This had negative results on impact.¹³³ In 1974 the Federal Bureau of Investigations in the US undertook an internal evaluation of their approach to investigative activities. This evaluation found that the monitoring system emphasised quantitative measures which gave rise to satisfactory statistical results on performance. However, activity was driven by the need to get results as measured rather than tackling complex criminal enterprises.

In relation to the FBI, a different monitoring system was developed which took account of the quality of cases and their potential for making an impact. As a result, successful investigations were undertaken of criminal cartels in organised crime, illegal drugs and public officials involved in corruption.¹³⁴

It is important therefore to measure what the organisation or programme is meant to achieve. There is a tendency in setting targets, however, to measure outputs (e.g. number of neighbourhood watch schemes established or number of cases solved) to the exclusion of impact targets (e.g. decline in local crime or in organised crime). The impact is more important, but more difficult to measure. Both need to be measured. However, where success may be problematic and impacts difficult to measure, it is understandable from a practical point of view how outputs become such powerful surrogates. Measuring outputs only is essentially a conservative action.

A further related point is that what is measured in practice can define the problem to be tackled. We saw above how criminology in its early days defined itself as the study of criminals because copious

¹³³Gilling, D., *op. cit.*, p. 145.

¹³⁴Sonnichsen, Richard C., 1999, "Building Evaluation Capacity Within Organisations", in Boyle and Lemaire, *op. cit.*, p. 4, of pre-publication draft.

prison records existed (section 3.3). Crime prevention in Britain is usually evaluated with respect to the most reliable figures available, namely the crime statistics.¹³⁵ However, as much as 95 per cent of recorded offences can be property crime, whereas crimes such as domestic violence are under-recorded. In addition, the crime statistics are clear about when and where a crime occurs, but less clear on who committed it and why. Therefore, the most obvious response is a situational one: for example neighbourhood watch focusing on property crime. Other crime problems have less legitimacy because they are not quantified or not quantified as consistently as the crime statistics.

One answer to this problem is the generation of alternative statistics or the pursuit of qualitative research. Both of these approaches can be expensive and they may not have the same credibility as the official figures. There may then be a role for interest groups to lobby to have problems which are not reflected in official measurements addressed, but this takes us outside the field of evaluation.

There may be a tendency in evaluation to reduce everything to costs and benefits. One stark articulation of this point of view is that everything can be measured in terms of money and what cannot be so measured can take care of itself from the point of view of management. Many crucial elements and their impacts on behaviour cannot be measured precisely however, for example care, compassion, positive regard, creativity, charismatic leadership, depths of human suffering, inner turmoil, evil intent etc. At one level the argument touches on a discomfort at the thought of reducing the complexity of human interaction to a few statistics. In caricature, the manager may conduct a tour of a prison, clipboard in hand, discussing performance indicators and missing the tone of the relationship between officers and prisoners which is a key element in keeping order. The danger is that if the measurement process comprises what is easily measured, and if measurement defines the problem, then the clipboard can dictate what is considered to be important, to the detriment of softer, but no less important, factors. Creativity is one such critical element.

It is useful to be aware of the pitfalls of an over reliance on quantified targets. However, in the Irish situation target setting is in its infancy and needs to develop significantly. In these circumstances,

¹³⁵Gilling, D., *op. cit.*, pp. 175.

the discussion above refers to theoretical limits to evaluation and setting and monitoring of targets, and should not be regarded as a brake on the development of evaluation here.

At another level, the argument that not everything can be quantified can be countered by reference to modern statistical methods and techniques for psychological profiling. One function of an evaluation is to step back from the particularity of the individuals concerned, both staff and clients, and assess critically how the programme objectives are being met. If they are not being met it may be possible to suggest ways of improving the programme. While the intangible human aspects of a programme may not be measured directly, their presence or absence can impact on measurable outcomes. In addition, they may be perceived and commented on favourably or otherwise by an experienced evaluator.

If the process, as distinct from the outcome, is particularly important, different evaluation techniques can be used to examine this aspect of a programme. It may also be possible to illustrate a certain aspect of the programme with one or more individual case studies. Ultimately an anthropological approach can be adopted to complement a more quantitative approach. If one has any doubts about the rigour or the depth of such an approach the description of the method under the case study on order and control in prisons (subsection 4.8.2) is worth considering. While it may be difficult to quantify crucial factors, evaluation is still feasible. Quantification must in any event be supplemented by awareness on the evaluator's part of qualitative factors affecting programmes on the ground.

