



Universität Greifswald, Rechts- und Staatswissenschaftliche
Fakultät,
Prof. Dr. F. Dünkel, D - 17487 Greifswald

Rechts- und Staats-
wissenschaftliche Fakultät
Lehrstuhl für Kriminologie

Prof. Dr. jur. Frieder Dünkel

Telefon: +49 3834 86-2138

Telefax: +49 3834 86-2155

duenkel@uni-greifswald.de

<http://jura.uni-greifswald.de/duenkel>

12 December 2012

European treatment and transition management of high risk offenders – a justice cooperation network (JCN)

The aim of the research is to compare the different legal concepts and practice concerning high risk/”dangerous” offenders. Therefore the following questionnaire is distributed to the partners in order to collect information on the legal base and the practical organization of supervision and surveillance of such offenders. Furthermore we want to gather statistical data on the quantity of high

risk offenders and empirical data on the recidivism and reintegration of high risk offenders in the participating countries.

When talking about **high risk offenders** the partners have decided to focus only on offenders identified as at high risk of reoffending through threat of or serious injury or offences against the person (i. e. sex offenders, serious violent offenders).

We have decided to exclude high risk offenders dealt by other institutions such as psychiatric hospitals. The questionnaire therefore is restricted only to **high risk offenders in prisons** and after release from prisons.

Please forward the responses to me latest until 15 February 2013.

Questionnaire

Legal issues	
I.	Definition of „dangerous“ or „high risk“ offenders
1.	<p>How is the legal concept of “dangerousness”/high risk addressed in Criminal Law, in your country? Is there a difference between “dangerous” and high risk offenders? If yes, please outline it briefly.</p> <p>(Legal conditions of criminal sanctions, preventive/security measures)</p> <div style="border: 1px solid black; padding: 5px;"> <p>There is no reference in legislation in Ireland to “dangerousness” or “high risk” in criminal law or sentencing.</p> <p>It is also clear, that while preventive detention is not unknown in Irish criminal law, it is rarely explicitly used. (The Law Reform Commission <i>Report on an Examination of the Law of Bail</i> pp16ff http://www.lawreform.ie/fileupload/Reports/rBail.htm)</p> <p>Irish law does not permit the sentencing of offenders on the basis of ‘preventive detention’. Nor does the Minister engage in a ‘tariff-fixing’ exercise at the outset of the sentence, determining a minimum period that has to be served in prison before the ‘lifer’ can be considered for release. Further, the respective roles of the judiciary in sentencing, and the Executive in giving effect to the sentence, are constitutionally embedded and have frequently been discussed and approved in a number of judicial decisions.</p> <p>The Irish approach to sentencing, grounded in Bunreacht na hÉireann, requires that each sentence be formulated with the individual facts of the case in mind and be proportionate to the gravity of the crime and the circumstances of the perpetrator (<i>People (DPP) v Sheedy</i> [2000] 2 IR 184).</p> <p><i>“The protection of the public is an appropriate factor in the exercise of the sentencing function, but it cannot be extracted from that function to create a self-standing judicially created jurisdiction to impose a form of preventive detention.” DPP v McMahon</i> [2011] IECCA 94 (Court of Criminal Appeal, O'Donnell J, 14 December 2011) (SENTENCING NOT TO</p> </div>

		BE USED FOR PREVENTIVE DETENTION)
		Preventive/security measures may, in particular circumstances, influence conditions a Court may wish to implement in a community sanction.
	2.	<p>What kind of offenders are defined, in law or in practice, as “dangerous”/high risk in your country?</p> <p>There is no reference in legislation in Ireland to “dangerousness” or “high risk” in criminal law or sentencing. Judges are independent in sentencing and can take cognisance of particular issues and concerns in deciding on appropriate sanctions or sentences.</p> <p>The definition of “dangerous”/high risk adopted here is not limited to specific offences. It is used to describe those who have committed serious harm and/or who pose a significant risk of committing future serious harm.</p> <p>In practice, the Irish Prison Service and the Probation Service seek to identify individuals posing risk of serious harm or offending. The Probation Service uses a range of risk assessment instruments and practice guidance. (In broad terms, prisoners or offenders with a history of violence or serious harm offences in the community or in prison. Also persons identified as posing a risk or threat on the basis of information or intelligence received)</p> <p>All prisoners are entitled to discharge from custody on their sentence expiration without further conditions unless imposed by a Court as part of a post custody supervision order or suspended sentence. Life sentence prisoners do not have a release date. Any discharge from custody is at the discretion and decision of the Minister following non-binding advice from the Parole Board.</p>
	3.	<p>Please describe the boundaries and interaction of criminal sanctions (based on the guilt of the offender) and preventive/security measures (based on the concept of dangerousness) and how these are dealt with in practice on a day to day basis.</p> <p>There is no reference in legislation in Ireland to “dangerousness” or “high risk” in criminal law or sentencing.</p> <p>In practice, the Irish Prison Service and the Probation Service seek to identify individuals posing risk of serious harm or offending. The Probation Service uses a range of risk assessment instruments and practice guidance. (In broad terms, prisoners or offenders with a history of violence or serious harm offences in the community or in prison. Also persons identified as posing a risk or threat on the basis of information or intelligence received)</p>
	4.	<p>Does the law on sentencing in criminal cases provide for specific risk assessment and, if yes, how is the procedure of assessment legally regulated?</p> <p>No. Risk Assessment is not addressed in legislation but has been developed and introduced through practice and professional development.</p>
	5.	<p>Does the law provide for a redefinition of risk or a risk assessment during the execution of the prison sentence? (e.g. after certain periods of time?)</p> <p>No. Risk Assessment is not addressed in legislation. This is a practice issue managed by the services.</p>

