

Examining the comparative use, experience, and
outcomes of community service orders as
alternatives to short prison sentences in Ireland

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EXECUTIVE SUMMARY

Project summary

The research presented in this doctoral thesis explores the use of community service orders (CSOs) as alternatives to short prison sentences in Ireland. The primary purpose of this project was to examine whether CSOs and short prison sentences are operating as true alternatives in Ireland. This thesis aims to improve our understanding of Irish penal culture and the use of alternatives to custody in the Irish context, as well as establish whether the original policy intentions of the Criminal Justice (Community Service) (Amendment) Act 2011 have been fulfilled.

Background

At the beginning of 2011, the Minister for Justice and Equality, Alan Shatter T.D, announced that amendments to the Criminal Justice (Community Service) Act 1983, encouraging the greater use of community service as an alternative to imprisonment, would be introduced in Ireland. A CSO is a direct alternative to a prison sentence and according to the original Act must only be imposed if a custodial sentence has first been considered. The amendments sought to strengthen the original legislation by encouraging the greater use of community service for those who would otherwise have received a custodial sentence of less than one year.

Funding for this doctoral work was provided by the Irish Research Council and the Irish Penal Reform Trust.

Methods and process

In order to examine the use short prison sentences (STP) and alternative CSOs, the profile of offenders in receipt of both sanctions were compared using quantitative methods. Administrative data collected by the Irish Prison Service and The Probation Service on offenders required to complete either a short prison sentence or CSO between the 1st of January 2011 and the 31st of December 2012 was compared. The comparative experience of completing these alternative criminal justice sanctions were investigated through interviewing offenders nearing the completion of their CSO or approaching release from prison. Finally, rates of re-arrest for both groups after a period of one and two years were compared using propensity score matching techniques. These techniques match participants on a number of observed characteristics to account for differences between groups.

Findings in brief

It is hoped that findings presented in this thesis can be distilled into something policy makers and practitioners can understand and act upon. A brief overview of results are presented below. For ease of interpretation, analysis of quantitative and qualitative data are presented in three sections.

The use of community service orders and short prison sentences in Ireland

Diversity in sentencing practice was a major finding of this research; in only eight District Court jurisdictions were more CSOs than short prison sentences imposed. Across these District Courts the average number of CSO hours imposed per month of alternative varied considerably. For example, an offender in District Court six received

an average of 23 hours' community service per one month alternative prison sentence for a public order offence, whereas an offender in District Court nine received on average of 92.6 hours per one month alternative prison sentence. The variability in use of community service across offence category and court jurisdiction highlighted by this research shows the unpredictable nature in the use of this sanction in Ireland.

Initial analysis showed that differences between STP and CSO cases were not as pronounced as expected, although short term prisoners were marginally older this difference was very small. Similarly, more cases convicted of a drug or public order offence received community service than was expected, but these effect sizes were also very small. The large number of CSO recipients without previous convictions since 2003¹, tentatively suggests that a large proportion of cases may have been first-time offenders. Findings point to suspected up-tariffing of a large number of presumably low level offenders in Ireland.

Comparing the experience of completing a community service order and a short prison sentence

Qualitative analysis provided a glimpse of the differing outcomes of contact with the criminal justice system for interviewees from both groups. The comparative experience of court was very different for STP and CSO participants. The fear of imprisonment hung over CSO participants before and during their court experience, whereas STP interviewees had much experience of the court system. Overall however, the emotive response evoked by contact with the criminal justice system was largely similar for interviewees in both groups.

¹ Including those for whom information regarding previous criminal convictions was unavailable.

Participants agreed that while community service was more preferable than serving a custodial term, the alternative prison sentence attached to an order and the length of time taken to complete community work were given consideration by interviewees. The reported appropriateness of community service for certain types of offenders was also discussed and consensus was not reached across interviewee groups. Many interviewees considered habitual offenders unworthy of community service. Those with much experience of imprisonment claimed they had never been given an opportunity to complete community service, which according to them, may have changed the trajectory of their criminal careers. The majority of interviewees in the STP group stated they were destined for prison.

A significant finding from the qualitative work found that those in the STP group lacked a sense of self belief in their ability to successfully complete community service; they did however value the structure provided by the prison environment. Those with addiction problems and chaotic lives in the community considered a short spell in prison a break from the outside. In contrast, those in the CSO group claimed community work had improved their routine and provided them with the incentive to re-join the working world.

Rates of re-arrest after serving a community service order and short prison sentence

Analysis utilising matching techniques found that proportions of re-arrests between groups were very similar indicating a null effect, but when longer follow-up times were used, differences in proportions of cases re-arrested became more pronounced. These findings were, however, not statistically significant.

Re-arrest rates rose during the months following the imposition of a CSO or release from prison after a short prison sentence. Re-arrest rates were higher for females released from prison when compared to their CSO counterparts and their male counterparts released from a short spell of imprisonment after one- and two-year follow-up periods.

When cases that did not successfully complete their CSO were excluded, it was found that STP cases were re-arrested more quickly when compared to CSO cases that successfully completed their orders. Regression analysis, excluding those who did not successfully complete their CSO, found that STP cases were more likely to be re-arrested at all follow-up periods. When all other covariates were controlled, however, this result was not significant. When matching techniques were utilised, differences were marginally smaller, but not statistically significant. Limitations of this analysis include the relatively short follow-up period and the limited variables available when employing matching techniques.

Conclusions and recommendations for action

It will not be fully clear for some time whether community service orders are having the desired decarcerative impact that recent policy change aims to achieve. Findings from this research indicate that in some cases community service may be leading to a ‘net-widening’ of social control measures, rather than diversion from prison. It also points out that the community service landscape remains uneven and diverse. Some models principally operate on the completion of unpaid work, while others offer more therapeutic and education-based activities.

It is now even more pressing that a comprehensive review of how community service is currently operating is completed if the promotion of non-custodial sanctions is to succeed. The system must also be seen publicly as working to the advantage of wider society; the public needs to be given clear information about the system of community sanctions and their effectiveness.

Monitoring and publication of the average time taken by cases to complete community service in each court jurisdiction would help ensure orders are completed in a timely fashion, or within the prescribed one-year period. This is important if the credibility of the sanction as a true alternative to custody is to be enhanced. Ensuring continuity between community service hours and length of alternative imprisonment is also recommended.

Guidance on the number of community service hours that correspond to a month of alternative imprisonment should be provided, and should be decided through consultation with the judiciary. A similar policy was adopted in Finland to ensure that the time required to complete community service is approximately the same as the alternative sentence of imprisonment (Lappi-Seppälä, 2009). Not only would this promote consistency nationally, it would also increase transparency and improve credibility among those required to complete unpaid community service work.

Information sharing and consultation with the judiciary is of paramount importance if non-custodial alternatives are to be utilised to their fullest potential. It is recommended that written briefings, including details of how community service operates in each court jurisdiction should be provided to the judiciary regularly, as a means of information sharing and promotion of the sanction.

Training for criminal justice professionals is recommended; the role solicitors, barristers, probation officers, and others play in the court process is very significant. Communicating how community service operates at a local level may entice more professionals to discuss its operation with their clients and suggest the use of CSOs as alternatives to short-term prison sentences at sentencing.

A standardised format for community service suitability reports should be implemented across all court jurisdictions, and the information presented to members of the judiciary should be comparable across courts areas.

Accurate up-to-date and comprehensive data is essential to the policy-making process. It is recommended that legislative amendments to criminal justice policies like those outlined at the beginning of this summary should include a requirement to evaluate the impact of policy changes so as to assess their efficacy.

ABSTRACT

Background: In Ireland, under the Criminal Justice (Community Service) 1983 Act, a community service order (CSO) must only be imposed if a custodial sentence has first been considered. In 2011, an amendment to the 1983 Act was made, requiring courts to consider imposing CSOs as alternatives to prison sentences of less than one year. This amendment sought to address the underutilisation of community service, decrease the number of short-term committals, and benefit offenders and communities.

Methodology: Administrative data from the Irish Prison and Probation Services pertaining to all cases sentenced to a short-term of imprisonment or CSO between 2011 and 2012, were linked with criminal history and re-arrest data from An Garda Síochána, and comparative analysis conducted. Qualitative interviews with CSO recipients and short-term prisoners were also completed ($n = 21$). The aims of this analysis were: to investigate the use of CSOs as alternatives to short prison sentences; to compare offender perceptions and experiences of completing these alternative criminal justice sanctions; and to examine comparative recidivism outcomes, using a matched sample approach. **Results:** In Ireland the CSO is operating as a non-custodial alternative in only some cases. A large proportion of first-time offenders received community service. Those convicted of a drug offence were more likely to receive a CSO, suggesting up-tariffing in some of these cases. Interview participants did not consider the CSO as truly interchangeable with imprisonment, but as a sanction for those considered redeemable. Further, it seems judges operate in a punitive safe space when imposing CSOs. A null effect was detected when re-arrest outcomes for CSOs and short terms of imprisonment were compared. **Conclusions:** Enhancements in policy, practice, and research are required if reforms aimed at decreasing the use of imprisonment are to be successfully introduced, and community service considered an acceptable substitute to imprisonment.

DECLARATION

I certify that this thesis which I now submit for examination for the award of Doctor of Philosophy, is entirely my own work and has not been taken from the work of others, save and to the extent that such work has been cited and acknowledged within the text of my work.

This thesis was prepared according to the regulations for graduate study by research of the Dublin Institute of Technology and has not been submitted in whole or in part for another award in any other third level institution.

The work reported on in this thesis conforms to the principles and requirements of the DIT's guidelines for ethics in research.

DIT has permission to keep, lend or copy this thesis in whole or in part, on condition that any such use of the material of the thesis be duly acknowledged.

Signature _____ Date _____

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I dedicate this thesis to the memory of my uncle Hughie who passed away suddenly as I was finishing this work.

ABBREVIATIONS

CC	Consultative Council
CSO	community service order
FET	Fisher's Exact Test
LSIR	Level of Service Inventory – Revised
MCAA	Measures of Criminal Attitudes and Associates Scale
NRS	National Recidivism Study
OR	Odds ratio
PIMS	Prison Information Management System
PO	Probation Order
PRIS	Prison Records Information System
PSM	Propensity score matching
PULSE	Police using leading systems effectively
RCT	Randomised control trial
RMF	Research microdata file
SB	Standardised bias
STP	Short-term prison
SRGPP	Strategic Review Group for Penal Policy
UK	United Kingdom
U.S.	United States

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CHAPTER ONE

INTRODUCTION

At the beginning of 2011, the Minister for Justice and Equality, Alan Shatter T.D, announced that amendments to the Criminal Justice (Community Service) Act 1983, encouraging the greater use of community service as an alternative to imprisonment, would be introduced in Ireland. The amendments, introduced later that year, were described by the Minister as “a response to the underutilisation of community service and a recognition of the importance of non-custodial alternatives to imprisonment”. In recognition that the amendments were also a cost-saving exercise in a time of financial austerity, consideration was also given by the Department of Justice and Equality to “the commitment set out in the national recovery plan to encourage the greater use of community service” (Department of Justice and Equality, 2011a).

The Minister felt that such amendments would “deliver benefits on the national, community and individual level”; he outlined plans for implementation, stating, “offenders considered appropriate for community service will be diverted from the prison system while making recompense to the community for the offence committed” while also referring to the perceived underutilisation of community service in Ireland. The Minister stated that “this Act will address those concerns that the sanction of community service orders is not being sufficiently used by our courts in the sentencing of offenders” (Department of Justice and Equality, 2011a).

Notably, and remarkably similar to how the original legislation was framed, reference was made to the financial benefit of these legislative changes:

Increasing the use of community service delivers financial savings, diverts from the prison system offenders considered appropriate for community service and whose imprisonment is a substantial expense to the state and provides reparation in the form of unpaid work to the benefit of the community (Department of Justice and Equality, 2011a).

A CSO is a direct alternative to a prison sentence and according to the original 1983 Act must only be imposed if a custodial sentence has first been considered. However, as the debate continues about the purpose of community sanctions, an examination of the impact of policy change, analysis of the alleged underutilisation of community service, as well as the diversion of those who would otherwise have received a custodial sentence into the community, is needed. Such an assessment will improve our overall understanding of the operation of non-custodial alternatives in the Irish criminal justice system.

The lack of definitive purpose associated with community-based sanctions in Ireland requires “varied and diffuse” types of evidence to be used when evaluating such interventions (McNeill, Farrall, Lightowler, & Maruna, 2012, p. 3). This thesis therefore seeks to examine the impact of using CSOs as alternatives to short prison sentences using a variety of research methods.

1.1 Purpose of the thesis

Short prison sentences have been deemed ineffective in terms of rehabilitation or reducing recidivism (Armstrong & Weaver, 2013; Ministry of Justice, 2011, 2013; Scottish Executive, 2001). In Ireland, although under examined, this is evident for sentences of less than three months (O'Donnell, Baumer, & Hughes, 2008).