5.6 Prison and prisoners

There are a number of issues pertaining to evaluation which arise directly in the prison context and also do so more starkly than in other environments. The first issue is that prisons are places of extremes not normally encountered in everyday life outside institutions and not suitable places for ordinary people with no relevant background experience.

Prisons can be tough environments. There are limited risks, including limited health risks, though it is not clear whether the risks of catching a disease or infection are as significant as when one visits a hospital. Evaluators need to be briefed on what to expect. Perhaps there is also a fear amongst those who fund prisons that the inexperienced outside evaluator will be shocked by the physical

conditions of imprisonment and make demands in their recommendations which will require significant resources.

The position of women in prison is interesting. Women are employed as prison officers. A group of American women who regularly go into prisons as volunteers have reflected on how they are perceived. They felt that they were regarded by others in many different ways ranging from one extreme to the other.¹³⁶ In fact much of the best recent first hand research in both male and female British prisons has been undertaken by women. Indeed, one of the recent evaluations of training in prison in Ireland was undertaken by a woman.¹³⁷ Amongst the disadvantages faced by women evaluators are the anxieties, protectiveness and sometimes the hostility of staff. Prisoners are also largely conservative men who may disclose certain issues with more ease to women and other issues with more ease to men.¹³⁸ Women may be more open to the experience of the invisible women of the prison system, whether they are the partners who visit men in prison or the partners of male officers who indirectly share some of the stress of prison work. They may also be more likely to take account of the views of women prisoners and women officers.

It may be necessary to undertake security checks on evaluators if they are going to have unsupervised access to prisoners. It may also be necessary to brief individuals on good personal security practices. There may be tensions arising from the different perspectives of evaluators who are seeking as much access as possible and custodial staff who are aware of security issues and are concerned with the personal safety of the evaluators. Tensions may arise in relation to unaccompanied access to all areas of the prison and in relation to written reports which inadvertently reveal security arrangements. The evaluators and the prison authorities would each need to respect the different emphasis and tasks of the other. There may be need for ongoing discussion to develop trust and an acceptable *modus vivendi*.

Involving the recipient of a service in its evaluation would appear to be common sense. However, an argument made against

¹³⁶Religious Society of Friends, 1983, *Gathering of Women Friends Going Into Prisons*, Religious Society of Friends: New York.

¹³⁷The evaluation concerned is: European Social Fund Evaluation Unit, *op. cit.*

¹³⁸Sparks, R., Bottoms, A.E. and Hay, W., *op. cit.*, p. 346.

involving prisoners in evaluations is that prisoners are manipulative and can lie to a greater extent than other groups. The first point to bear in mind is that no one comes to an evaluation in a completely objective manner. There are usually at least as many agendas as interest groups in any evaluation. Experienced evaluators are used to sifting through the different perspectives of different actors in an organisation. It may also be critically important to understand how prisoners see the system in the context of an evaluation. Much valuable evaluation or profiling work is possible with prisoners.¹³⁹ If the client group is not understood, innovations may turn out to be of little use. While there may be a benefit to prisoners to lie to protect themselves when before a governor on a disciplinary charge or when seeking a favour, there is no immediate gain to be obtained in most research settings.

Some of those with experience of prisoners say that sometimes they can be more honest than others because they have much less to lose. In fact, listening non-judgementally to a prisoner's story in a context where the listener is clearly unable to offer the prisoner any favours may encourage the prisoner to speak very candidly. One research team concluded, after an extensive pilot study within prison, that the interviews they had undertaken "demonstrated that both prisoners and staff were able, in a private and sympathetic context, to speak with moving force and clarity about their respective situations, anxieties, problems, consolations, and relations with one another".¹⁴⁰

From the point of view of the evaluator gaining the trust of the prisoners, careful research design involving cross checking of information where possible may help to overcome pitfalls in regard to truthfulness of responses. Academic detachment has its place, but interview subjects need to be treated with courtesy and candour. Covert or devious research stratagems are counterproductive.¹⁴¹

A final argument against evaluation is least likely to be aired in academic journals or in prison management circles. However, it is an argument which needs to be understood and not dismissed too lightly. There are "two contrasting visions at work in contemporary criminal justice – the passionate, morally toned desire to punish and

¹³⁹See O'Mahony P., *op. cit.*, where the study is based on prisoner interviews.