II.	Early*/conditional release	
1.	<p>Please describe the legal provision and conditions of early/conditional release from prisons in general and any particular legal conditions or requirements applying in the case of dangerous/high risk offenders.</p> <div style="border: 1px solid black; padding: 10px;"> <p>The Criminal Justice Act, 1960 as amended by the Criminal Justice (Temporary Release of Prisoners) Act, 2003</p> <p>The Minister for Justice and Law Reform may direct that a person who is serving a custodial sentence shall be released from prison for a temporary period subject to certain conditions which are specified in the direction.</p> <p>(a) An offender may be given temporary release from prison for the purpose of:</p> <ul style="list-style-type: none"> • assessing his ability to reintegrate into society • preparing him for release at the end of his sentence • assisting the Garda Síochána (Irish police) in the prevention, detection or investigation of offences • assisting the Garda Síochána to apprehend a person guilty of an offence or suspected of committing an offence <p>(b) An offender may be given temporary release from prison if in the opinion of the Minister it is justified on grounds of health or for humanitarian reasons.</p> <p>(c) An offender may be given temporary release from prison if the Minister is of the opinion that it is necessary to:</p> <ul style="list-style-type: none"> • ensure the good governance of the prison • maintain good order in the prison • maintain humane and just management of the prison <p>(d) An offender may be given temporary release from prison if the Minister is of the opinion that the prisoner has been rehabilitated and would reintegrate into society</p> <p>(e) In making a direction granting temporary release the Minister must take into account:</p> <ul style="list-style-type: none"> • the nature and gravity of the offence • the sentence imposed by the Court and any conditions attaching • the period already served by the prisoner • the potential threat to the safety and security of the public and or the victim of the offence • previous convictions • the risk of absconding • the conduct of the prisoner which in custody or while previously on temporary release </div>	

		<ul style="list-style-type: none"> • any reports from the Garda Síochána, the prison Governor, a Probation Officer or any person assisting the Minister • the risk of further offences • the risk of non-compliance with conditions imposed • the likelihood of temporary release assisting the prisoner's reintegration or employment. <p>All of the above legal conditions and requirements apply in the case of dangerous/high risk offenders. Where a prisoner is detained on remand on foot of a Court Order there is no discretion to allow Temporary Release. Any such request must be directed to the detaining or higher Court.</p> <p>There is no right or entitlement to Temporary Release for sentenced prisoners. All decisions on the granting of Temporary Release are at the discretion of the Minister.</p>
	<p>2.</p>	<p>What kind of conditions or requirements (supervision orders, curfews etc.) can be imposed as a condition of early release?</p> <div style="border: 1px solid black; padding: 10px;"> <p>A Temporary Release Order may include as a condition:</p> <ul style="list-style-type: none"> (a) an obligation for the sentenced person to inform a specific authority of any change of residence or working place; (b) an obligation not to enter certain localities, places or defined areas in the issuing or executing State; (c) an obligation containing limitations on leaving the territory of the executing State; (d) instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity; (e) an obligation to report at specified times to a specific authority; (f) an obligation to avoid contact with specific persons; (g) an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence; (j) an obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons; (k) an obligation to undergo therapeutic treatment or treatment for addiction. <p>A Temporary Release order may contain any additional condition, restriction or requirement considered necessary by the Minister of Justice and Equality in granting</p> </div>

		the release.
3.	<p>What is the length of the post-custody supervision period provided by law? (Are there indeterminate periods, e.g. for life-time, or long-term determinate periods of supervision provided by law? Is the period of supervision equivalent to the rest of the sentence not served in prison or independent of it? i.e. like in Germany 2-5 years, independent of the 1/2 or 1/3-period not served in prison)</p>	<p>Life Sentences in Ireland are indeterminate. Release is decided by the Minister of Justice and Equality with advice from the Parole Board. Supervision of life sentence prisoners in the community as a condition of a Temporary Release Order is managed by the Probation Service and is life long.</p> <p>In all determinate sentences prisoners are automatically credited with 25% remission of sentence and are released at that point without further restriction unless such restrictions or requirements have been imposed by the sentencing Court.</p> <p>When a prisoner has fully served the term of imprisonment imposed by the Court (with remission) they are free of all obligations except where specific obligations or restrictions are imposed by the Court under the Sex Offenders Act, 2001 or Section 99 (Power to suspend sentence) Criminal Justice Act 2006 as amended by section 60 of the Criminal Justice Act 2007 and section 51 of the Criminal Justice (Miscellaneous Provisions) Act 2009.</p> <p>Section 99 (Power to suspend sentence) of the Criminal Justice Act 2006 as amended by section 60 of the Criminal Justice Act 2007 and section 51 of the Criminal Justice (Miscellaneous Provisions) Act 2009 provides for partially or wholly suspended sentences.</p> <p>A partially suspended sentence means the sentencing court makes an order suspending the execution of the sentence of imprisonment in part, subject to the person entering into a recognisance (Bond) to comply with the conditions of, or imposed in relation to, the Order.</p> <p>Two mandatory conditions attach to the Order - the person must keep the peace and be of good behaviour during the period of imprisonment and the period of the suspended sentence concerned. The court has wide discretion to impose other conditions including, in most cases, supervision by the Probation Service.</p> <p>If a person is convicted of another offence (committed after the making of the order) or breaches the conditions of the order during the period the order is in force the order may be revoked and the court may require the person to serve all of the sentence originally imposed or such part of the sentence as the court considers just in all the circumstances less any period of the sentence already served in prison and any period spent in custody pending the revocation of the Order.</p> <p>Post Release Supervision Order (Sex Offenders Act, 2001)</p> <p>A Court that is imposing a custodial sentence on a person convicted of a scheduled sexual offence is obliged to consider whether or not to impose a sentence involving post-release supervision. That is supervision by the Probation Service in the community after the person has completed their custodial sentence as part of the</p>