A lack of interest in penal matters was traditionally a feature of Irish political life (Rogan, 2011, 2016), however, more recently, there has been an increased interest in criminal justice matters. In 2010, the rolling out of ‘a new model’ of community service, as well as the changes to community service provision by the Probation Service, preceded the strengthening of existing community service legislation (McCarthy, 2014). This demonstrates the increased impetus to divert those in receipt of short prison sentences into alternative criminal justice sanctions in Ireland in recent times.

The increasing numbers of offenders subject to some form of community supervision has come under intense scrutiny in many jurisdictions (McNeill & Beyens, 2013; Phelps, 2013; Robinson & McNeill, 2015), including Ireland (Carr, 2016; Carr, Healy, Kennefick, & Maguire, 2013; McCarthy, 2014; O'Hara & Rogan, 2015). Understanding the varying use of penal sanctions and their proposed purpose and structure provides important insights into the social, cultural and political context relevant to penal policy making and associated developments within a jurisdiction (Carr, 2016).

The notion of 'alternativeness' is a key strand running throughout this thesis. The research presented explores the use of CSOs as alternatives to short prison sentences in Ireland. Using terms such as ‘alternatives to imprisonment’, however, reinforces the notion that “imprisonment is the norm against which alternatives should be considered” (Robinson & McNeill, 2015, p. 5). In many jurisdictions community service has evolved from an alternative to imprisonment, to a standalone sanction, operating in its own right (Robinson, McNeill, & Maruna, 2013). In Ireland, the CSO’s use has not developed in this way. Irish criminal justice policy continues to reinforce the idea of using community service as a direct prison substitute. Therefore the use of the term alternative to imprisonment is justified when examining this community punishment

and developments in penal policy in the Irish context. To date, no large scale empirical analysis of alternatives to imprisonment has been completed in Ireland. A key purpose of this thesis is to begin to fill this knowledge gap.

Linked to this is the question of the use of data and research in the formation of policy. The role of research evidence, and the shift towards evidence based practice across criminal justice policy has gained considerable momentum in recent decades. Examined in more detail in the final section of Chapter Three, the strive towards ‘effectiveness’ is said to have been “a particular preoccupation in Anglophone jurisdictions” (McNeill & Beyens, 2013, p. 7); however there is a dearth of empirical analysis examining the use or outcomes of community service as an alternative to imprisonment in the Irish criminal justice context. The thesis therefore aims to provide an empirical analysis of how community service is used in Ireland and whether it is in fact understood as an adequate alternative to imprisonment.

1.1.1 Research aims

The primary purpose of this research project was to examine whether CSOs and short prison sentences are operating as true alternatives in Ireland. To achieve this purpose, the following research objectives were set:

- To assess whether the aims of the Criminal Justice (Community Service) (Amendment) Act 2011 are being fulfilled.
- To examine the profiles of offenders in receipt of alternative CSOs and short prison sentences.
- Explore whether CSOs and short prison sentences are considered truly interchangeable within the Irish criminal justice system.
- Compare the outcomes of these alternative criminal justice sanctions.

A mixed methodology approach was utilised. Using quantitative methods, the profiles of offenders receiving short prison sentences and those receiving alternative CSOs were compared, to examine the use of these alternative sanctions in Irish courts. The alternative experiences of custodial and community participants were then investigated qualitatively. Finally, recidivism rates of those in receipt of short prison sentences compared to alternative CSOs were examined using a matched sample approach. Such investigation aimed to improve our understanding of Irish penal culture and the use of alternatives to custody in the Irish context, as well as establish whether the original policy intentions of the Criminal Justice (Community Service) (Amendment) Act 2011 have been fulfilled.

1.2 Thesis structure

This thesis is divided into seven chapters. Following this introductory chapter, which has outlined the purpose and the aims of this research, Chapter Two, provides a synopsis of legislative changes relevant to this study. This Context Chapter provides a brief introduction to sentencing in Ireland and outlines the operation of non-custodial sanctions, focusing on the CSO scheme. Chapter Three synopsis literature relevant to this thesis over four sections. An examination of punishment in the community is provided before the specific development and changes in ideology of the CSO are described. The factors influencing sentencing, in particular the sentencing of cases on the cusp of a custodial or community sanction, are presented, before empirical studies examining the impact of custodial and non-custodial sanctions are summarised and evaluated. Chapter Four provides an overview of the design and methodology adopted for this research, as well as an examination of the ethical considerations associated with this study. Chapter Five then presents the results of both the quantitative and qualitative studies completed as part of this study. Chapter Six provides an integrated discussion of

the results presented in Chapter Five, before outlining the overall strengths and limitations of the work presented. Chapter Seven outlines implications and recommendations for policy, practice and suggests avenues for future research, before overall conclusions are drawn.

CHAPTER TWO

CONTEXT

2.1 Chapter overview

In order to position this thesis within the wider Irish criminal justice context, this chapter begins with an outline of legislation sanctioning the use of CSOs in Ireland. It provides a brief overview of the Irish court system and its sentencing practices, before giving a description of non-custodial sanctions available to Irish courts, with particular emphasis on the CSO.

2.2 The legislative landscape relevant to this study

The Criminal Justice (Community Service) Act 1983² introduced the use of CSOs in Ireland, with the first order being made in early 1985 (Walsh & Sexton, 1999). This legislation (similar to that introduced in England and Wales, Northern Ireland and Scotland between 1972 and 1978), classified the CSO as a direct alternative or substitute to custody (Riordan, 2009). Not unlike policy enacted in these aforementioned jurisdictions, a CSO requires offenders to complete a specified number of hours unpaid work imposed in lieu of a custodial term. An offender has to consent to the order, and a decision regarding what unpaid work is to be completed is made by the Probation Service³. If an offender fails to comply with the terms of the order it may be revoked and the original custodial sentence imposed.

² The 1983 Act has been amended by a number of subsequent provisions, none of which effect the subject of this thesis, except the Fines Payment and Recovery Act 2014 which is discussed in section 2.2.

³ Previously the Probation and Welfare Service

Since its introduction, the 1983 Act has subsequently been amended. The first modification was introduced under section 115 of the Children Act 2001, and concerned offenders under the age of 18. This amendment allowed for the imposition of a CSO as “an intermediate sanction without consideration of the prior custodial requirement” (Riordan, 2009, p. 188). This policy change indicated a departure from the use of a CSO as a direct substitute to imprisonment for offenders aged under 18 years (see Riordan (2009) for an expansive account of the implications of section 115 of the Children Act 2001 to community service in Ireland). More relevant to this thesis is the maintenance in policy that CSOs should be imposed as a replacement for custodial sentences for adult offenders, a primary focus of this thesis.

An amendment to the 1983 Act, which is at the heart of this thesis, was, however, introduced at the latter end of 2011. Amendments were made to nearly all sections of the original 1983 Act, most importantly to section 3. This now states:

Where a court, by or before which an offender stands convicted, is of opinion that the appropriate sentence in respect of the offence of which the offender is convicted would, but for this Act, be one of imprisonment for a period of 12 months or less, the court shall, as an alternative to that sentence, consider whether to make an order (in this Act referred to as a ‘community service order’) in respect of the offender and the court may, if satisfied, in relation to the offender, that the provisions of section 4 have been complied with, make a CSO in accordance with this section.

This amendment reinforced the original 1983 legislation, as it now specifically refers to the use of the CSO as a custodial alternative of a specified length. Although this amendment was introduced under the Criminal Justice (Community Service)

(Amendment) Act 2011 to increase the use of community service, the number of CSOs imposed since 2011 has decreased (The Probation Service, 2011, 2012a). Questions therefore surround whether the policy goals of the Act are being satisfied; these are discussed throughout forthcoming chapters.

Relevant to a discussion of legislation amendments to the use of CSOs, is the Fines (Payment and Recovery) Act, introduced in 2014. The Act provides that a CSO will be the court's first recourse for failure to pay a fine (as long as an offender consents), if it is not suitable to make an attachment order; the Act also stipulates and that imprisonment will be a last resort, appropriate only if a CSO cannot be made or it is not complied with.

The inclusion of the CSO as a sentencing option for the non-payment of a court ordered fine is notable. It has been found that such policies can lead to widening the "net" of formal social control (McIvor, Pirnat, & Grafl, 2013), a topic often neglected in 'alternatives' and 'decarceration' debates (Phelps, 2013). Referred to as 'net-widening', this phenomenon of drawing 'low-level' offenders deeper into the criminal justice system can increase the future risk of incarceration for individuals who would have previously received a less punitive sanction. Here questions surround the use of a high sentence tariff, such as the CSO, for those offenders who may be considered 'low level' and what impact this may have on original CSO policy intentions.

The amendment to the Criminal Justice (Community Service) Act 1983 in 2011 and the inclusion of CSOs in The Fines (Payment and Recovery) Act 2014 were measures introduced during a major economic crisis in Ireland. Encouraging the use of community service as a 'cost-effective' measure was twinned with the need to alleviate prison over-crowding and the over-use of short prison sentences (McCarthy, 2014). The

reduction of committals to prison for short terms was a primary motivation for the introduction of community service in Ireland (Riordan, 2009). More investigation of the use of community service as a prison substitute in Ireland at this juncture is therefore warranted. As outlined in the introductory chapter, this thesis aims to provide such an investigation.

2.3 The Irish court system

In order to provide relevant context, it is necessary to outline in brief the operation of the Irish court system. The District Court is the lowest court in the Irish system. It is a court of local and limited jurisdiction. District Courts are organised on a regional basis with 24 jurisdictions. The District Court deals with offences which can be tried summarily (carrying a maximum prison sentence of 12 months for one offence) and ‘triable either way’ offences, where certain conditions are met.

The next highest court is the Circuit Court which is also a court of local and limited jurisdiction, but with appellate jurisdiction of matters arising in the lower District Court. The country is divided into eight Circuit Court jurisdictions. The Circuit Court has jurisdiction to deal with all indictable offences except those over which the Central Criminal Court has jurisdiction (rape, aggravated sexual assault, murder, treason and piracy) (Byrne & McCutcheon, 2014).

The higher courts include the High Court, referred to as the Central Criminal Court when hearing criminal matters, the Special Criminal Court, and finally the Supreme Court (Allison & John, 2013). The Court of Appeal was established in 2014 and hears appeals from the High Court and the Circuit Court.

This thesis focuses primarily on sentencing in the District Court, which accounts for the majority of CSOs and committals to prison for less than a year (Carr, 2016); however a small proportion of CSOs are made in the Circuit Court and analysis of such cases by court jurisdiction is presented in Chapter Four.

2.4 Sentencing in Ireland

Ireland has a uniquely discretionary sentencing system, previously described as “one of the most unstructured in the common law world” (O'Malley, 2000, p. 8). Scholars have commented on why an individualised and discretionary sentencing system has continued in Ireland, when many similar nations have employed structured sentencing or embraced sentencing guidelines (Kilcommins, O'Donnell, O'Sullivan, & Vaughan, 2004; O'Malley, 2006).

A significant contributor to differing sentencing approaches in Ireland is the absence of a “single unifying sentencing aim that judges must give priority to when passing sentence” (Maguire, 2010, p. 19). This, however, is only one factor; issues regarding the appointment of judges, the training they receive, the limited availability of guidelines and little review of sentencing practices contribute to what has been described as the inconsistent and ‘lottery’ style of Irish sentencing practices (Bacik, 2002; Maguire, 2008, 2010; O'Malley, 2006). A review of relevant literature examining factors that impact sentencing decisions in cases which border on a custodial or non-custodial sanction are presented in section 3.4.2.

2.4.1 Guiding sentencing practice in Ireland

The principle of proportionality in sentencing has a constitutional basis in Ireland. The courts' interpretation of this principle requires sentences to be proportionate to the offence and offender circumstances (O'Malley, 2006), meaning that each case has to be assessed individually on its own merits. The higher courts, the Court of Criminal Appeal and now the Court of Appeal, also have an important role in providing guidance on sentencing in Ireland (Law Reform Commission, 2013; O'Malley, 2011). Judgments from higher courts previously dismissed the idea that courts have a role in standardising sentencing practice or offering any guidance in sentencing; however in 2014, two noteworthy judgments from the Court of Criminal Appeal in the cases of *Ryan*⁴ and *Fitzgibbon*⁵ provided, according to O'Malley, "one of the most important sentencing developments in the history of the State" (2014, p. 1). These cases introduced guidance in the form of suggested sentencing ranges for firearm offences and offences against the person, respectively.

The legislature also has a role to play in guiding Irish sentencing decisions, although this is an area not without controversy. The introduction of mandatory sentencing for murder and presumptive minimum sentences for some drug and firearms offences are clear examples (O'Malley, 2011). Other examples include a mandatory minimum sentence which applies when a second or subsequent specified drugs or firearms offence is committed. Presumptive minimum sentences also apply when individuals "commit a second or subsequent serious offence within a prescribed period, having previously received a sentence of at least five years' imprisonment for a first serious offence" (Law Reform Commission, 2013, p. 3). The Criminal Justice (Community Service)

⁴ [2014] IECCA 11, [2014] 2 I.L.R.M. 98.