¹⁴⁰Sparks, R., Bottoms, A.E. and Hay, W., *op. cit.*, p. 346.

¹⁴¹*Ibid.*, p. 351.

the administrative, rationalistic, normalising concern to manage".¹⁴² In professional and managerial discourses this desire to punish is marginalised, but it is nonetheless real and substantial and helps shape the modern penal system. The bureaucratisation of punishment means that it tends to be run *sine ira ac studio* (without anger or enthusiasm). The emphasis is on welfare and rehabilitation. However, professionals have introduced a technical 'non-judgemental' language in place of a moral language. This lack of a moral language has meant that resentment, outrage and hatred as well as mercy, justice and forgiveness continue to exist, but in an unarticulated fashion. Because both sets of concepts are not articulated by the professionals, the public debate is never educated and remains fixed along predictable lines. In the context of evaluation the desire to punish can be articulated in public comments such as the following: "Prisoners have done terrible things and deserve to be locked up for long periods in the toughest conditions. Evaluation is a waste of tax payers' money and is too good for prisoners."

It has been argued that prison is "an expensive way of making bad people worse".¹⁴³ Evaluation of what happens in prison, but more particularly of preventive and diversionary measures before prison, hold out the prospect of reducing the cost of imprisonment and of better helping prisoners and potential prisoners to turn over a new leaf. This should in turn reduce the cost to the taxpayer. However, utilitarian or instrumental arguments of this sort address only one part of the opposing argument. It does not address the desire to punish, which comes from a different level. Arguments about the dignity of the individual, and the importance of mercy, forgiveness and compassion as well as some element of punishment need to be made in response to this issue.

5.7 Conclusion

This section has considered resistances to evaluation and possible responses to them under five broad headings. All of the large number of such resistances are unlikely to be articulated or to be of concern in any particular case. By describing and debating these

¹⁴²Garland, D., 1990, *op. cit.*, pp. 180 for this quote and p. 180-192 for some of the following discussion.

¹⁴³Home Office, 1990, *Crime, Justice and Protecting the Public*, White Paper, HMSO: London, p. 6.

resistances, evaluators can take steps in advance to mitigate them. All of the issues raised in this chapter can be integrated as appropriate into evaluation design, rather than learned in a costly way during the conduct of evaluations. If they are not anticipated in this way, the evaluation process may as a result have to take unexpected and counterproductive turns in trying to deal with resistances as they are encountered.

Evaluation is a powerful and useful tool box which can assist in the policy-making process. But like all powerful tool boxes it needs to be handled with respect, the correct tools need to be selected for the job and used according to their instructions. It is also in the nature of tools to require conscious direction by their users. The value system of those who commission evaluation is relevant in this regard. While evaluations are not inert or passive mechanisms like a hammer which can be used in a purely instrumental manner to build a roof for example, values do affect the questions asked, and thus to some extent the answers found and above all the practical follow-through after an evaluation.

A wide range of environmental factors, often outside the control of the evaluator, has an impact not only on the programme to be evaluated, but also on the evaluation itself. Some of these factors are suggested by examining the resistances to evaluation above. If the evaluator and his or her client are aware of these pressures it can lead to a more productive outcome.

The next chapter draws together some points about the broader role of the Department of Justice, Equality and Law Reform and about the limitations of evaluation.

Limitations of evaluation

6.1 Introduction

This chapter considers three topics not already directly addressed: the broader role of the Department of Justice, Equality and Law Reform, evaluation and change and moral choices. The first topic touches on the cross-cutting nature of crime and especially crime prevention as an issue. The next two topics step beyond evaluation to argue that evaluation in itself cannot produce change and that ultimately evaluation is not the final arbiter of what should be done.