		<p>sentencing order.</p> <p>The sentencing Court is obliged to consider whether or not to impose a custodial sentence involving post-release supervision. In making this determination it must consider the need for the offender's rehabilitation, public protection, and the likelihood of further offences being committed after release.</p> <p>There are constraints on the combined periods of custody and supervision which cannot exceed the maximum custodial sentence provided for by domestic law for the offence committed. Neither can the custodial sentence imposed be reduced to take into account the time spent on supervision if such post release supervision had not been considered.</p> <p>The post release supervision order may be made subject to conditions such as that the offender attend specified 'psychological counselling or other appropriate treatment'.</p> <p>In imposing a sentence involving post release supervision the court is obliged to explain to the offender:</p> <p>(a) the effect of the sentence</p> <p>(b) the consequences for a breach of compliance</p> <p>(c) that the Court may vary or discharge any of the conditions on the application of either the offender or a Probation Officer.</p>
<p>III. Transitional phase</p>		
	<p>1.</p>	<p>How is the preparation for release legally and practically organised? (sentence and release plan, transfer to open prison, prison leaves etc., specific plans for “dangerous”/high risk offenders)</p> <div data-bbox="411 1216 1385 1944" style="border: 1px solid black; padding: 10px;"> <p>Integrated Sentence Management</p> <p>The Irish Prison Service has introduced an Integrated Sentence Management (ISM) system. ISM involves a new orientation in the delivery of services to prisoners and an emphasis on prisoners taking greater personal responsibility for their own development through active engagement with both specialist and non-specialist services in the prisons.</p> <p>The end result is a prisoner-centred multidisciplinary approach to working with prisoners with provision for initial assessment, goal setting and periodic review to measure progress.</p> <p>Newly committed prisoners with a sentence of greater than one year are eligible to take part in ISM. If they agree to participate, a First Contact Assessment interview takes place. This First Contact Assessment identifies the needs of the prisoner in several areas such as accommodation, education and offending behaviour.</p> <p>Referrals are made on foot of this assessment to services within the prison such as Education or Work & Training and outside agencies providing an in-reach service. These services and agencies carry out their own assessment of the prisoner and feed</p> </div>

their recommended actions back to the ISM Co-ordinator.

The various actions recommended are compiled into a Personal Integration Plan (PIP) for the prisoner to complete during his/her time in prison. The PIP will be reviewed regularly depending on the length of the sentence.

Approximately 9 months prior to the release of the prisoner, a Community Integration Plan (CIP) will be developed. This sets out a plan for the prisoners to prepare for his/her release. Important issues such as accommodation, employment or education are addressed to help the prisoner resettle into the community on release and reduce the risk of re-offending.

Review Meetings

Regular review meetings take place in each prison where the Governor, senior management, and representatives from the professional/ therapeutic services discuss individual cases and make recommendations. An official from Prison Service Headquarters is in attendance and will take these recommendations into account in how the sentence is managed.

Recommendations may include that the person engage in the school, work with the addiction services, etc. They may also at times recommend that a prisoner be considered for a transfer from a closed prison to an open centre, that they be considered for daily temporary release to attend a training programme or that they be granted supervised reviewable temporary release.

Open Centres

Prisoners serving short sentences, i.e. under 12 months, may be moved to an open centre shortly after committal provided that they are assessed as suitable.

In general, longer term prisoners being prepared for transition back into the community may be considered for a move to an Open Centre with about 2 years left in their sentence. Exceptional prisoners who are engaging strongly with the therapeutic services can sometimes be considered for a transfer with up to 4 years left to serve in their sentence.

For prisoners serving sentences in excess of 8 years, recommendations on their sentence management, which may include transfers to Open Centres or temporary release, are led by the Parole Board recommendations to the Minister.

It is important to note that it does not necessarily follow that a prisoner will be transferred to an Open Centre or granted temporary release even if the recommendation is to that effect is made by the ISM review or the Parole Board..

In all cases where prisoners have applied for a transfer to an open centre, early or compassionate release, or other concessions, there are safety, security, operational and logistical considerations that must be taken into account when deciding whether to approve or refuse the application.

Temporary Release

The Criminal Justice Act 1960, as amended by the Criminal Justice (Temporary Release of Prisoners) Act 2003 provides that the Minister for Justice and Law Reform may direct that a person who is serving a custodial sentence be released from prison on temporary release subject to certain conditions which are specified in the direction.

a) An offender may be given temporary release from prison for the purpose of:
assessing his ability to reintegrate into society

- preparing him for release at the end of his sentence
- assisting the Garda Síochána (Irish police) in the prevention, detection or investigation of offences
- assisting the Garda Síochána to apprehend a person guilty of an offence or suspected of committing an offence

(b) An offender may be given temporary release from prison if in the opinion of the Minister it is justified on grounds of health or for humanitarian reasons.