⁵ [2014] IECCA 12, [2014] 2 I.L.R.M. 116.

(Amendment) Act 2011, which promotes the increases use of CSOs, has also attempted to influence judicial practice when imposing short prison sanctions. In the majority of cases, the Oireachtas sets the minimum and maximum sentences. While these are general principles, they tell us little about what happens in practice.

There is recognition that disparity among sentencers exists (Maguire, 2008; O'Malley, 2011). Reformers have called for clearer guidelines, where the principle of parsimony is incorporated in legislation for all offenders (Irish Penal Reform Trust, 2010). Ireland affords high levels of discretion to its sentencers, the use of mandatory sentencing is limited, and scholars claim that it is in fact largely avoided by the judiciary (Bacik, 2002; O'Malley, 2006). Therefore attempts by the legislature to influence sentencing practice require examination, as does the extent to which amendments to legislation influence sentencing decision-making. The Criminal Justice (Community Service) (Amendment) Act 2011 is a rare example of such an effort, and warrants attention for this reason also.

2.4.2 Examining sentencing in Ireland

Attempts have been made to investigate sentencing practices; however researchers have encountered a number of problems. In general, there is an absence of information regarding practices of the Irish judiciary (Bacik, 2002; Hamilton, 2005; O'Donnell, 2000, 2011). This can be attributed to a lack of comparable criminal justice data (Rogan, 2012a), the slow development of criminological enquiry in Ireland (O'Malley, 2006) and the speed at which the criminal justice system has changed in recent decades (Maguire, 2008). A more nuanced approach to monitoring sentencing practice in Ireland is now required.

The data available from the Irish Prison Service, Probation Service, the Courts Service or An Garda Síochána are not adequately robust to analyse what disposals specific offenders receive from Irish courts. In recent years, data produced by the Irish Courts Service has improved greatly, but it is still limited. For example, data pertaining to non-custodial disposals in District and Circuit Courts were previously grouped together; this greatly inhibited the interpretation of the use of non-custodial sanctions between offence categories. Disposals by region or court jurisdiction are not provided and how this data are presented frequently changes, inhibiting any meaningful comparisons. The expansion of the Irish Sentencing Information System, the creation of an interim Judicial Council and the increased capacity within the Judicial Researcher's Office suggests that efforts are being made to improve the quality and use of existing data (Charleton & Scott, 2013; O'Malley, 2012). A more detailed description of criminal justice data practices is included in Chapter Four.

2.5 Non-custodial sanctions available in Ireland at sentencing

There are a number of non-custodial sanctions, other than the CSO, available to Irish courts when sentencing adult offenders. These include a probation order, a dismissal or conditional discharge, a bond to keep the peace, a fine, a court poor box donation, a curfew or exclusion order, a barring order, a restriction on movement order, a confiscation order, a suspended sentence of imprisonment and specific sanctions for driving offences, among others.

The Probation of Offenders Act 1907 enables a court to make a probation order discharging an offender subject to the observance of conditions, including supervision by a probation officer, over a specified period. In most instances the court will have requested a report from the Probation Service on the suitability of the offender for this

sanction. Additional conditions can be ordered by the court, such as participation in training, residence in a hostel, or attendance at a treatment programme.

Included under the 1907 Act is the provision for a dismissal or conditional discharge.

The court may also order that an offender enter into a bond to keep the peace and be of good behaviour, referred to as binding over. This involves undertaking to observe specified conditions for a period of time determined by the court.

When a fine is imposed, the judge normally specifies a period of time within which the convicted person must pay the fine. If the fine is not paid within the time provided by the judge, the convicted person can be sent to prison in default of the payment. As outlined in section 2.2, The Fines (Payment and Recovery) Act 2014 provides that a CSO will be the Court's first recourse for failure to pay a fine, if it is not appropriate to make an attachment order and that prison will be a last resort, only in the event that a CSO cannot be made or it is not complied with.

In Ireland, the judge can order that the defendant donate a sum to a charity nominated by the judge referred to commonly as the court 'poor box', however proposals have been made to replace the 'poor box' with a statutory reparation fund, under the Criminal Justice (Community Sanctions) Bill 2014.

The court may also impose a curfew or exclusion order requiring an offender to be at home at a particular address between certain hours of the day or night. Similarly, the judge might bar him/her from entering a certain street or premises.

Under the Censorship of Publications Act 1929, judges have the power to order property, which is connected with the offence the person has been convicted of, to be confiscated.

Under the Criminal Justice Act 2006, the court can impose restriction on movement orders. This may be imposed if a person is convicted of certain offences (mainly public order and assault offences) and is sentenced to imprisonment of three months or more. Section 99 of this Act also provides for the suspension of a sentence of imprisonment. A sentence is suspended for a specified period of time and a particular term of imprisonment is set. If an offender breaks the conditions imposed by the judge within the specified time period, the originally imposed term of imprisonment must be served, however very recently, parts of this section have been declared unconstitutional⁶.

The Criminal Justice Act 1993 established a system enabling the courts to make orders requiring offenders to pay compensation to identified victims. Common alternative sanctions for driving offences are disqualifications and endorsements made under the Road Traffic Acts.

2.5.1 The operation of community service orders in Ireland

The CSO operates in the following manner. The Probation Service makes decisions regarding the unpaid work to be completed by CSO participants. The Probation Service's role, however, begins much earlier in the process and continues after an order is made. Prior to any order being sanctioned, an assessment report is completed by the Probation Service to ascertain whether the person is capable of completing the order,

⁶As yet this judgment has only been reported in the press (The Irish Times, 19 April 2016).

that appropriate work is available, and that the person has consented to the order. This information is passed to the presiding judge who then decides whether or not to impose a CSO. A Probation Officer will often induct CSO recipients once an order has been made; they also have a role in managing participants' attendance, as well as dealing with non-compliant cases.

The community service work itself is often performed in a group setting. A Community Service Supervisor oversees the work which is most often facilitated through agencies, such as schools, the voluntary sector, other community groups, charitable organisations, and local authorities (McCarthy, 2014). As outlined previously, a CSO requires an offender to perform unpaid work for between 40 and 240 hours in lieu of a custodial sentence and under section 7 of the Criminal Justice (Community Service) Act 1983 recipients must complete their order within one year (The Probation Service, 2014).

Notably, there are no guidelines under the legislation, from the judiciary, or from the Probation Service regarding the appropriate number of community service hours per one month of alternative imprisonment to be set by the judiciary. Wide variability across offence type and court jurisdiction has indicated an inconsistent approach to the setting of community service hours (Petrus Consulting, 2009; Walsh & Sexton, 1999). This thesis examines the practice in greater detail.

2.6 Chapter summary

In the Irish context, sentencing decisions are largely discretionary. Guidelines regarding the use of alternatives to custody are sparse, and when available, the purposes of sanctions are multifaceted. The CSO was introduced as a direct alternative to imprisonment, brought in to reduce costs associated with the use of custody, in

particular short periods of custody. More recently, amendments to existing legislation attempt to increase the use of community service, primarily as a cost saving measure, but the benefits to communities and individuals have also been considered. It is currently unknown what impact such changes have had. This thesis examines trends and outcomes of the use of the CSO as an alternative to short-term imprisonment, as well as the individual experience of those in receipt of these alternative criminal justice sanctions. As Kilcommins concludes, an examination of the history, purpose and ideology underlying the CSO is important, as such an “exercise can also act as a starting point for deeper engagement with the contemporary operation of the sanction” (2014, p. 504). The results of such engagement are presented in Chapter Three.

CHAPTER THREE

LITERATURE REVIEW

3.1 Chapter overview

A review of existing literature, guided by the research aims, resulted in four key areas being identified. The literature review chapter of this thesis will therefore be presented in four sections. Literature and empirical works drawn from Anglophone jurisdictions were most relevant to this review, due to their similarity with the Irish common law system. England and Wales, Scotland, Northern Ireland and Ireland are jurisdictions of most interest, but relevant developments in other jurisdictions are also discussed.

The first literature review section explores the concept of punishment in the community, alternatives to custody and changes in penal ideology. The second section examines the CSO, its development, penal rationale, and changes in philosophy. The third section discusses sentencing decisions, with particular emphasis on ‘borderline’ cases, i.e. those on the cusp of a community or custodial sanction. Finally, the fourth section reviews empirical studies assessing the effect of custodial and non-custodial sanctions on recidivism including a synopsis of the main factors associated with recidivism and desistance.

3.2 A focus on punishment in the community

An understanding of the history of the development of supervising offenders in the community is essential to a full understanding of current policy and practice (Raynor & Vanstone, 2002, p. 11).

Punishment in the community can be described as “a section of the penal field which it is difficult to draw precise boundaries around” (Robinson et al., 2013, p. 323). Terms such as: non-custodial sanctions; alternatives to custody; community-based sanctions; and more recently, intermediate treatment, all attempt to describe its remit and purpose. Nellis (2001) claims this vague terminology enabled those with competing motivations, who work with offenders, to coexist somewhat peacefully. The terms ‘community penalties’ and ‘non-custodial sanctions’ however, exclude the post-custodial supervision of offenders, while the term ‘community corrections’ (often used in the United States and Australia) implies a commitment to correctionalist policy and practice (Robinson et al., 2013). The variety of terminology used to describe the supervision of offenders in the community makes it difficult to define precisely. This review section attempts to outline the history of supervising offenders in the community and describe the changing ideologies associated with community punishments. It will provide an account of where community sanctions are situated within the modern penal context with an emphasis on their use as prison alternatives by providing an introduction to ideologies underpinning the introduction of the CSO.

3.2.1 Supervision in the community: A brief history

The official establishment of community sanctions across many European and American jurisdictions, including Ireland, appears to have commenced around the turn of the 20th century. Said to have their ‘formal origins’ rooted in penal modernism, this political and cultural change resulted in the state taking responsibility for both the welfare and reform of offenders (Robinson et al., 2013, p. 324). Agencies were formed to oversee this reform and rather than ‘saving’ offenders in the moral sense, a more scientific rehabilitative model of offender treatment was eventually pursued (Harris, 1995; Raynor & Robinson, 2005). According to Garland (1985) the reformation of offenders gained momentum during this time and the assessment and classification of offenders grew in importance. The psychology of the individual and interest in understanding human behaviour was also fundamental to the growth of interest in offenders and their reformation (Raynor & Vanstone, 2002).

The humanitarian movement has been credited with the development of community supervision for offenders, however Raynor and Vanstone (2002) challenge the notion that supervising offenders in the community developed from “an exclusively humanitarian reform movement” (p. 12). They claim that the maintenance of social order, in addition to prevailing psychological, political and religious influences were central to the development of community penalties across both America and Britain. The authors conclude that although the humanitarian tradition was an important contributor to a movement away from imprisonment as a first resort, they claim that the attractiveness of psychological and environmental explanations of crime to humanitarians provided the springboard for the development of ‘supervision’ in the community.

According to Vanstone (2004), probation practice was developed primarily as an alternative to imprisonment. While it is acknowledged that the humanitarian movement was important in the development of probation and community-based punishments, non-custodial sanctions also facilitated the continuation of imprisonment. Punishment in the community justified the imprisonment of those considered unsuitable for community punishment and those deemed to be undeserving of mercy, therefore community supervision can be described as being “partly in the shadow casted by the Victorian prison wall and partly in the light beyond its perimeter” (Vanstone, 2004, p. 21).

In Britain, the role Vincent Howard played in the development of an early probation system for offenders has been well documented (Raynor & Robinson, 2005; Raynor & Vanstone, 2002). He proposed the Probation of First Offenders Bill in 1886 after a visit to Boston where a probation system was already in operation. This Bill was a precursor to the 1907 Probation of Offenders Act which put the punishment of offenders in the community on a legal footing across the British Isles.

Through the introduction of the 1907 Probation of Offenders Act across Britain and Ireland a group of ‘specialists’ within the criminal justice system, referred to commonly as probation officers, were created. At the outset, their role was based on the work which court missionaries had previously completed, however many of these professionals quickly “aspired to a more secular, professional and ‘scientific’ standing” (Raynor & Robinson, 2005, p. 51). At that time Britain looked to the experience of the United States where a specific branch of social work dealing with offenders, or those at risk of offending, had developed. These professionals used a ‘casework’ approach associated with the treatment model of offender rehabilitation, however this approach was not without its critiques (Harris, 1995). Bottoms and McWilliams (1979) claim that

the ‘casework’ approach used by probation services led to the ‘objectification’ of offenders. According to them the need to manage and cure offenders by means of a treatment plan resulted in an approach that was more officer than offender-centred.

In Ireland, early probation supervision was dominated by philanthropy as well as a voluntary court missionary system. Initially introduced through the 1907 Act, this was later updated by the Criminal Justice Administration Act 1914. Both of these Acts were introduced prior to Ireland gaining its independence from Britain. The Criminal Justice (Community Sanctions) Bill, when published, has been proposed as a replacement to the 1907 Act updating legislation that has remained predominately unchanged for more than 100 years; noteworthy is the “crucial part played by Ireland’s colonial past in the long-term development of probation” (Healy, 2015, p. 137). The influence of the Catholic Church on probation supervision post-independence has also been noted; they exerted much influence on social policy development, as well as interactions with supervisees (Healy, 2015).