6.2 The broader role of the Department of Justice, Equality and Law Reform

The Strategy Statement of the Department of Justice, Equality and Law Reform¹⁴⁴ identified a strategic approach to crime prevention as a cross agency or cross-cutting issue, requiring active inter-agency links. It also identified itself as the initial lead Department. The study in relation to early childhood interventions (subsection 4.2.4) mentioned the problem of stigmatising subjects if a programme is targeted at those at high risk of delinquency. This requires a delicate balancing act on the part of the Department of Justice, Equality and Law Reform. On the one hand, if it allows other agencies to develop programmes to tackle social issues germane to their own areas without any criminal justice perspective, the resulting projects may or may not impact on delinquency and offending. On the other hand, if it takes too central a role the project may stigmatise those young children and the families it is trying to help and thus be counterproductive. The case study suggests that projects which directly target parenting and intellectual development with a view to improving the lot of the family and the child generally may also have positive preventive effects on chronic delinquency. Therefore, they may be marketed accordingly with

¹⁴⁴Department of Justice, Equality and Law Reform, 1998, *op. cit.*, p. 86.

reduced risk of stigmatisation. However, the danger of stigmatising individuals is a general point in relation to the Department's approach to multi-agency working and it requires sensitive, intelligent and practical handling in each case.

The Department would need to keep abreast of research findings in relation to preventive measures and identify for itself the factors which are related to criminal activity and the successful interventions in this regard, even though these areas are not the direct responsibility of the Department. It is possible, though not always certain, that there will be a commonality of interest between it and the other agencies in relation to the orientation of interventions. The Department nonetheless needs to focus on activities targeted at the criminogenic factors. It also needs to ensure that the impact of these activities on crime is evaluated by itself or any other lead agency. This may involve some long-term longitudinal evaluation or statistical analysis in co-operation with other agencies.

6.3 Evaluation and change

Can evaluation produce change? For those who view evaluation as a mechanism which produces an answer to a perplexing social issue it is worth reproducing in full the quotation given at the end of subsection 4.3.3:

No answers concerning either strategy or the shape of particular schemes will somehow drop out of even the most rigorous crime and social profile. The thrust of policy in this sphere must arguably come from elsewhere, and information collection be harnessed to shed greater and more detailed light upon priorities which are themselves a result of consultation and political debate.¹⁴⁵

This is an important first point in relation to evaluation and change. The options which require evaluation are thrown up from consultation and debate. When the evaluation is complete its findings should, in an ideal world, feed into the debate again to enlighten the discussion, but not to pre-empt a decision.

There are examples, however, of policy which ignore or run counter to evaluation findings. Incapacitation has been used as a

¹⁴⁵Liddle and Gelsthorpe, *op. cit.*, p. 12.

rationalisation for the increasing prison populations in the US and to some extent in Britain, even though much of the little research on the topic was not supportive of increasing recourse to prison (subsection 4.7.4). Another commentator suggests that punitive policies highlight a gap between research-based policy advice and political action taken. One example is the continuing political and public enthusiasm in the US for boot camps in spite of the fact that evaluation shows that they are no more effective than prison in reducing recidivism. It is suggested that the punitive approach is a non-rational or almost magical compensation for the fact that the state cannot reduce crime to a level acceptable to the population generally (subsection 4.6.4).

A key element in exploring the possibilities of change is the pilot project which is carefully evaluated. Unfortunately in some sectors in Ireland the pilot project has acquired a bad reputation as a stop-gap measure in place of more expensive mainline provision. Mainstreaming is the term used to refer to the generalisation of the lessons learned in a pilot study to mainline provision. The pitfalls of introducing a mainline programme that is significantly different from a pilot measure which has been positively evaluated are illustrated in the case study on unit fines (subsection 4.4.4). There is nothing wrong in itself in making changes to a pilot programme when mainstreaming it, as long as one is aware of the potential consequences of these changes.

Another difficulty in mainstreaming relates to scale and intensity. Pilot projects are often well resourced, clearly focused and staffed by people who are pioneers or are committed to making the pilot a success (subsection 4.2.4). It is not surprising that evaluations come to positive conclusions about such pilot projects. It is not usually possible to replicate this kind of extra dedication consistently across a wide range of sites. However, it is usually possible to achieve adequate to high levels of commitment from those involved in delivering mainline provision, even if adequate resources are not always easy to secure. Again evaluation has a role in checking how the mainline provision is progressing after a period. It is not appropriate to rely exclusively on a positive pilot evaluation as a guide as to how the subsequently mainstreamed programme is performing.