(c) An offender may be given temporary release from prison if the Minister is of the opinion that it is necessary to:

- ensure the good governance of the prison
- maintain good order in the prison
- maintain humane and just management of the prison

(d) An offender may be given temporary release from prison if the Minister is of the opinion that the prisoner has been rehabilitated and would reintegrate into society

(e) In making a direction granting temporary release the Minister must take into account:

- the nature and gravity of the offence
- the sentence imposed by the Court and any conditions attaching
- the period already served by the prisoner
- the potential threat to the safety and security of the public and or the victim of the offence
- previous convictions
- the risk of absconding
- the conduct of the prisoner which in custody or while previously on temporary release
- any reports from the Garda Síochána, the prison Governor, a Probation Officer or any person assisting the Minister
- the risk of further offences

		<ul style="list-style-type: none"> • the risk of non-compliance with conditions imposed • the likelihood of temporary release assisting the prisoner's reintegration or employment <p>Temporary release assists in gradually preparing suitable offenders for release and in administering short sentences, and is an incentive to prisoners. It is an important vehicle for re-integrating an offender into the community in a planned way.</p> <p>The generally accepted view is that the risk to the community is reduced by planned re-integration of offenders compared with their return to the community on the completion of their full sentence.</p> <p>Each case is examined on its own merits and the safety of the public is paramount when decisions are made. In addition, all releases are subject to conditions, which in the vast majority of cases include a requirement to report on a regular basis to the offender's Garda Station. Any offender who breaches his or her conditions may be arrested and returned to prison immediately by the Gardaí.</p> <p>In the case of “dangerous”/high risk offenders any decision on transfer within the prison system, granting of temporary release and decision on specific conditions or restrictions will be informed by assessment of risk of re-offending, serious harm and security and safety priorities.</p>
	2.	<p>What services are involved in release preparation? What are the roles and tasks of the services inside the institution?</p> <p>The Irish Prison Service has introduced an Integrated Sentence Management (ISM) system. ISM involves a new orientation in the delivery of services to prisoners and an emphasis on prisoners taking greater personal responsibility for their own development through active engagement with both specialist and non-specialist services in the prisons.</p> <p>The end result is a prisoner-centred multidisciplinary approach to working with prisoners with provision for initial assessment, goal setting and periodic review to measure progress.</p> <p>Irish Prison Service Custody Management, Health and Nursing Service, Psychology Service, Addiction Service, Training Service and chaplaincy participate in the ISM system along with external providers including statutory services such as the HSE Forensic Psychiatric Service, the Probation Service and the Education Service. Statutory Homeless and Social Protection services provide an in-reach service in each prison. Additional support is provided by community and voluntary bodies providing in-reach service in the prisons. The Irish Prison Service provides funding to specific community based organisations to support their work in prison.</p> <p>Community based organisations funded by the Probation Service are facilitated by the Prison Service to work closely with Probation Service and Prison staff in prisons, who refer offenders to the organisations, to support their re-integration and resettlement as positive, contributing members of their communities.</p>

	<p>An example of Sentence Management:</p> <p>High Risk Offenders – e.g. Sex Offenders</p> <p>From an external perception all sex offenders tend to be treated with the same brush in reality there are vast differences as to the danger they present. Every case is different and must be taken on its individual merits, risks and how it is managed .</p> <p>The way they are managed in Arbour Hill Prison is as follows;</p> <p>Arbour Hill Prison is the National Centre for the treatment of prisoners convicted of a sexual offence. When they arrive they are assessed by a psychologist to determine their level of risk , their ability to take part in the programme and what it needs to focus on for them (tailored to each individual).</p> <p>When assessment is complete they commence the initial programme which lasts about ten weeks – they will only progress to stage two if deemed appropriate – this is much more extensive programme which can last up to twelve months and which will involve the family members (if available to act as a support) .</p> <p>The total programme lasts about twelve to eighteen months – If following the completion of stage 2 the offender still has a few years to serve he will be called back to complete a refresher prior to his release . Following completion of the programme the individual is comprehensively assessed again to determine if his level of risk has changed.</p> <p>In conjunction with above all releases are planned for six months in advance – for the higher risk prisoners this will involve a minimum of one case conference meeting (up to four in some cases) to plan for his release. The case conferences involve local management, Probation and Psychology, Local Housing Authority for the relevant Area, HSE if children are involved , Gardai from the Sex Offender Unit.</p> <p>The purpose of the case conference is to address the various issues that exist and build in a level of support after release and a mechanism to manage the risk that may be there.</p> <p>The BBL (Building Better Lives) programme on its own is not sufficient to keep some one from reoffending if the other external support are not there – these external supports which are so vital can comprise all or of some of the following :</p> <p>Family support – accommodation (Vital) – post release supervision by both Probation and specially assigned and trained Gardai – contract of compliance as drawn up by the supervising Probation Officer who will visit the prison at least three months before release to establish a rapport – same for supervising Garda when known. Obviously all sex offenders will be subject to the sex offenders’ registration which obliges them to report their address.</p> <p>On the day of release from Arbour Hill Prison they are collected by the supervising Probation Officer and taken immediately to the Garda Síochána station in their assigned area where accommodation has been obtained. While every case is different the level of supervision (which also acts as a support) is a crucial aspect of the aftercare.</p> <p>These are the main components – there will be some variations of the above – in</p>
--	--