3.2.2 Changes in penal ideology

Understanding changes in penal ideology is essential when attempting to appreciate how punishment and supervision of offenders in the community has evolved. In his thesis, Garland (2001) describes the apparent move in late-modern western societies, from ‘penal welfarism’ ultimately concerned with rehabilitating offenders, to a ‘new penology’ principally concerned with the management of risk. An understanding of how “we view and treat offenders”, both past and present, makes the discussion of changing penal ideologies central to any examination of community-based punishments (McNeill, 2004, p. 421). McNeill describes ideological changes in probation services in the UK as “the transformations of probation from a missionary endeavour that aimed to save souls,

to a professionalised endeavour that aimed to ‘cure’ offending through rehabilitative treatment, to a pragmatic endeavour that aimed to provide alternatives to custody and practical help for offenders” (2006, p. 40). This section provides an outline of ideological changes concerning punishment in the community across the Anglophone world, with reference to relevant changes in Ireland.

According to Garland (2001), the view that ‘nothing works’ proclaimed throughout the 1970s signified the demise of the penal-welfare approach to criminal justice policy and practice that was entrenched in the US and UK throughout the 1950s and 1960s.

Alongside this, the preoccupation with risk and the containment of such risk contributed significantly to the changing ideology of probation services. These changes had stark consequences for services, and ultimately the offenders under their supervision. Since its inception the service’s assumed duty was to ‘assist, advise and befriend’ worthy offenders, the Service was considered “the exemplary instance of the penal-welfare approach to crime control” (Garland, 2001, p. 177). According to Garland, since the departure from a welfarist approach, services have experienced stark ideological transformations. Probation services have become more controlled, have increased their supervisory role in the community through the use of curfews and tagging, and are now chiefly concerned with dispensing punishment in the community. More punitive sanctions have also emerged (Garland, 2001).

Garland (2001) claims that “the community has become the all-purpose solution to every criminal justice problem” (p. 123). Mechanisms of community punishment are merely the continuation of state policies outside the prison walls with little or no involvement of non-state agencies. Garland describes community punishment initiatives as “a constantly recurring solution to the problem of the limitations of the criminal justice state” (p. 123). He references the obligatory legal nature of community

punishments (for example as non-custodial alternatives to short terms of imprisonment) compared to their once voluntary nature, often imposed instead of a conviction. He concludes by claiming that “the management of risks and resources has displaced rehabilitation as the organisation’s [probation service] central aim” (p. 177).

Garland’s account has, however, received criticism; according to Zedner “there is a strong temptation to be swept up in Garland’s grand narrative” (2002, p. 347). She questions whether the collapse of the welfare ideal was as stark as Garland describes claiming that day to day probation practice and the use of non-custodial sanctions even increased (Zedner, 2002). So too his comparisons between the UK and US are flawed. As noted by Kilcommins et al. (2004) his description of US policies are skewed by the punitive regime present in some southern states and his analysis of the UK is in fact an examination of the systems of England and Wales.

In Ireland, the development of crime control policy is both similar and different to what Garland outlines (Campbell, 2008). Campbell (2008) claims that Garland’s ‘indices of change’ are increasingly present within the Irish context. She claims that more punitive sanctions are emerging, the role of the victim has been strengthened, and the politicisation of crime control in Ireland all support Garland’s thesis. As regards community punishment and the end of penal welfare ideas and practice however, his claims cannot be fully substantiated.

According to Rogan (2011), politicians and policy makers in Ireland were cautious and pragmatic when it came to criminal justice matters; which led to a state of ‘stagnation’ for many decades post-independence. Low crime rates and a lack of interest by the media and academic community are two reasons provided for the slow take up of penal welfare ideologies in Ireland; this resulted in an apathetic approach to the development

of probation practices (Healy, 2015; Kilcommins et al., 2004). The Irish judiciary's commitment to classic forms of punishment also delayed penal welfare ideals being embraced (Kilcommins et al., 2004). It was not until after the 1960s and the publication of two state reviews, that probation services were structured more professionally and a commitment to penal welfare ideas was, in fact, established (Healy, 2015; Rogan, 2012b). Therefore the demise of penal welfarism, in the terms described by Garland, is not applicable to the Irish context (Kilcommins et al., 2004). The continued use of fines and other non-custodial sanctions (Campbell, 2008), as well as a decrease in the use of short-term prison sentences when those in default of a court ordered fine are excluded (O'Hara & Rogan, 2015) also point to a continued commitment to rehabilitative thinking in Ireland.

3.2.3 Recent developments in community punishment

Throughout the latter part of the 20th century, punishment in the community underwent a considerable ideological shift across many Anglophone jurisdictions. Cultural and political shifts have influenced the terminology and the motives behind the use of community sanctions and measures (Robinson et al., 2013). The introduction and use of 'intermediate sanctions' in the US reflected the need to "impose order and coherence on penal policy" (Nellis, 2001, p. 18). Across the UK the 'punishment in the community initiative' aimed to delimitate financial, community and custodial penalties and highlight that penalties such as community service, probation orders and others were in fact penalties in their own right rather than 'less' than or 'alternative' to imprisonment (Nellis, 2001).

Nellis (2001) argues that economic, political and cultural changes influenced the classification and perception of punishment in the community. When community-based

punishments are considered and promoted as alternatives to imprisonment, the height of the custody threshold requires consideration. The use of court missionaries to supervise offenders took place in Britain at a time when the custody threshold was set quite low, but throughout the 20th century this threshold was increasingly elevated, requiring community punishments to adapt accordingly.

During the mid-20th century there was a considerable increase in the numbers of offenders convicted and received into prisons across England and Wales (Kilcommins, 2002). Disillusionment with imprisonment was evident, not only in the UK, but across many other jurisdictions (Young, 1979). During the following decades amidst this clear disenchantment with incarceration, community-based punishments were overhauled (Kilcommins, 2002; Young, 1979). Markedly, the introduction of CSOs requiring offenders to complete unpaid work in the community signalled a shift in penal thinking at the time; however its primary purpose was the redirection of offenders from overcrowded penal institutions, a theme returned to in later chapters.

More recently, the amalgamation of prison and probation services into the National Offender Management Service (NOMS) in England and Wales is an example of the political drive towards a more managerial and ‘effective’ service for punishing offenders in the community (McCulloch & McNeill, 2007). Punishment in the community, and the systems by which it is administered are increasingly influenced by ‘managerial’ strategies. This move towards a ‘system’ approach to crime reduction and offender management combines what were once independent agencies involved in the criminal justice system into one large interlinked ‘system’. Often associated with inter-agency co-operation, this increased managerial emphasis has resulted in ‘key performance indicators’ being of primary importance to the detriment of ‘effectiveness’. It has also resulted in community sanctions and measures being developed with their

ability to help other parts of the system in mind; an example, the development and use of community-based alternatives to deal with prison overcrowding (Robinson et al., 2013). The emphasis on how such sanctions can benefit offenders and communities alike is also lost.

In England and Wales the caseload of the Probation Service increased by nearly 40 percent between 2000 and 2008, this rise has been attributed to the introduction of new orders, an increase in post-release supervision due to an increase in prison committals, as well as the greater time offenders spend on licence. From 2008 to 2014, the number of offenders supervised in the community continued to fall, however by September 2015, caseloads had increased by seven percent when compared to the previous year. This recent rise, according to the Ministry of Justice, can be attributed to requirement of “statutory supervision” for all prisoners released after a custodial sentence under the Offender Rehabilitation Act 2014. (Ministry of Justice, 2016, p. 11). Of relevance to this study is the continued decrease in the use of community orders, although only marginal in recent months (Ministry of Justice, 2016).

The custody threshold is significant when discussing the use of alternatives to custody and debate continues to surround the severity and legitimacy of community punishments (Robinson et al., 2013). A key question has emerged: have community-based sanctions become increasingly punitive in recent times (Cochran, Mears, & Bales, 2013)? It is clear that policy makers have attempted to make community-based sanctions appear more punitive to both the general public and the judiciary; however offenders often cite their preference for imprisonment instead of a community sanction (Crank & Brezina, 2013; Crouch, 1993; Petersilia, 1990; Petersilia & Deschenes, 1994; Wood & Grasmick, 1999). The effect of more onerous and punitive community punishments may not have the desired effect. According to Phelps (2013):

If the practices of supervision are focused primarily on punitive monitoring or require such onerous commitments that they hamper probationers' ability to lead law-abiding lives, probation is more likely to contribute to back-end net-widening. Conversely, to the extent that the monitoring and services of probation are supportive and/or rehabilitative (or simply not disruptive), probation may be able to function more successfully as a prison diversion (p. 59).

In the majority of jurisdictions in the Anglo world, the number of offenders subject to some form of supervision or community punishment outnumbers those detained in prisons and other detention facilities (McNeill & Beyens, 2013; Robinson et al., 2013). McNeill and Beyens note that growing prison numbers have largely pre-occupied scholars working in the area of criminal justice. Examination of the upsurge of offenders subject to supervision in the community has largely been neglected. The consequence of which:

Skews academic, political, professional and public representations and understandings of the penal field, and in consequence it produces a failure to deliver the kinds of analyses that are now urgently required to engage with the challenges of delivering political, policy and practice communities (McNeill & Beyens, 2013, p. 3).

The role a community plays in the punishment of offenders also requires some discussion. Restorative justice sanctions and the development of community courts attempt to afford communities an active role in the punishment and rehabilitation of offenders. Once excluded, offenders are now considered active agents of their communities and "their memberships and affiliations need to continue, or be repaired if they are to be reintegrated into normal membership of communities" (Raynor &

Robinson, 2005, p. 29). According to Clear, Hamilton, and Cadora (2010) “restorative justice is a new version of an ancient idea: the outcome of a transgression against the community ought to be some process that restores the community from the effects of that transgression and thereby allows the transgressor to be restored as well” (p. 80). There has been a considerable increase in the use of reconciliation programmes that attempt to repair the resultant harm of criminal activity. According to McIvor (2007), in England and Wales the community now seems to be the ‘intended beneficiary’ of community service work where previously unpaid work was understood to benefit the offender. There is therefore ideological confusion and incoherence about what community punishment is supposed to achieve and whom or what it is supposed to benefit.

A penal welfarist approach has continued to dominate Irish probation practice (Healy, 2015). Goals such as rehabilitation and inclusion have remained at the fore of strategy. Until very recently, the Probation Service’s commitment to “advise, assist and befriend” as stated in section 4 of the Probation of Offenders Act 1907, had predominately remained unchanged. Initiatives based around ‘What Works’ principles have only recently been established, a managerial discourse is now somewhat evident in policy, although this may be more of an ‘austerity narrative’ evident from the recent financial crisis. Use of structured assessments and centralised data systems point to a more evidence based approach, however clinical judgement and skills remain an intricate part of probation practice with all probation officers requiring a social work qualification (Healy, 2015). These initiatives have, however, not been studied extensively in Ireland.

3.2.4 Conclusion

Across many jurisdictions punishment in the community has evolved alongside political, ideological, and scientific advances. For the most part scholars have been pre-occupied with imprisonment and the notion of mass incarceration resulting in a lack of enquiry of community penalties. In Ireland to date ‘mass supervision’ (Phelps, 2013) has not occurred. The numbers subject to community supervision have not outstripped those committed to prison, as in other jurisdictions (Carr, 2016). This dissimilarity in Ireland can be attributed to a combination of political neglect (Rogan, 2011), the survival of penal welfare ideals and periods of economic instability.

In Ireland “the work of the Probation Service does not bear the hallmarks of the culture of control” (Healy, 2015, p. 152) nor has it been overly influenced by the ‘punishment in the community initiative’ witnessed in neighbouring jurisdictions. Therefore the examination of more recent developments in community sanctions, as well as outcomes of recent policy changes in Ireland are of much interest both domestically and internationally, in order to understand developments in community punishment more fully.

3.3 The community service order: The development of a ‘new’ penal sanction

Penal policy is not formulated in a vacuum, but neither is it necessarily the product of a coherent and consistent consensus (Young, 1979, p. 3).

The CSO has attracted much scholarly debate, which has been primarily concerned with the sanction’s philosophical origins and penal purpose. Commentators have questioned its adequacy as an alternative to custody, its acceptability as a ‘tough’ community punishment, and even its suitability as a reparative or rehabilitative measure (Kilcommins, 2002; Wing Lo & Harris, 2004). Claims that the CSO was a new sanction have also been challenged, since the concept of work as a means of punishment has a long penal history (Kilcommins, 1999; Kilcommins, 2002; Zedner, 2004).