It has been suggested that challenging the continuing relevance of a programme is not something that institutionalised evaluation is capable of doing. It is much more likely to suggest modifications

and improvements to, rather than abolition of, a programme. Significant change typically comes about as a result of a political decision and a driving force to ensure the decision is implemented.¹⁴⁶ In this context, however, the questions asked and the evaluations set in train can be used to bolster a position or to genuinely tease out the practical complexities of a preferred approach. However, even when an evaluation makes robust proposals for change, administrative action may focus on amending (“tweaking”) a programme.

Another possible role for evaluation in supporting change is that an accumulated body of evaluation work may exist which points up the weaknesses of the predominant approach and also highlights the possibilities of an alternative. When combined with a political will and favourable climate to extend the alternative approach, pre-existing evaluation work may give rise to seemingly quick and radical change. This is an analogous process to that posited by Kuhn in relation to the development of science.¹⁴⁷

6.4 Moral choices

If radical change requires an impetus external to administrative institutions and, to some extent, at a different level to evaluation, where does such change originate? Historians acknowledge moral concerns as one motivation among others for change in penal practice. Once such change has happened, irrespective of its motivation, are there any criteria, in addition to evaluation, findings by which to judge such initiatives? Morality¹⁴⁸ offers one perspective.

It has been argued forcefully¹⁴⁹ that modern managerial approaches, increasingly common in prisons, tend to emphasise procedural correctness, service delivery, monitoring, evaluation and risk assessment on the one hand, and to downplay moral considerations on the other. However, there is in fact a strong moral dimension to the job of running a prison. For instance, on a practical level there is a danger that if respect for the individual person is lost, then it

¹⁴⁶Mayne, J., Divorski, S. and Lemaire, D., *op. cit.*, p.25-26.

¹⁴⁷Kuhn, Thomas S., 1970, *The Structure of Scientific Revolutions*, Second Edition, The University of Chicago Press: Chicago.

¹⁴⁸The word “moral” is used in this section rather than “ethical”, because ethics has connotations of philosophical debate and arcane concerns of medical and other professional ethics. “Moral” has the advantage of a more immediate and immanent tone even though it may suffer from connotations of sexual morality.

¹⁴⁹Sparks, R., Bottoms, A.E. and Hay, W., *op. cit.*, p. 22.

will become much more difficult to maintain order in prisons. It will be recalled that McMahon called for a moral stance in evaluation and research work in criminology in order to forge a vision to overcome the fatalism of much contemporary academic work in the area of prisons (section 3.4). It has also been pointed out in chapter 5 that the lack of a moral language has meant that resentment, outrage and hatred as well as mercy, justice and forgiveness continue to exist, but in an unarticulated fashion. As a result the public debate is never educated and remains fixed along predictable lines (sub-section 5.6).

Evaluation ideally provides practical information as an input to a moral debate or decision-making process. The practical and the moral are closely intertwined, but remain separate levels of discussion. In confusing or conflating the two levels there is a reduction to a mechanistic approach to evaluation: if the evaluation concludes that a course of action has greater impact or is more efficient or less costly, the conclusions of the evaluation must be implemented. It is important to state that the evaluators' job is to evaluate, while it is the role of the decision maker to make decisions and ensure they are implemented.

There are three levels of questioning in policy decision-making processes, although one or two may be overlooked in practice. The questions about what will work (or in evaluation terms, what will deliver on an objective in the most efficient way) can be answered to some extent by evaluation. The questions about what will be tolerated by the public are a matter for politics. There is also a need to ask what should be done, which is a moral question. While these three levels of questioning should apply to all policy matters, the moral dimension is heightened in the context of crime, crime prevention, punishment and rehabilitation. There is much human suffering involved: victims of crime suffer, as do the perpetrators, especially when punished. The consequences of policy decisions also have huge impacts on individuals whether they are current prisoners or victims, potential future victims or prisoners, or the officials in the various state services and those in the voluntary sector who deal with offenders.

There are three interesting examples in the case studies where evaluation findings and a moral choice are closely related. Long Lartin and Albany prisons had different approaches to securing order. One was more liberal and the other was very intrusive. The

evaluation concluded that both regimes were viable. It was a question for policy, but ultimately a moral decision, which regime to favour (subsection 4.8.4).