	<p>management of high risk/sex offenders .</p> <p>While not every offender will have a post release supervision order, a large number without post release orders will agree to enter into a voluntary contract with the Probation Service with very strict conditions to help them manage their risk on release and to secure accommodation. On a general point the higher the risk the higher the external support that will be required.</p>
3.	<p>What services are involved in the community after release? What are the roles and tasks of aftercare services such as the probation service?</p> <p>The Probation Service is an agency within the Department of Justice and Equality providing the assessment and management of offenders in the community including supervision of offenders on temporary release from custody, subject to supervision as a condition of a Post Custody Supervision Order by a Court under Part 5 of the Sex Offenders Act, 2001 or subject to supervision as a condition of an Order under Section 99 (Power to suspend sentence) of the Criminal Justice Act 2006 as amended by section 60 of the Criminal Justice Act 2007 and section 51 of the Criminal Justice (Miscellaneous Provisions) Act 2009.</p> <p>The Probation Service works closely with the Prison Service, Courts Service and an Garda Síochána as well as with other Government Departments, statutory agencies and local service providers to assist and support the resettlement of former prisoners and to make communities safer.</p> <p>In managing convicted sex offenders in the community the Probation Service works closely with the An Garda Síochána and others including local authority accommodation providers, the health service and the Prison Service.</p> <p>A joint model of sex offender management (SORAM) has been initiated by the Probation Service and An Garda Síochána. The Service is working with AGS to expand this to an additional 11 Garda Síochána Divisions and to include local authority accommodation providers, the health service and the Prison Service in the full national implementation.</p> <p>Probation Officers work within prisons and contribute to the multi-disciplinary services for offenders in prison, in preparation for release and in through care duties.</p> <p>The Probation Service works in partnership with communities, local services and voluntary organisations to reduce offending and to make communities safer. The Probation Service provides funding to over 60 community based organisations working to support the work of the Service.</p> <p>These community based organisations around the country work closely with Probation Service staff in the community and in prisons, who refer offenders to them to enhance their re-integration and resettlement as positive, contributing members of their communities.</p>
4.	<p>When does the preparatory stage for release begin? (Is it defined by law? Are there standards, guidelines?)</p> <div style="border: 1px solid black; padding: 5px;"> <p>Release preparation for long sentence and high risk prisoners is managed through the IPS Integrated Sentence Management (ISM) system. Long sentence prisoners are largely managed through the Parole Board.</p> <p>The Parole Board</p> <p>In the case of prisoners in Ireland serving a life sentence or a long term sentence, the issue of early release from prison may be considered by the Parole Board.</p> </div>

		<p>The Board's principal function is to advise the Minister for Justice and Equality in relation to the administration of long-term prison sentences in Ireland.</p> <p>There are approximately ten members of the Board, including representatives of the Probation Service, the Irish Prison Service and the Department of Justice and Equality as well as members with specific expertise (e.g. Psychiatry) and representatives of wider community interests.</p> <p>The Parole Board reviews the cases of prisoners sentenced to determinate (fixed-term) sentences of 8 years or more (but less than 14 years) at half sentence stage. Prisoners sentenced to fourteen years or more, (including life) are reviewed after 7 years have been served. Prisoners serving sentences for certain offences, outlined below, are excluded from the process. (In other words, they cannot apply for parole).</p> <p>The Board advises the Minister of the prisoner's progress to date, the degree to which the prisoner has engaged with the various therapeutic services and how best to proceed with the future administration of the sentence.</p> <p>Where a prisoner is not recommended by the Board for release, a second or further review of their case will generally take place on an annual basis if the prisoner is serving less than 10 years for an offence. Prisoners who have not been recommended by the Board for release and who are serving more than 10 years, will generally receive subsequent reviews every 3 years.</p> <p>Further information including the number and type of cases referred to the Parole Board, the nature of offences and institutions in which prisoners are held is available in the Annual Report of the Parole Board of Ireland</p> <p>Prisoners guilty of the following offences are not eligible for review by the Parole Board:</p> <ul style="list-style-type: none"> •Murder or attempted murder committed within Ireland for a political motive, of the head of a foreign country, or of a member of the Government, or a diplomat from another country; •Murder of a member of An Garda Síochána or the Irish Prison Service in the course of his or her duty (Section 3 of the Criminal Justice Act, 1990); •Murder or attempted murder as set out in Section 6 of the Offences Against the State Act 1939 or Section 18 of that Act. <p>In making its recommendations, the Parole Board of Ireland considers a number of factors, which include:</p> <ul style="list-style-type: none"> •whether the prisoner's release would constitute a threat to the community; •whether it is reasonable to grant early/temporary release in view of the nature and circumstances of the offence committed; •whether the offender warrants release, taking into account his or her behaviour in custody;
--	--	---

		<ul style="list-style-type: none"> •whether there are there any compelling compassionate grounds which merit special consideration •whether the offender has engaged constructively with the prison-based therapeutic services to combat his/her offending behaviour. <p>The final decision regarding the recommendations of the Parole Board lies with the Minister for Justice and Equality. The Minister can choose to accept the Board's recommendations, accept them in part or reject them.</p> <p>In deciding on the release of a prisoner with a life sentence, the Minister will always consider the advice and recommendations of the Parole Board. The Board, at present, initially reviews prisoners sentenced to life imprisonment at the seven-year stage of their sentence.</p> <p>Prisoners serving very long sentences, including life sentences, are normally reviewed on a number of occasions over a number of years before any substantial concessions would be recommended by the Board. The final decision as to whether a prisoner with a life sentence should be released rests with the Minister for Justice and Equality.</p>
5.		<p>Do the probation officers visit the prisoners in prison? How often? When do they start?</p> <p>There are Probation Officers based in each Prison who work with designated prisoners in addressing offending behaviour, sentence management and preparation for release. Probation Officers contribute to the multi-disciplinary services provided within prison as part of the Integrated Sentence Management process.</p> <p>Where prisoners are subject post custody supervision there are protocols in place for visits by their community supervision Probation Officers and preparation of a post custody supervision plan. There are also protocols in place for the transfer of supervision to Probation Officers in the community.</p> <p>Is continuity of care provided by law or practice?</p> <p>There is no legal provision for aftercare or obligation underpinning practice apart from the requirements in the Criminal Justice Act 1960, as amended by the Criminal Justice (Temporary Release of Prisoners) Act 2003, in the Sex Offenders Act, 2001 and in Section 99 (Power to suspend sentence) Criminal Justice Act 2006 as amended by section 60 of the Criminal Justice Act 2007 and section 51 of the Criminal Justice (Miscellaneous Provisions) Act 2009.</p> <p>Practice is managed by the Probation Service in consultation with the Irish Prison Service.</p>
6.		<p>Is there a case manager in the prison and/or in the community? If yes, who is the case manager and what are their responsibilities? Yes.</p> <p>Release preparation for long sentence and high risk prisoners is managed through the Integrated Sentence Management (ISM) system and its case manager. See Integrated Sentence Management as outlined above for details.</p> <p>In the Community the supervision case manager is the assigned Probation Officer</p>