The history and origins of the CSO has been extensively researched. Although it must be acknowledged that some forms of community service existed around the world prior to the 1970s, England and Wales should be recognised as officially establishing the first community service programme within a formal criminal justice system (Kilcommins, 2002; Kilcommins, 2014). The CSO model introduced in England and Wales during the 1960s and formally in the 1970s was subsequently employed across much of Western Europe, including Ireland; considerable parallels can be drawn between policies introduced in these jurisdictions (Rogan, 2011). Therefore the rationale and development of the CSO in England and Wales is the main focus of this section.

The ideology and philosophy underpinning the CSO requires discussion before any adequate appraisal of its use can be conducted. According to Pease (1985), CSOs cannot be compared to other restitution programmes as they do not directly compensate victims. Pease contests that reparation is linked with the imposition of a CSO, claiming

it is “damaging to mix the victim of crime with the symbolic victim of crime in the abstraction of society as a whole” (p. 59). Pease claims the retributive nature of the CSO is how an offender repays society for the hurt caused by crime committed, therefore he contends that community service is merely a variant of slavery, transportation, houses of correction, penal servitude and impressment. He reaches the conclusion that the CSO is only “in detail a novel disposal” (p. 5). Kilcommins (2002) disagrees, claiming that significant societal changes at the time contributed to the development and introduction of the CSO in England and Wales. He considers the CSO a new penal sanction, separate from other punishments characterised by unpaid work.

After the introduction of the CSO in England and Wales, the particular policy underpinning the sanction and what policy makers wanted it to achieve were somewhat unclear (McIvor, 1992). The development, enactment, and evaluation of CSO schemes has received substantial research interest, however, as will be discussed, analysis of the use of this sanction has caused considerable debate and confusion (Reddy, 1991).

This section will outline the emergence of the CSO, with a focus on England and Wales, while attempting to uncover the rationale behind its introduction. It will examine the policy development preceding its introduction, its appropriateness as an alternative to imprisonment, as well as changes in ideology and rationale over the past four decades. Finally the introduction of the CSO in Ireland is discussed, and recent policy changes in the area assessed.

3.3.1 The community service order in England and Wales: Development of a penal sanction

The CSO was introduced in England and Wales under the Criminal Justice Act 1972.

This sanction was recommended by a sub-committee of the Home Secretary's Advisory Council on the Penal System, commonly referred to as the Wootton Committee (Advisory Council On The Penal System, 1970; Young, 1979). In short, the Wootton Committee was tasked with devising suitable alternatives to custodial sentences.

Predominately concerned with minor offenders, the Committee decided that a wider range of non-custodial sanctions should be available to courts in order to deal with minor offences. Community service was, according to Pease, attractive to the Wootton Committee as it provided 'constructive activity' to offenders. They recommended the introduction of community service on a pilot basis, and suggested the probation and after care service as the most appropriate to oversee the scheme (Pease & McWilliams, 1980). Community service as set out in the Wootton report, attempted to achieve a wide variety of penal goals. It was not merely set out as a decarcerative strategy and the report came in for criticism for this ambiguity both before and after proposed legislation was introduced (Pease & McWilliams, 1980).

Young (1979) asserts that disillusion with imprisonment was evident across many jurisdictions prior to the commencement of the CSO. He categorises this disenchantment into four general themes: "the influence of humanitarianism; scepticism about the effectiveness of imprisonment as an instrument of treatment or as a means of deterrence; prison overcrowding; and economic stringencies" (p. 4). Kilcommins (2002) agrees that prisons and other incarcerative techniques at that time were increasingly regarded as cruel, isolating, and ineffective, however he attributes the development of the CSO to a number of other societal changes which are outlined below.

Prior to the introduction of the CSO, voluntarism had experienced a substantial growth in England and Wales. The growth of community involvement was believed to encourage social responsibility and decrease feelings of isolation and disaffection that were reportedly being experienced in England and Wales. The idea of reparation for criminal activity had also grown in strength from the late 1950s onwards, in particular its usefulness in dealing with anti-social behaviour among youths had been documented (Kilcommins, 2002). The growth of community service type programmes within closed institutions, such as borstals and prisons, according to Kilcommins “provided a strong impetus for replicating such practices in a non-custodial setting” (2014, p. 494) In 1968, Restitution Orders could be made for theft of property offences and in 1966 the Widgery Committee were tasked with examining how “personal reparation” could be afforded a larger role in the criminal justice system (Kilcommins, 2002, p. 391).

Kilcommins states that at the time there was “increased concern about the fragmentation of the social fabric [of society]” (2002, p. 393), which he attributes to a growing industrialised nation, the foundering of family relationships as well as the decline of religion. Based on these assertions, he claims that societal changes as outlined above and termed by him as ‘pull factors’ initiated the creation of the CSO as a new penal measure in England and Wales (Kilcommins, 2014).

Young (1979) claims that by the time legislation enacting the use of CSOs was introduced in parliament in England and Wales, politicians agreed that prison was not an effective deterrent, nor a reformatory tool. Between the late 1940s and late 1960s the numbers of offenders convicted and received into prisons across England and Wales had grown considerably. According to Kilcommins (2002), at that time there were a marked increase in prison assaults, in overcrowding, and in the number of escapes and attempted escapes. A notable increase in sentence length had also exacerbated the

inflation of the prison population. Kilcommins refers to these influences as ‘push factors’ which operated alongside the cultural changes prompting the introduction of the CSO as a penal sanction (Kilcommins, 2014). Young claims that the expansion of alternatives to imprisonment, namely the suspended sentence, had not adequately decreased the prison population. In fact, Young partly attributes longer sentence lengths to the expansion of such non-custodial sanctions, claiming they prompted the use of longer sentences for repeat offenders (Young, 1979). The ineffectiveness of fines has also been cited as prompting the development of a wider range of non-custodial sentences across England and Wales (Pease, 1985).

According to Young (1979), the most influential driving force behind the development of the CSO was economic pressure to reduce the high cost of imprisonment. Young asserts that this increased public spending had paradoxically created services and provided resources for facilitating offenders in the community. He concludes that “community-based measures came to be seen as the panacea for the ills of prison overcrowding” (Young, 1979, p. 7). That said, the CSO was not without its own ‘penal bite’. Such orders deprived offenders of their free time, it was compulsory for offenders to attend, and they were often required to complete demanding physical labour (Zedner, 2004). The CSO challenged the narrative of punitivism by attempting to punish, rehabilitate, and instil discipline while simultaneously provide reparation to communities; however it did not dispel it. Some contend that the introduction of such community-based punishments in fact increased social control and suggest an ever “growing emphasis on discipline” (Zedner, 2004, p. 216).

3.3.2 The community service order: A suitable alternative to imprisonment?

As outlined above, prior to the introduction of the CSO, disillusionment with imprisonment was evident across England and Wales (Kilcommins, 2002; Young, 1979). In 1957, an inquiry examined and identified alternatives to the use of short terms of imprisonment. The report recommended an increase in the use of financial penalties across all courts, and the piloting of an attendance centre for young males. Absent from this report was the idea that community service would serve as an alternative to imprisonment, however the authors did propose that compensation and restitution had a greater place within the penal system (Home Office, 1957).

It was not until 1967 that the Criminal Justice Act introduced the suspended sentence, and the Criminal Justice Act 1972 recommended the use of CSOs instead of imprisonment. The Wootton Committee recommended a maximum of 120 hours of unpaid work per order in their outline for CSOs. During the legislative process, this was increased to 240 hours. Some commentators claim that the significance of 240 being divisible by 12 may have been an attempt to promote its use as an alternative to custody of twelve months or less (Pease & McWilliams, 1980). According to Mair (2011) diversion from custody, in particular, from short spells of imprisonment, has been a primary aim of criminal justice policy over the last 40 years. Analysis of CSOs as a decarcerative measure is therefore warranted.

At its inception, Willis (1977) claims the Wootton Committee's recommendations regarding the use of CSOs were ambiguous and misleading. Other commenters support the claim that limiting its use to offences punishable by imprisonment contradicted some of the committee's original proposals (Brownlee, 1998; Pease, 1981). The Wootton Committee recommended that a CSO could be used in a wide range of cases,

both instead of imprisonable offences or an alternative to other non-custodial options, such as a fine. Regarded as a 'Penal Chameleon' the CSO's attempts to appeal to a variety of penal philosophies led to confusion among sentencers and criminal justice professionals alike (Willis, 1977).

Given the high levels of ambiguity surrounding the aim of CSOs, researchers began to examine the extent of its decarcerative ability. The Criminal Justice Act 1972 legislated that an evaluation of the six pilot CSO schemes be conducted prior to a national roll-out. However, no detail on how the effectiveness of CSO should be judged was provided. The evaluation study, completed by Ken Pease at the Home Office Research Unit, investigated how orders were processed, the type of work available and attitudes towards the sanction. Revocation and recidivism analysis were also completed. The report stated that CSOs were being used exclusively as an alternative to imprisonment in only three areas. Pease found that, typically, CSOs were sanctioned only when recommended by a probation officer. Offenders aged between 17 and 24 years were more likely to receive CSOs, and between 38 and 50 percent of offenders in receipt of CSOs had experience of a custodial sentence (Pease, 1975).

A second evaluation, also completed in the six pilot sites and published in 1977, showed that just over 44 percent of offenders in receipt of a CSO were re-convicted within one year, compared to just over 33 percent of offenders who were recommended for community service but who had ultimately received a different disposal. Wootton claimed that this report, like the initial report, was premature and was conducted "before any experience had been gained as to the selection of cases or the type of work which offered the best prospect of success for a CSO" (Wootton, 1977, p. 111). She also claimed the study was not designed as rigidly as was warranted.

Pease examined the operation of the CSO scheme a number of times after his initial examination. In summary, his findings showed that the CSO scheme resulted in the up-tariffing of offenders. As discussed in the next section, originally introduced as an alternative to short prison sentences, CSOs were in practice being used as alternatives to other non-custodial sanctions. This practice varied between areas and courts. In cases of breach, a court's decision to revoke an order was at times at odds with the original ruling. Pease concluded that the CSO scheme had experienced the same fate as the suspended sentence, and had not resulted in decarceration. He concluded that the "mismatch between purpose and reality [was] undesirable" (Pease, 1985, p. 52).

More recently, Mair (2011) has indicated that neither the suspended sentence nor the CSO achieved success in diverting substantial number of offenders away from imprisonment. He claims that newer non-custodial sanctions have also failed as adequate alternatives to imprisonment, as the judiciary do not consider them credible non-custodial alternatives. This claim is also supported by Hough, Jacobson and Millie (2003) who stated that after the introduction of the 1991 Criminal Justice Act, which advocated for restraint in the use of imprisonment, there was in fact an increase in the prison population.

3.3.3 The community service order: A changing ideology

At its inception, three penal philosophies can be directly attributed to the CSO: punishment; reparation and reintegration. Initially introduced in 1972 in England and Wales, the CSO was "firmly embedded in pragmatic politics" (Young, 1979, p. 33) and has undergone sometimes drastic changes to meet the changing trends in British penology. Described by some as a fine on leisure time, the CSO has attempted to achieve many differing penal goals over recent decades (Zedner, 2004). In contrast, in

Ireland, the CSO has not undergone significant ideological changes as regards its operation. The CSO in Ireland “is perhaps best understood by studying the original community service order introduced in England and Wales in 1972” (Riordan, 2009, p. 109). This section outlines how the CSO has changed in England and Wales over recent decades.

Prior to 1991, the CSO and the probation order were two of the most utilised community penalties in England and Wales. During the late 1980s and 1990s a series of White Papers examining the punitive nature of community penalties were published which proposed the development of a new more flexible community order. The White Paper, *Crime, Justice and Protecting the Public*, published in 1990, proposed the creation of a combination order, which was subsequently introduced under the Criminal Justice Act 1991, alongside a new curfew order. This brought “all community orders within an overall framework based in the principle of proportionality” (Home Office, 1995, p. 11). At this time the CSO and the probation order were still intact; however a variety of different requirements could now be attached to the long standing probation order (Mair, 2011). The menu of community penalties available to courts expanded considerably during the 1990s when a more punitive ideology emerged regarding the punishment of offenders in the community.

Since the 1990s successive governments have committed to making community penalties more demanding. Halliday’s review of sentencing in 2001 identified that community penalties were considered “insufficiently punitive” (Halliday, 2001) and based on his recommendations, and a subsequent White Paper entitled *Justice for All*, presented in 2002, the new community order and suspended sentence order were introduced under the Criminal Justice Act 2003. After April 2005, the courts were in a position to design community sentences based on the seriousness of the offence, and the

circumstances of the offender (National Audit Office, 2008). These new orders gave sentencers the option of adding 12 possible requirements to community penalties including: unpaid work, supervision, drug treatment, mental health treatment, a curfew, plus many more. These new orders would eventually replace all previous orders including the long standing probation order, as well as the CSO (Mair, 2011).