In the British context, it was found that intensive community supervision was slightly cheaper than prison, was moderately more successful in relation to recidivism and was better in relation to post-treatment social ties, which might reduce offending (subsection 4.5.3). The evaluation case for community supervision was neither overwhelming nor indisputable. In practice, however, the emphasis on community supervision resulted from a conviction that it was better to keep young people in the community and away from prison. This view of the new orthodoxy was partly practical and partly a moral stance (subsection 4.5.4).

Further moral questions arise in relation to selective incapacitation (subsection 4.7.2(3)) because of the high cost of general incapacitation as a mechanism for reducing crime. The practical issue is that accurate prediction tools with a high degree of accuracy do not exist to select those who will contribute most to the crime level. The first moral question is whether it is justifiable to imprison for a long period of time some people who would not in fact have contributed at a high rate to crime levels in order to incapacitate those who would. A further moral question is whether it is justifiable to incarcerate people for what they might or would do rather than for what they have done. Evaluation can shed some light on the reliability of prediction tools and can help in the development of more accurate ones, but there are also political and moral aspects to be considered.

6.5 Concluding remarks

Ongoing monitoring and evaluation seem to be essential to the effective running of any schemes aimed at the rehabilitation of offenders, their diversion from prison or the prevention of crime. The quality of local delivery or local management can change quickly and if there is no monitoring or evaluation, change may go unnoticed until there is a serious and public mishap (subsection 4.5.3(4)). In addition certain programmes such as pro-social modelling for intensive community supervision (subsection 4.5.3(2)), successful interventions in early childhood to prevent chronic delinquency (subsection 4.2.3), a unit fines system (subsection 4.4.4), or sex offender rehabilitation programmes (subsection 5.4) need to be

implemented in a precise fashion in order to be effective. In the case of some programmes faulty implementation can cause more damage than no intervention at all.

This Blue Paper has refined the focus of the simple model of evaluation (see Figure 1 in Chapter 1) as a tool for change by considering the history of prison and also by examining the literature in four areas: on the failure of prison, on the nature of power in prison, on power as formative of knowledge and on the purposes of prison. Seven case studies covering very different interventions and programmes and using diverse methodologies have been described to demonstrate that evaluation is practically possible, relevant and worthwhile. A consideration of possible resistances to evaluation served to highlight potential pitfalls to would-be evaluators and policy makers considering commissioning evaluations. In this chapter a broader role has been advocated for the Department of Justice, Equality and Law Reform in terms of a continuing commitment to research, evaluation and inter-agency working. Finally, the role of evaluation in the process of change and the limitations of evaluation as final arbiter of what should be done have been described. It is hoped that, having read this Blue Paper, policy makers will give increased attention to evaluation in practice, as a tool for improvement and change in programmes and services, in prisons, in relation to community sanctions and also in the area of preventive social interventions.

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Appendix 1: Daily average numbers in custody in Ireland 1965-1999

<i>Year</i>	<i>Women (numbers)</i>	<i>Women (per cent)</i>	<i>Men (numbers)</i>	<i>Men (per cent)</i>	<i>Total</i>
1965	18	3%	542	97%	560
1970	14	2%	736	98%	750
1973	22	2%	941	98%	963
1976	28	3%	1021	97%	1049
1977	21	2%	1008	98%	1029
1978	22	2%	1157	98%	1179
1979	24	2%	1116	98%	1140
1980	28	2%	1187	98%	1215
1981	23	2%	1173	98%	1196
1982	32	3%	1204	97%	1236
1983	40	3%	1410	97%	1450
1984	37	2%	1557	98%	1594
1985	46	3%	1817	98%	1863
1986	50	3%	1819	97%	1869
1987	42	2%	1901	98%	1943
1988	44	2%	1918	98%	1962
1989	42	2%	2025	98%	2067
1990	46	2%	2062	98%	2108
1991	40	2%	2100	98%	2140
1992	39	2%	2146	98%	2185
1993	44	2%	2127	98%	2171
1994	38	2%	2103	98%	2141
1995	39	2%	2082	98%	2121
1996	48	2%	2143	98%	2191
1997	63	3%	2359	97%	2422
1998	71	3%	2539	97%	2610
1999	na	na	na	na	2763

Source: Department of Justice, Equality and Law Reform