	<p>who liaises with all other service providers and agencies involved. The Probation Officer reports to their Probation Service manager and to the designated Irish Prison Service division.</p>
7.	<p>Please describe the system of prison/institutional leave (absence or release during sentence) in general and for “dangerous”/high risk prisoners in particular.</p> <p>Does the law provide for a transfer to open prisons for “dangerous”/high risk prisoners and what are the procedures for such a transfer?</p> <p>Temporary Release</p> <p>The Criminal Justice Act 1960, as amended by the Criminal Justice (Temporary Release of Prisoners) Act 2003 provides that the Minister for Justice and Law Reform may direct that a person who is serving a custodial sentence be released from prison on temporary release subject to certain conditions which are specified in the direction.</p> <p>a) An offender may be given temporary release from prison for the purpose of:</p> <p>assessing his ability to reintegrate into society</p> <ul style="list-style-type: none"> • preparing him for release at the end of his sentence • assisting the Garda Síochána (Irish police) in the prevention, detection or investigation of offences • assisting the Garda Síochána to apprehend a person guilty of an offence or suspected of committing an offence <p>(b) An offender may be given temporary release from prison if in the opinion of the Minister it is justified on grounds of health or for humanitarian reasons.</p> <p>(c) An offender may be given temporary release from prison if the Minister is of the opinion that it is necessary to:</p> <ul style="list-style-type: none"> • ensure the good governance of the prison • maintain good order in the prison • maintain humane and just management of the prison <p>(d) An offender may be given temporary release from prison if the Minister is of the opinion that the prisoner has been rehabilitated and would reintegrate into society</p> <p>(e) In making a direction granting temporary release the Minister must take into account:</p> <ul style="list-style-type: none"> • the nature and gravity of the offence • the sentence imposed by the Court and any conditions attaching • the period already served by the prisoner • the potential threat to the safety and security of the public and or the victim of the offence • previous convictions • the risk of absconding • the conduct of the prisoner which in custody or while previously on

		<p>temporary release</p> <ul style="list-style-type: none"> • any reports from the Garda Síochána, the prison Governor, a Probation Officer or any person assisting the Minister • the risk of further offences • the risk of non-compliance with conditions imposed • the likelihood of temporary release assisting the prisoner's reintegration or employment <p>Temporary release assists in gradually preparing suitable offenders for release and in administering short sentences, and is an incentive to prisoners. It is an important vehicle for re-integrating an offender into the community in a planned way.</p> <p>The generally accepted view is that the risk to the community is reduced by planned re-integration of offenders compared with their return to the community on the completion of their full sentence.</p> <p>Each case is examined on its own merits and the safety of the public is paramount when decisions are made. In addition, all releases are subject to conditions, which in the vast majority of cases include a requirement to report on a regular basis to the offender's Garda Station. Any offender who breaches his or her conditions may be arrested and returned to prison immediately by the Gardaí.</p> <p>In the case of “dangerous”/high risk offenders any decision on transfer within the prison system, granting of temporary release and decision on specific conditions or restrictions will be informed by assessment of risk of re-offending, serious harm and security and safety priorities.</p> <p>There is no legislation in Ireland providing for transfer within the prison system. Prisoner management within the prison system is the responsibility of the Irish Prison service and the Minister for Justice and Equality subject to the Prison Rules 2005 (http://www.justice.ie/en/JELR/Pages/Prison_rules_2005).</p> <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 10px;"></div>
8.		<p>Does the national law provide for halfway houses and/or electronic supervision for “dangerous” or high risk prisoners in the preparatory stage for release or on release?</p> <p>No.</p>
9.		<p>Are NGOs or private aftercare services involved during the prison sentence, in the transitional phase or in the community following release? What is their role and to what authority are they accountable?</p> <p>Support to the statutory services in prisons is provided by community and voluntary bodies providing in-reach service in the prisons. The Irish Prison Service provides funding specific community based organisations to support their work in prison. These include accommodation support services, addiction service and resettlement support. These bodies are accountable to the Irish Prison Service.</p> <p>Community based organisations funded by the Probation Service are facilitated by the Prison Service to work closely with Probation Service and Prison staff in prisons, who refer offenders to the organisations, to support their re-integration and</p>

		<p>resettlement as positive, contributing members of their communities. These include accommodation providers, addiction treatment services, skills training centres, mentoring, employment and training support and other community agencies providing services in the resettlement of ex-prisoners and offenders.</p> <p>The Probation Service works in partnership with communities, local services and voluntary organisations to reduce offending and to make communities safer. The Probation Service provides funding, almost 30% of the Service budget, to over 60 community based organisations working to support the work of the Service. These bodies are accountable to the Probation Service.</p> <p>These community based organisations around the country work closely with Probation Service staff in the community and in prisons, who refer offenders to them, to enhance their re-integration and resettlement as positive, contributing members of their communities.</p>

* The term **early release** refers to automatic or unconditional release schemes that exist in some countries, see Padfield, N., van Zyl Smit, D., Dünkel, F. (Eds.) (2010): *Release from Prison – European policy and practice*. Cullompton: Willan Publishing