The introduction of these new community penalties aimed to increase the punitive nature of community penalties and sentencers' confidence in using such penalties, as well as act as alternatives to imprisonment, however research has shown that the suspended sentence and the CSO are used as alternatives to imprisonment in approximately 50 percent of cases (Mair, 2011). For the first time, the Criminal Justice Act 2003 put the principles of sentencing into statute in England and Wales. A community order was required to meet one or more of these objectives: "punish offenders; reduce crime (including its reduction by deterrence); reform and rehabilitate offenders; protect the public; and make reparation by offenders to people affected by their offences" (National Audit Office, 2008, p. 8). However, according to Mair (2011), guidelines issued by the Sentencing Council caused confusion among sentencers regarding the use of these new orders as they did not definitively state how they should be used.

A recent consultation entitled: *Punishment and Reform: Effective Community Sentences* advocated for the inclusion of a punitive element in every community order so as to increase the credible nature of these punishments. According to the document "this package of reforms will help ensure that community sentences are properly punitive, are taken more seriously by offenders, and do more for victims" (Ministry of Justice, 2012, p. 4). Since the introduction of the CSO, a primary goal has been to increase the perceived credibility of the sanction, as an appropriate form of punishment. The

philosophies of reparation and reintegration have not been afforded as much thought or consultation when compared to the sanction's ability to punish offenders adequately.

3.3.4 The rise of the community service order in Ireland

Not unlike the English and Welsh experience outlined above, legislation enacting the use of CSOs in Ireland was introduced amidst growing prison committals, an increase in the use of short prison sentences, the use of longer prison sentences, and the associated cost of growing prison numbers (Committee of Inquiry into the Penal System, 1985; O'Donovan, 1990; Walsh & Sexton, 1999). It is clear that legislation and policy introduced in England and Wales during the previous decade was used as a spring board to the development of Ireland's own legislation and policy in the area (Kilcommins, 2002), however some differences were evident.

As identified by Riordan (2009), the introduction and current operation of CSOs in Ireland is most similar to the original CSO introduced to England and Wales in 1972; however, in England and Wales, the CSO could be sanctioned for "an offence punishable with imprisonment" (section 14, Criminal Justice Act 1972) without having first considered imprisonment. In Ireland, the CSO was introduced as a direct substitute to a period of imprisonment. This has been summarised by Riordan, as follows: "the offence defined the threshold for community service in England and Wales whereas in Ireland the first choice of penalty by the court i.e. a custodial sentence, defined the threshold for the use of community service as a sanction" (2009, p. 190).

The Criminal Justice (Community Service) Act 1983 legislated for the use of CSOs across Irish courts, with the first order being made in early 1985 (Walsh & Sexton, 1999). This review section will outline the policy development behind the introduction

of this legislation, rationale for the introduction of this non-custodial sanction, and research on the topic completed to date. Recent amendments to this Act and other policy developments are also discussed.

A White Paper published in 1981 outlined the rationale preceding the introduction of the 1983 Act. This paper advocated that unpaid work in the community, which would not have otherwise been completed, was currently being carried out by Irish prisoners on day release. According to the White Paper, the scheme was successful as the quality of workmanship was high, a positive reaction had been received from local communities, and effects on prisoners were evident. Based on this, the Paper claimed “experience with this scheme would seem to support the contention that the courts should be able to order suitable offenders to do work in the community in the first instance rather than to send them to prison or to a place of detention” (Department of Justice, 1981, p. 5). One can deduce that the primary rationale was to develop a sanction that could act as an alternative to imprisonment, while at the same time offer some retribution and provide rehabilitation to offenders, indicting a muddled ideology from the outset.

Decarceration was a primary driving force behind the introduction of CSOs in Ireland. It has been acknowledged that, at the time, Irish prisons were suffering from chronic overcrowding, and the subsequent cost of imprisonment had increased dramatically (Walsh & Sexton, 1999). A government memo written by the then Minister for Justice in 1983 sought approval for prisoners to be doubled up in single cells (Department of An Taoiseach, 1983), highlighting the crisis experienced at the time (Rogan, 2011). Proposals to decrease the numbers committed to Irish prisons was a priority within the Department of Justice and it was hoped that the commencement of the Criminal Justice (Community Service) Act 1983 would alleviate pressure from rising prison numbers

(Rogan, 2011). Its introduction as a direct custodial substitute also emphasises the punitive potential of the sanction (Riordan, 2009).

After the commencement of this Act, the government commissioned an inquiry into the penal system to examine the law in terms of the use of imprisonment, examine existing prison accommodation and all aspects of the current prison regimes including the recruitment and training of staff (Committee of Inquiry into the Penal System, 1985). This inquiry proposed a number of measures to reduce the use of short-term imprisonment. These included an increase in the use of financial penalties. The report advocated for the use of restitution in kind, which could take the form of unpaid work, but claimed that such restitution needed to be distinct from the CSO. It is clear that pressure on the Irish prison system had provided momentum to examine and develop non-custodial alternatives in the Irish penal system.

In 2011, amendments were made to the Criminal Justice (Community Service) Act 1983 aimed to increase the use of CSOs in lieu of prison sentences of less than one year. These amendments were announced after a White Paper published by the Department of Justice set out the overarching rationale for CSOs (Department of Justice and Equality, 2011b, p. 12). Remarkably, in 1982, before the original Criminal Justice (Community Service) Act 1983 was drafted, a Private Member's Bill was introduced by Alan Shatter, then an opposition TD, on how to introduce CSOs in Ireland. The legislation subsequently drafted by government was very similar to the Bill proposed by Alan Shatter TD. This same TD, in his capacity as Minister for Justice introduced the Criminal Justice (Community Service) (Amendment) Act 2011. Alan Shatter's continued interest in community service in the Irish context highlights the impact particular individuals have on Irish penal policy making (Rogan, 2011).

Policy analysis by Lawlor uncovered that the desire to divert fine defaulters away from custody was a primary motivator to amendments to existing legislation, as discussed in Chapter Two. The cost associated with short-term imprisonment, the underutilisation of CSOs and the “desire to address the bias towards custody which exists among some Irish Judges” were pragmatic motivators behind amendments to legislation requiring the Irish judiciary to consider increasing their use of CSOs (Lawlor, 2011, p. 32).

3.3.5 Conclusion

The CSO is new and unique as a sentence but its antecedents go back a long way in penal history (Hoggarth, 1991, p. 49).

As identified, considerable debate surrounds the potential uniqueness of the CSO as a penal sanction or indeed its originality as a punishment. It is clear that unpaid work as a method of punishment has been a feature of many penal regimes; whether community service emerged as a new sanction at a time of considerable societal change or was the mere development of already existing sanctions has been questioned. CSOs were introduced in England and Wales at a time when considerable pressure was being exerted on prisons, greatly affecting custodial conditions. Increasing numbers, increasing costs, and disillusionment with the effectiveness of imprisonment sparked a change in penal direction. However, as identified, the effect of decarcerative techniques in England and Wales did not substantially reduce prison numbers.

According to Mair (2011) the introduction of new non-custodial penalties will have little effect unless those low risk offenders already subject to similar sanctions are moved down the tariff ladder. Pease succinctly states: “at best, community service is an exciting departure from traditional penal treatment” (1975, p. 70), while Young (1979)

concludes that the introduction of CSOs as a decarcerative technique was naïve. Austin and Krisberg conclude that “progress in alternatives will remain frustrated until reforms are more carefully implemented and until proponents of alternatives are willing to test their ideologies through rigorous research” (1982, p. 374). This study examines the ideologies behind the introduction of the CSO then tests how these ideologies are manifested in practice.

3.4 Sentencing decisions: Examining the factors involved

Discretion during sentencing is considered an integral part of the criminal justice process. It is axiomatic that factors considered by the court when deciding on appropriate punishments include those associated with the offence, as well as the offender. The process used by sentencers to reach decisions, how they rationalise, and justify such decisions remains somewhat enigmatic. Crucially, those in charge of punishing are influenced by a wide range of events and personal circumstances. Social, political and personal circumstances will also, to varying degrees, influence judicial decisions (Ashworth, 2010; Easton & Piper, 2005; Hogarth, 1971). A review of these factors is necessary to understand the sentencing processes for imposing CSOs and short prison sentences.

A wide variety of offence, offender, as well as aggravating and mitigating factors are known to influence decisions. It is recognised that the seriousness of the index offence is given much consideration during sentencing (Von Hirsch, Ashworth, & Roberts, 1998), considered an initial step in sentence formulation in Ireland (O'Malley, 2010; The Law Team, 2008). Notably, aggravating and mitigating factors have been placed on a statutory basis in the UK, Finland, Sweden and New Zealand, (Roberts, 2008).

Studies examining sentencing consistency, find that a certain amount of variance remains between sentencing decisions even when controls for legal and offence related factors are included (Anderson & Spohn, 2010; Pina-Sánchez & Linacre, 2013). This has been attributed to the effect of judicial discretion, and a flurry of research examining other 'extra-legal' influences claims that sentencing disparities can be attributed to a number of non-legal offender characteristics, predominately age, gender, race/ethnicity, and socio-economic status (Freiburger & Hilinski, 2010; Koons-Witt, 2002; Wu &

Spohn, 2009). It is clear that factors influencing sentencing are not independent of each other; they are inter-related and therefore will influence decisions differently in each case. Sentencing is a subjective process. Many factors influence sentencers' decisions. The methods used in sentencing research are often flawed due to researchers inability to control for all confounding factors (Mitchell, 2005; Mitchell & MacKenzie, 2004; Pina-Sánchez & Linacre, 2013) and the use of simulation experiments differ from real world cases (Vidmar, 2011). Studies which originate from different jurisdictions therefore allow for only limited comparisons.

This review section begins with a brief consideration of the underlying principles influencing sentencing decisions. For the purposes of this section, the influences on judicial discretion are limited to influences at the sentencing stage of the criminal justice process, in particular those examining decisions to impose a custodial or non-custodial sanction. Findings from empirical studies examining sentencing in Ireland are presented in section 3.4.3, which are of particular relevance when discussing findings from this study.

3.4.1 Sentencing: The philosophical justifications underlying decisions

Much scholarly debate surrounds the fundamental principles guiding sentencing practice. These principles include: public protection, incapacitation, deterrence, rehabilitation, retribution and reparation. Sentencers often have discretion when choosing a primary principle, sometimes referred to as a 'primary sentencing rationale' (Ashworth, 2010; Coulsfield, 2004; Frase, 2013). Notably, these are competing principles; therefore depending on the principle chosen, similar offenders committing similar offences may receive different sentencing outcomes. According to Frase (2013), a system will become incoherent without a single sentencing rationale. The sentencing

principle afforded priority is determined by the approach to punishment held by a presiding judge. The judiciary's interpretation of the purpose of punishment and whether they take a utilitarian or retributivist approach will influence how sentencing decisions are made (Ashworth, 2010; Spohn, 2009). It is with them that the burden of balancing competing sentencing goals lies. This makes the process of sentencing "an exceedingly difficult task" (Hogarth, 1971, p. 4).

Scholars advocate that a number of overarching principles should be considered during sentencing. These include: the principle of proportionality, the principle of totality, the principle of equal impact before the law, and the principle of parity (Ashworth, 2010; Tonry, 1998; Von Hirsch et al., 1998). A limit on the use of custody is also a principle widely accepted by the judiciary and the use of imprisonment as a sanction of last resort is advocated by scholars, academics and some members of the judiciary (Ashworth, 2010; Maguire, 2014). In Ireland, custody is assumed for only the most serious offenders (Maguire, 2014; O'Malley, 2011); empirical analysis has, however, not tested this extensively. The manner in which such a variety of principles interact and influence decisions is difficult to examine empirically (Anderson & Spohn, 2010), but does require some consideration when examining influences on sentencing.

Measures to limit judicial discretion have for the most part attempted to treat like cases alike and different cases differently. This is however, not a simple task and one that will continue to interest scholars, the judiciary and law-makers for a long time to come. There are more tangible factors influencing judicial decisions, these include the facts of a case and the circumstances of an offender and researchers have attempted to test such influences empirically. These are not separate to the principles already mentioned in this section, rather they interact and influence decisions simultaneously.

3.4.2 Sentencing ‘borderline’ cases: What influences decisions?

An examination of ‘alternativeness’ between sanctions requires an assessment of the factors impacting decisions in cases lying on the ‘cusp’ of a custodial or community sentence. However, the philosophies underlying sentencing are wide and varied. So too are the offence and offender characteristics considered by sentencers. The philosophies and rationales employed by the judiciary will influence how offence and offender characteristics are considered, during sentencing (Anderson & Spohn, 2010). Empirical sentencing research and the categorisation of sentencing factors that require consideration has been described as “a confused and complicated empirical reality” (Jacobson & Hough, 2011, p. 148). According to Ashworth, empirical investigation of the judiciary is difficult as judges often claim that “no two cases are the same” (Ashworth, 2010, p. 190). The collection of empirical court data is complicated as numerous factors affect sentencing decisions (Mitchell, 2005; Mitchell & MacKenzie, 2004; Pina-Sánchez & Linacre, 2013). Therefore empirical work in the area is challenging.