IV.	Aftercare	
	1.	<p>Please describe the system and forms of control/supervision after release. Are there particular legal requirements or restrictions for certain types of offenders? (Registration etc.) Please outline them briefly.</p> <p>Please explain any different requirements applying to offenders conditionally released and those having fully served their sentence.</p> <div style="border: 1px solid black; padding: 10px;"> <p>While the term <i>Sex Offenders Register</i> is commonly used in Ireland, there is in fact no such register and the term is not included in any section of the Sex Offenders Act 2001. The only information on the whereabouts of sex offenders in Ireland which is held centrally by the Gardaí is a certificate issued by the court in relation to those convicted by the court of sexual offences.</p> <p>This certificate states that the convicted person is now subject to the requirements of the Sex Offenders Act, 2001. The Garda Síochána Domestic Violence and Sexual Assault Unit also receive a copy of the <i>Sex Offenders Notification Form</i> from the Garda Síochána station in whose area the sex offender resides.</p> <p>This means that details of everyone subject to the requirements of the Sex Offenders Act 2001 are held centrally and these certificates are commonly known as the Sex Offenders Register.</p> <p>The obligation of sex offenders to notify certain information to the Gardaí is set down in Part 2 of the Sex Offenders Act 2001.</p> <p>What information must the sex offender provide?</p> <p>If you are convicted of a sexual offence and becomes subject to the reporting requirements you must notify the Gardaí of your name and home address within 7 days of becoming subject to the requirements. (This normally means within 7 days following your release from prison).</p> <p>Similarly you must notify the Gardaí within seven days of any change of name and or change of home address or if you intend to reside elsewhere in Ireland for more than seven days. Offenders must also notify the Gardaí if they intend to leave Ireland for seven days or more and are required to provide the Gardaí with the address of the place outside Ireland that they intend to reside or stay at.</p> <p>Where someone who is subject to the sex offender notification requirements is imprisoned in respect of any offence and the release of that person is imminent, the governor in charge of the prison must notify the Garda Commissioner of the pending release at least 10 days before the date of the release.</p> <p>How must an offender notify Gardaí?</p> <p>If you are required to provide certain information to the Gardaí under the Sex Offenders Act, 2001 you may give notification in the following way:</p> </div>

- By attending in person at any Garda station which is a Divisional or District Headquarters. and giving the information required orally to a member of that Garda station or
- By sending by post a written notification of the information required to any such Divisional or District Headquarters

After the Gardaí receive the notification, they acknowledge it in writing. The Gardaí also complete a Sex Offenders Notification Form. The original completed form is sent to the Domestic Violence and Sexual Assault Investigation Unit at Harcourt Square, Harcourt Street, Dublin 2. A copy of the form is sent to the offender and a copy is retained in the Garda station.

How long does the requirement to notify the Gardaí last?

You are obliged to provide information to the Gardaí regarding yourself:

- Indefinitely if you were sentenced to life imprisonment or to a term of more than 2 years
- For 10 years if the term of imprisonment was for between 6 months and 2 years (5 years if the offender was aged under 18)
- For 7 years if the sentence was for less than 6 months (3.5 years if the offender was aged under 18)
- For 5 years if the sentence imposed was suspended or if no prison sentence was imposed (2.5 years if the offender was aged under 18)

If you are sentenced to a term of imprisonment and part of that term is suspended, you are considered to be sentenced to the part not suspended.

The list of sexual offences which are subject to the Act are as follows:

- Rape
- Sexual Assault
- Aggravated Sexual Assault
- Incest
- Defilement of a girl under 15 years
- Defilement of a girl 15 – 17 years
- Buggery with an animal
- Attempt to commit such buggary
- Buggery of a person under 17 years
- Acts of gross indecency
- Sexual offences against mentally impaired persons
- Offences under the Child Trafficking and pornography Act, 1998
- Sexual offences committed outside Ireland contrary to Sexual Offences (Jurisdiction) Act, 1996
- An offence of attempting to commit any offence referred to above
- An offence of aiding, abetting, counselling, procuring or inciting any offence referred to above

	<ul style="list-style-type: none"> An offence consisting of conspiracy to commit any offence referred to above. <p>In the case of sexual assault and incest, the Sex Offenders Act 2001 does not apply if the victim or other party to the offence was aged 17 years or more when the offence was committed and the person convicted has not been sentenced to any punishment involving imprisonment or made subject to any measures involving deprivation of liberty.</p> <p>In the case of defilement of a child aged under 17 years, the Act does not apply if the offender is not more than two years older than the victim. This provisions is set out in Section 3 of the Criminal Law (Sexual Offences) Act, 2006.</p>
2.	<p>Are there legal and practice provisions or guidelines/standards for the definition of risk, risk assessment during the probation/aftercare period? If yes, please outline them briefly.</p> <p>There are there no legal provisions or guidelines/standards for the definition of risk, risk assessment.</p> <p>Risk Assessment is not addressed in legislation but has been developed, introduced and managed through practice and professional governance in the Probation Service and in the Irish Prison Service Psychology Service.</p>
3.	<p>What services are involved, with legal responsibilities, in aftercare supervision? What other services are involved? (See Q9 below)</p> <p>The Probation Service, the Irish Prison Service, the Courts Service and An Garda Síochána.</p>
4.	<p>Please briefly describe their tasks and working practice.</p> <p>The Probation Service has responsibility for the supervision in the community of offenders where supervision is a specified condition of an Order made by a Court under the Sex Offenders Act, 2001 or Section 99 (Power to suspend sentence) Criminal Justice Act 2006 as amended by section 60 of the Criminal Justice Act 2007 and section 51 of the Criminal Justice (Miscellaneous Provisions) Act 2009. Any matters arising are returned to a Court for decision.</p> <p>The Probation Service has responsibility for the supervision in the community of offenders where supervision is a specified condition of a Temporary Release Order under the Criminal Justice Act 1960, as amended by the Criminal Justice (Temporary Release of Prisoners) Act 2003. Any matters arising are returned to a the Irish Prison Service for decision.</p> <p>The obligation of sex offenders to notify certain information to An Garda Síochána is set down in Part 2 of the Sex Offenders Act 2001. Non compliance is an offence.</p>
5.	<p>What is the role and interplay/co-operation of state and private aftercare services?</p> <p>The Probation Service works in partnership with communities, local services and</p>

		<p>voluntary organisations to reduce offending and to make communities safer. The Probation Service provides funding, almost 30% of the Service budget, to over 60 community based organisations working to support the work of the Service. These bodies are accountable to the Probation Service.</p> <p>These community based organisations around the country work closely with Probation Service staff in the community and in prisons, who refer offenders to them, to enhance their re-integration and resettlement as positive, contributing members of their communities.</p> <p>The Irish Prison Service provides funding specific community based organisations to support their work in prison. These include accommodation support services, addiction service and resettlement support. These bodies are accountable to the Irish Prison Service.</p> <p>Community based organisations funded by the Probation Service are facilitated by the Prison Service to work closely with Probation Service and Prison staff in prisons, who refer offenders to the organisations, to support their re-integration and resettlement as positive, contributing members of their communities. These include accommodation providers, addiction treatment services, skills training centres, mentoring, employment and training support and other community agencies providing services in the resettlement of ex-prisoners and offenders.</p>
	6.	<p>How, to what extent and on what legal basis, the police are involved?</p> <p>The obligation of sex offenders to notify certain information to An Garda Síochána is set down in Part 2 of the Sex Offenders Act 2001.</p> <p>In managing convicted sex offenders in the community the Probation Service works closely with the An Garda Síochána and others including local authority accommodation providers, the health service and the Prison Service.</p> <p>A joint model of sex offender management (SORAM) has been initiated by the Probation Service and An Garda Síochána. The Service is working with AGS to expand this to an additional 11 Garda Síochána Divisions and to include local authority accommodation providers, the health service and the Prison Service in the full national implementation.</p>
	7.	<p>Is electronic monitoring applied? Not generally. It is used in prisoner management during hospitalisation and similar circumstances only.</p> <p>Please describe the legal basis (which offenders, offences?)</p>
	8.	<p>Which form of electronic supervision is used? (House arrest, GPS?)</p> <p>Not relevant.</p>
	9.	<p>Are NGOs or private aftercare services involved in the aftercare phase?</p> <p>The Probation Service works in partnership with communities, local services and voluntary organisations to reduce offending and to make communities safer. The Probation Service provides funding to over 60 community based organisations</p>

		<p>working to support the work of the Service.</p> <p>These community based organisations around the country work closely with Probation Service staff in the community and in prisons, who refer offenders to them, to enhance their re-integration and resettlement as positive, contributing members of their communities.</p>
V.	Statistics/empirical studies on recidivism	
	1.	<p>How many and what kind of “dangerous”/high risk offenders are in prison? (Absolute and percentage numbers data)</p> <p>Please specify the categories, if available, of offenders or offence groups..</p> <p>This information is not available at present. The question and definitions require further clarification.</p>
	2.	<p>Please give longitudinal statistical data concerning question 1 for the time since 1995 (or for the period data is available)</p> <p>This information is not available at present.</p>
	3.	<p>How many and what kind of “dangerous”/high risk offenders (see question 1) are under supervision of the probation and aftercare services?</p> <p>This information is not available at present. The question and definitions require further clarification.</p>
	4.	<p>Please provide longitudinal data since 1995 concerning question 3 (or for the period data is available).</p> <p>This information is not available at present.</p>
	5.	<p>How many “dangerous”/high risk offenders are under police surveillance or supervision as a legal condition or requirement ?</p> <p>This information is not available at present. The question and definitions require further clarification.</p>
	6.	<p>Please provide any studies on recidivism and/or recall from early/conditional release.</p> <p>Please see the Probation Service website at www.probation.ie for a copy of The Probation Service Recidivism Study 2007-2011(Published November 2012)</p> <p>O'Donnell, I., Baumer, E., & Hughes, N. (2008) "Recidivism in the Republic of Ireland", <i>Criminology and Criminal Justice</i>, 8/2, 123-146.</p> <p>Are there any systematic studies on the reintegration/recidivism of “dangerous”/high risk ex-prisoners? Please describe the main results or attach the relevant publications (in English language)..</p>

7.	<p>Have the risk assessment instruments used by the prison and probation services been evaluated? What have been the results? Please provide details of evaluation studies.</p> <p>LSI-R, RM2000, S&A 2007 have each been evaluated and reported on in international studies and papers. There have been no studies or evaluations in Ireland yet.</p> <p>PSRosh (Probation Service Risk of Serious Harm) is a new instrument which is still in development and has not yet been fully evaluated.</p>

VI.	Further issues	
	1.	<p>Has your country been subject of decisions of the European Court of Human Rights with regards the accommodation and treatment of “dangerous”/high risk offenders?</p> <p>The ECHR have not made any comments in relation to “dangerous/high risk” offenders in Ireland.</p>
	2.	<p>Please provide relevant information and the references of reports of the Committee for the Prevention of Torture (CPT) and the Government’s answers to them in respect of “dangerous”/high risk prisoners. Have there been policy or legislative amendments with regards to the CPT-reports?</p> <p>The CPT have not made any comments in relation to “dangerous/high risk” offenders.</p>
	3.	<p>Is there a legal basis for information exchange between agencies dealing with “dangerous”/high risk offenders in prisons and/or in the community? If yes, please outline them briefly.</p> <p>The question and definitions require further clarification on “dangerous”/high risk offenders .</p>
	4.	<p>Please detail here any further important issues related to “dangerous”/high risk offenders not considered in the questionnaire.</p>

Florence, 12 December 2012

Frieder Dünkel