Sentencing decisions in cases on the cusp of a custodial or non-custodial sanction has attracted some research interest. It is acknowledged that the decision to imprison is influenced by a variety of confounding factors, and untangling the process is challenging (Meeker, Jesilow, & Aranda, 1992). Some sentencers refute the existence of ‘borderline’ or ‘cusp’ cases, claiming that if such choice was available a case would “never be tipped in favour of custody” (Tombs, 2004, p. 48). Nevertheless, sentencers agree that certain factors influence their decisions to imprison instead of imposing a non-custodial sentence, and vice versa.

Some members of the judiciary do not consider the function of non-custodial sanctions equivalent to that of imprisonment, nor are they confident that alternatives can achieve the deterrent effect of imprisonment. This seems to apply across jurisdictions (Ashworth, 2010; Hough et al., 2003; Millie, Tombs, & Hough, 2007; Riordan, 2009; Tombs, 2004). The judiciary's underlying perception of non-custodial sanctions may be one of the most influential factors affecting decisions in cases where both a custodial or non-custodial sanction could be considered appropriate. This will undoubtedly influence their decisions irrespective of the aggravating or mitigating factors present. Tonry (1998) claims that if a principled system is to emerge, then the function that custodial and non-custodial sanctions serve must be considered equivalent.

The increase in alternatives to imprisonment, 'a policy of proliferation', as coined by Ashworth, has not had the desired effect on the use of imprisonment in England and Wales (Mair, 2011; Newburn, 2003). Obligations to consider these alternatives set out in legislation have not resulted in a decrease in short-term imprisonment. This was also the case in Scotland: the Scottish Law Reform Act 1990 emphasised that community sanctions were to be used as direct alternatives to custodial sanctions, however scholars claim they are not used as direct alternatives to imprisonment in approximately 50 percent of cases (McIvor, 1998). During 2012, Ireland saw sentenced committals of twelve months or less across the Irish prison estate increase, even after the commencement of the Criminal Justice (Community Service) (Amendment) Act 2011 requiring courts to consider CSOs in cases where custodial sentences of less than 12 months were deemed appropriate. These figures, however, include those committed to prison for defaulting on a court ordered fine.

The underutilisation of community service has been acknowledged in Ireland as has the capacity to expand the use of community service nationally (Petrus Consulting, 2009).

It appears that neither guidelines, legislative obligations or the availability of community disposals have adequately influenced sentencing in borderline cases, however scholars claim Ireland lacks a framework as regards the use of community and custodial sanctions (Maguire, 2016) which may deter them from using alternative community disposals. Calls have been made to separate the CSO from its custodial alternative (Expert Group on the Probation and Welfare Service, 1999; Law Reform Commission, 1996; O'Malley, 2006), however others caution that this would result in the CSO's use as an alternative to other non-custodial sanctions, rather than custody (Riordan, 2009). Riordan claims that "enthusiasm among the judges to have community service available as a standalone sanction without the pre-custodial requirement could be interpreted as resistance on their part to recognise an equivalence between a custodial sentence and community service" (Riordan, 2009, p. 397).

As identified in Ireland and across the UK, government, or legislative, influence has not had the desired influence on sentencing decisions, however the notion that prison is and should be used as a sanction of last resort is regularly reiterated by sentencers (Hough et al., 2003; Maguire, 2008; Riordan, 2009; Tombs, 2004). It has been found that sentencers believe they are already using prison sparingly and, importantly, claimed to be using it only as a last resort. What constitutes a last resort to one judge may be different from another, leading to wide disparity in practice (Hough et al., 2003; Tombs, 2004). Sentencers claim other influences have encouraged their continued use of imprisonment. Many believe that the severity of crimes has increased, requiring an increasingly punitive response (Hough et al., 2003; Maguire, 2008; Tombs, 2004). Hough et al. (2003), through analysis of offence type appearing before courts, conclude that the severity of crimes has not changed; rather, it is how sentencers perceive particular behaviours that has changed. Sentencers claim that the increase in drug offences has fuelled the need for both specific and general deterrence for similar

offences. Increasingly, sentencers claim they have no other choice but to imprison offenders because of prior convictions, serious offending behaviour and previous community sanction failures (Tombs, 2004).

Penal equivalence may also affect sentencing decisions in borderline cases. Some people believe that community service is suited to ‘criminals like us’, referring to the middle classes, as they have suffered sufficiently during the arrest and court processes (Tombs, 2004); whereas in contrast, prison is more suited to ‘underclass criminals’ (Morris & Tonry, 1990) can affect the sentencing process. A judge’s interpretation of how much an offender has suffered due to their social background is subjective, as is a judge’s opinion on the social background of an offender. An attempt to quantify how such subjective assessments affect sentencing disparity would be impossible due to the complexity of cases, and the lack of detailed data on an offender’s social background. However, this is a reality when sentencing decisions are made, and therefore requires further examination (Tombs, 2004).

The location of the court is also said to have an effect on sentencing in borderline cases (Flood-Page, Mackie, & Britain, 1998). As discussed above, the availability or accessibility of community alternatives in a particular area may influence sentencers’ decisions. If community alternatives are not available the judge may perceive there to be no other option but to impose custody. Some courts are more active than others and process more cases daily. This is particularly relevant in Ireland when rural and urban courts are compared. This may influence sentencing decisions as members of the judiciary may be required to pass a variety of sentencing decisions, on a variety of cases, on a particular day and then may not process similar cases for weeks in between (Charleton & Scott, 2013).

3.4.2.1 Specific factors influencing the imposition of custodial and non-

custodial sanctions. Parker et al. (1989) concluded that a magistrate decides whether custody is warranted at an early stage of the sentencing process. As part of their study, 240 court cases were categorised based on their 'custody potential'. In cases that received custody, researchers asked if this was an immediate decision or whether other options were considered. Cases were then coded: 'definite custody' (25%), 'threshold custody' (6%), (cases where custodial and non-custodial sanctions were considered, but custody was imposed), 'threshold not custody' (30%) (cases where custodial and non-custodial sanctions were considered, but a non-custodial option was imposed), and 'not custody' (36%). Three percent of cases were excluded. Findings suggested that sentencers treated juvenile and adult cases similarly. The factors considered by sentencers revealed that some were linked with an increased likelihood of prison, others with the imposition of a non-custodial sanction, and some not associated with 'risk of custody'.

Factors associated with imprisonment included: the seriousness of the offence, the magistrates 'moral judgement of the offender', an offender's previous convictions, and perceived risk to the public. The authors noticed that in cases where an element of public protection was required, or a 'clampdown' on that offence was underway in the area, offenders received custody almost always immediately. In 18 percent of cases a less serious offence was cited as influential in the imposition of a non-custodial sanction, similarly the fact of no previous convictions were persuasive in 17 percent of cases. An interesting finding was both absence and presence of family problems influenced the decision to impose non-custodial sanctions. Alternative sanction availability was a deciding factor in over one fifth of cases. Factors not associated with custody included the judge's perception that a shock was required or that 'the defendant

needs a jolt', or their 'hands were tied'. These are interesting findings as many would perceive these to be reasons for the imposition of custody (Parker et al., 1989).

In England and Wales, Hough et al. (2003) examined how sentencers decide when a custodial or alternative sanction is warranted. Analysis of sentencing statistics between 1991 and 2001 showed that offenders who would have previously received an alternative sanction are now being imprisoned. Also evident was a decline in the use of fines. It has been established that offenders who receive high-tariff community sanctions expend alternatives to prison more quickly, and therefore attract prison sentences early in their criminal careers (Hine, 1993; Hough et al., 2003; Tombs, 2008).

In Scotland, Tombs (2004) conducted a similar study and employed methods largely similar to those used by Hough et al. Similarly, participants were asked to provide information on cases bordering a custodial or non-custodial penalty. Analysis of sentencing trends identified no notable patterns in the types of offences receiving custodial and non-custodial sanctions, except those sentenced for drug offences; these offenders received proportionately more custodial sentences. Factors influencing the decision to imprison or impose an alternative sanction highlighted during this study were broadly similar to those discovered by Hough et al.

When considering imprisonment, the predominant influences on sentencing were the gravity of the offence, an offender's prior record, and their past experience of community sentences (Hough et al., 2003). This was echoed by Tombs (2004) who reported the majority of sentencers chose imprisonment because of offenders' previous community sentence failures. Sentencers admitted that imprisonment was unlikely to be constructive, especially short-term sentences. However some did believe that even short prison sentences have value, as they removed prolific offenders from their

communities, and enabled sentencers to display the seriousness of particular offences. Importantly, Hough et al. (2003) found that sentencers did not attribute a lack of suitable community sanctions as a reason for imprisoning offenders. A number of sentencers did not consider community sentences as equally punitive as a prison sentence. Factors influencing sentencers' decisions to imprison are largely related to an offender's index offence, prior offences and previous experience of community sanctions. Similarly, Yan using latent class modelling techniques concludes that "legal variables could better explain incarceration" when compared to non-custodial sanctions in the State of New York, (2015, p. 20).

The factors considered when imposing a community sanction encompassed an offender's current state and particular circumstances. Such factors included their age, health status, motivation to change, family situation, relationship status and employment status. Particular circumstances including previous convictions, related previous convictions, guilty plea, level of remorsefulness, and co-operation with authorities were mentioned by participants as influential in their decisions (Hough et al., 2003; Tombs, 2004). Remorse was cited as an important consideration when assessing cases on the cusp of community sanctions. If the judge was adequately convinced that an offenders' remorse was authentic, and the offence was out of character, they would show greater compassion (Tombs, 2004). Of particular significance were the present circumstances of the offender, their employment status and family responsibilities, their physical and mental health, as well as substance misuse issues. These factors have implications for offenders from lower socio-economic backgrounds who may not be in employment. They may be treated differently when deciding to impose community service. The subjective nature of imposing a community sanction appears to place much emphasis on an offender's character and a sentencer's perception of their likelihood of success (Tombs, 2004; 2008).

Analysis by Tombs & Jagger (2006) of data collected during the 2004 study discussed above, observed the judiciary's ability to 'deny responsibility' for their decisions. The authors claim that sentencers engaged in a neutralisation process which affords freedom for the inevitabilities of their decisions. Many denied having discretion within the process, and claimed they were left with 'no option' but to impose a custodial sanction, thereby relieving themselves of the responsibility of their decisions. Reasons for this lack of discretion included a lack of alternatives for offenders who had failed in the community, but continued to offend. Members of the judiciary were thus able to disassociate offenders as 'somewhat different from others in society', and claimed they were not impacted by imprisonment as they did not recognise it as unjust (Tombs, 2008).

3.4.2.1.1 Specific factors influencing the imposition of custodial and non-custodial sanctions in Ireland. Empirical research examining sentencing decisions in Ireland has also explored the imposition of custodial and non-custodial sanctions. Maguire (2008) found that inconsistency in sentencing was most pronounced when Irish judges were required to choose between different non-custodial sanctions, for example fines and CSOs. When participants agreed on what non-custodial sanctions should be imposed, there was great variation in the level of penalty imposed. Community service hours for an assault case varied between 60 and 200 hours, and for a burglary case hours varied between 120 and 240. When the decision to impose a prison sentence was reached, sentence lengths also varied considerably. Sentence lengths ranged from 14 days to five months in an assault case vignette, while for a theft case sentences ranged between 30 days and nine months and between two and 12 months in a road traffic and burglary vignettes. According to Maguire (2010), the judiciary disagreed on the suitability of particular sanctions when judging the same case. She concludes that this

inconsistency may relate to how the Irish judiciary view particular offences, and in particular certain types of offenders.

Riordan (2009) investigated the judiciary's perception and use of CSOs and the suspended sentence within Irish sentencing practice. Both sanctions are set out in law as direct alternatives to immediate custody, however as discussed above they are generally not used in this way (Walsh & Sexton, 1999). A number of focus groups were convened and face-to-face interviews conducted with judges sitting at District Court, Circuit Criminal Court, Central Criminal Court and Supreme Court level.

Approximately 23 percent of the Irish judiciary at the time (summer 2007) were accounted for in the sample. Results showed reluctance amongst District Court judges to equate alternatives to prison with that of a custodial sanction. They believed CSOs were applicable to offenders who were out of employment, as it disciplines them and teaches them routine. However, offenders with drug or alcohol problems were not considered suitable. Riordan found that the judiciary were more likely to impose an alternative sanction when risk was low, be that re-offending risk, risk to the victim, or risk to the offender's community. Riordan identified that his sample's attitude towards the identification of any risk could lead them to impose a custodial sanction, rather than attempt to manage risk during an alternative sanction. Riordan (2009) also found great variation in the length of CSO and alternative prison sentence if an offender breaches the terms of their order. This reiterates the disparity among sentencers when imposing non-custodial sanctions. This has been identified by the Court Service as a problem of Irish sentencing practice (Katharine Howard Foundation & Irish Penal Reform Trust, 2007).

3.4.2.2 The gendering of community sanctions. It appears that across the UK, the circumstances of the offender rather than the offence receive more weight when imposing community sentences (Hough et al., 2003; Tombs, 2004). A number of researchers claim that gender bias is apparent among community sanction recipients (Malloch & McIvor, 2011; McIvor, 1998; McIvor & Burman, 2011; Meeker et al., 1992; Worrall, 1983). Analysis of sentencing trends shows that women are less likely than men to receive community sanctions (McIvor, 1998), even less likely to receive a community sanction with an unpaid work requirement, but more likely to have a drug or supervision requirement attached to a community order (Malloch & McIvor, 2011). Research in England and Wales examining sentencing in both Crown and Magistrate courts, indicated that female first-time offenders were less likely to receive a custodial sentence compared to males, and examining those with previous convictions four percent of females compared to 16 percent of males received a prison sentence (Flood-Page et al., 1998).

Studies have highlighted disparities among men and women sentenced to community service. In England and Wales, females in receipt of CSOs are more likely to be first-time offenders (Hine, 1993). Hine also claims there is less consistency between sentences imposed on women compared to males; suggesting factors other than previous convictions or offence seriousness influence decisions greatly. Research examining the appropriateness of community service for female offenders identify the unsuitableness of certain community sanctions in dealing with women's criminogenic needs (Barker, 1993; Goodwin & McIvor, 2001) and claim that complexities in their lives make compliance with community sanctions difficult (Barry & McIvor, 2008). Therefore the question of whether "gender equality is promoted by having the same principles, or different principles, for the sentencing of men and women" (Ashworth, 2010, p. 313) requires consideration.

Figures from the Probation Service show that 14.4 percent of all new referrals to the service in 2012 were female. The number of female offenders in receipt of a CSO rose from 210 in 2011, to 229 in 2012, however the overall number of CSOs issued by courts decreased. It can be inferred that the number of males receiving CSOs therefore decreased (The Probation Service, 2011, 2012a). According to the Irish Prison Service statistics, 1,902 females were committed to prison in 2011. This increased to 2,151 in 2012. Females accounted for 20 percent of fine defaulters committed to prison in 2012, compared to 17 percent in 2011 (Irish Prison Service, 2011, 2012a). It would appear that the detection of female offending has increased, or there has been an increase in female offending, or sentencers are becoming increasingly punitive towards females. Unfortunately, because of the sparse statistics provided by Irish criminal justice agencies none of these claims can be confirmed, refuted or even tested. Offences committed are not stratified by sex; therefore we cannot infer that patterns of female offending have changed. Court disposals are also not stratified by sex; therefore more in-depth conclusions regarding sentencing practice cannot be drawn. This is part of the reason why empirical studies do not exist.

A study completed by Lyons and Hunt (1983) examined offenders convicted of larceny in the Dublin Metropolitan Area for the first six months of 1979. An examination of District Court records and Garda files showed that female offenders were treated more leniently compared to males. The authors concluded that sentencers place a differential amount of weight on marital status, background and parental considerations when imposing sanctions on females. A study completed in Dublin District Courts identified that women were more likely to receive no conviction, however men were more likely to be imprisoned (Bacik, Kelly, O'Connell, & Sinclair, 1997). Further investigation of gender bias within the Irish criminal justice system is required to identify whether it has

a differential effect on sentencing outcomes, particularly when sentencing offenders on the cusp of a community or custodial sanction.

3.4.3 An examination of sentencing research in Ireland

Ireland, as a jurisdiction with little or no structured sentencing practices, provides an opportunity to investigate factors influencing judicial decision-making without the need to account for the influence of guidelines. In general the legislature has followed a path of non-intervention when it comes to influencing judicial discretion (O'Malley, 2013) and the judiciary by in large have developed the system in an informal basis (Maguire, 2016). To date, a number of empirical studies have investigated sentencing practice and judicial decision-making. Relevant studies investigating decision-making at District Court level are outlined below. No empirical research produced on behalf of, or by The Courts Service, exists publicly. Studies carried out by a variety of academics and non-governmental organisations were therefore crucial when attempting to assess Irish sentencing practices and uncover what influences the Irish judiciary.

According to Bacik, Kelly, O'Connell, & Sinclair (1997) the over representation of particular groups in the criminal justice system may be attributable to particular sentencing practices employed by the courts. They investigated practices at Dublin District Court using a sample of 2,000 official records. Offence and sentencing outcomes were categorised and cases coded according to various demographic and socio-demographic characteristics (age, sex and level of community deprivation). Multivariate analyses investigated the influence each of the above variables had on sentencing outcomes, when offence types were comparable. Significant differences between male and females regarding age at court appearance were detected; males were significantly younger than females. Overall, the authors concluded that District Court

appearance was biased towards young males originating from economically deprived areas. The authors were particularly interested in sentencing disparity, and an investigation of sentence outcomes (coded prison versus no prison), revealed that offenders from more economically deprived areas were 49 percent more likely to receive a prison sentence compared to those from less deprived areas, when confounding factors were controlled. Results also indicated that those from deprived areas were less likely to receive a fine compared to those from more affluent areas. This raised questions regarding the “impartiality of the sentencing processes” within the District Courts (Bacik et al., 1997, p. 26).

More recently, the ethnic representation of Ireland’s prison population has changed (O’Donnell, 2004). In 2002, 21 percent of those committed to Irish prisons were non-nationals. Previously, this statistical breakdown was not available. Because of the homogeneous nature of the Irish prison population it was not considered important. No empirical analysis investigating what effect, if any, ethnicity has on sentencing outcomes has been conducted; however improvements in data collected by criminal justice agencies will allow future research in the area to be completed.

Seymour and Costello (2005) investigated the number of homeless persons appearing before the courts between May and June 2003. During this six week period, 8,725 individuals appeared before District Courts in the Dublin Metropolitan area. Analyses of records showed that 1.5 percent of individuals were homeless. Cross referencing of all 8,735 individuals’ addresses against data held in the Homeless Agency’s Homeless Directory accounted for those living in emergency or transitional housing. This relatively low proportion may be a gross under-representation (as they acknowledge) as many will provide family or friend’s address in order to secure bail. Examining outcomes of these individuals does not provide any insight into influences on judicial

decision making, due to the small number involved (of the 129 homeless individuals, only 16 received a court outcome). Analysis of national data may provide a clearer picture of the outcome of this sub-group at sentencing.

Prior to Bacik et al.'s study, McCullagh (1992) published an article examining the relationship between unemployment and imprisonment in Ireland between 1951 and 1988. It must be noted that the method of reporting crime statistics changed for the years 1957 and 1974. The calendar year was not used; rather, statistics collected between October and September were presented. This caused confusion during analysis and may have led to inaccurate claims during those years (Rottman, 1980). McCullagh found that a relationship between unemployment and imprisonment was evident from 1970 onwards, what is more pertinent is his commentary on the 'vocabulary of motives' used by the judiciary during sentencing. He states that a judge's social experience, and their 'version of social reality' created by the media may influence their decisions. McCullagh claims that their social circles are limited and may include those more punitively minded who are more concerned with crime due to media exposure, however this is difficult to test empirically.

3.4.3.1 Judicial perceptions of sentencing practice in Ireland. Maguire (2008, 2010) and Riordan (2000, 2009) have both identified that members of the judiciary have particular 'pet hates', have competing objectives with other criminal justice agencies, and differ consistently in their use of non-custodial sanctions. Riordan (2000) examined cases where social enquiry reports were requested by the courts to assess drug related offenders, appearing in the Dublin District Courts. A focus group was convened with District Court judges to investigate sentencing practices within the Dublin Metropolitan area. Findings indicated that the judiciary treat offenders with drug related issues differently than offenders not presenting with drug related problems. The

judiciary, based in Dublin Metropolitan District Court were displeased with the Probation Service's level of supervision of offenders placed under their supervision, and this influenced their sentencing decisions. Riordan provides an in depth discussion on differing objectives between the judiciary, drug treatment and probation staff when dealing with drug related offenders. This clash of objectives between the courts and the Probation Service is linked with the perception that probation officers were not fulfilling their 'officer of the court' role by notifying the court of breaches by offenders under supervision. Noting the different perspective, it has been established that probation officers can feel inadequate and experience a certain amount of anxiety when dealing with legal actors (Halliday, Burns, Hutton, McNeill, & Tata, 2009).

The judiciary has wide discretion when sentencing drug related offenders; while many preferred a rehabilitative model others were apprehensive because of their opinion of the Probation Service. Riordan (2000) concludes that opinions and views on substance misuse may be brought into sentencing practice, highlighting the need for training and support among the Irish judiciary, not only relating to substance abuse but changing crime trends in Ireland.

Vaughan (2001), as part of the larger study commissioned by the Irish Penal Reform Trust, distributed questionnaires to fifty one District Court judges, subsequently completing follow-up qualitative interviews with seven members of the judiciary. Seventeen questionnaires were returned, providing a response rate of 33 percent. Findings indicated that the majority of respondents (70%) believed incarceration would not reform offenders; however a smaller majority (65%) believed that custody influenced general deterrence. They expressed concern about the lack of rehabilitation within prisons, the lack of structured programmes, and the lack of supports available for those with substance misuse problems. Questionnaire responses and interview

transcripts indicated that judges were pleased with the work of the Probation Service; however concerns were expressed regarding staffing levels. This contradicts Riordan's (2000) findings, though his study focused exclusively on practices related to the introduction of the Drug Court, and offenders with substance abuse problems. On issues of sentencing consistency, the majority did not have access to sentencing data, therefore were unable to review their own work, or compare it to others. When questioned about training needs, responses were mixed. Some believed there was a need, but others strongly refuted the suggestion and were angered at the prospect of "teaching judges to do their jobs" (Vaughan, 2001, p. 128).

Maguire (2008) completed qualitative interviews examining District and Circuit Court judges' views of crime and punishment, of consistency in sentencing, and investigated reasons for inconsistencies and punitiveness among the Irish judiciary. District and Circuit Court judges expressed concern at the increase in criminal activity, as well as offence severity presenting before them, and claimed a key role in battling crime rates. Maguire found judges in both courts afforded greater consideration towards the uniqueness of each case than towards consistent practice. Variation was accounted for by individual differences among judges with those sitting in the Circuit Court slightly more aware of higher court guidance. A number of case vignettes examined consistency among sentencers. Results showed high levels of disparity between judges in both Circuit and District Courts. Inconsistency was highest in least serious cases and lowest for more serious offences, the drug court was used consistently by Circuit and District Court judges, and considerable disagreement regarding the type of non-custodial penalty to be imposed was detected. During case vignettes, participants provided reasons for the imposition of particular sanctions. Differences in how judges viewed offence seriousness, when particular sanctions should be used, and how the effect of aggravating and mitigating factors was applied in cases were detected. Maguire

concludes that “no consistent connection between sentencing aims and individual penalties” could be identified (p. 281). Finally, this study attributes the high use of imprisonment in Ireland to cumulative sentencing practices by the judiciary. This accounts for the high use of imprisonment for relatively minor offences.

3.4.3.2 The perceptions of sanctions by the Irish judiciary. Research on how particular sanctions are perceived and used by the courts has also been completed. Walsh and Sexton (1999) evaluated the use of CSOs nationally between 1 July 1996, and 30 June 1997. In total, 1,093 offenders received a CSO during that period. A variety of data collection procedures were employed, including a survey of Probation Service files, court observations and qualitative interviews with probation staff. By examining a random sample of offenders’ probation files (289) researchers concluded that unemployed, young, single males, who were poorly educated and living in their parental home, were those most likely to receive a CSO from Irish courts. Over half of their sample had previous criminal records and a high proportion had previously been imprisoned. Researchers observed court sittings in eight District Courts including those in both rural and urban areas and highlighted how CSOs were imposed differently across District Courts. Orders imposed in rural compared to urban courts were shorter, however the length of order and alternative prison sentence differed substantially. On average, one month of alternative imprisonment equated to 27 hours of community service, this information was retrieved from analysis of nearly 300 probation files, across 20 court areas. Substantial differences were detected when courts were examined individually; one month imprisonment equated to between 11 and 63 hours community service. The authors concluded that the CSO were issued in instances where custodial sentences were not considered appropriate, and therefore were not being used as a direct alternative/substitute for a custodial sanction. This was reiterated by practitioners and

members of the judiciary during qualitative interviews, as they emphasised the restrictive nature of the legislation.

Findings from these studies reflect the discretionary nature of the Irish sentencing practice, and the use of particular sanctions inconsistently. This results in ‘judge shopping’ due to the sentencing disparity between members of the judiciary (Hunter & Hamilton, 2005). The research presented here is limited to the practices of District Court judge, as they have been recognised as having the highest levels of discretion, are subject to less media scrutiny, have the largest workloads, and commit the largest number of offenders to prison (Austin, 2005; Bacik, 2002; Vaughan, 2001). Importantly, they are the most relevant group when decisions between custodial and alternative sanctions are made for the purposes of this study.

3.4.4 Conclusion

As discussed above, sentencing cases requires the balancing of many competing factors, rationales, interests and constraints. Offence, offender, and extra-legal factors are difficult to study, however they are relevant when sentencing cases lying on the cusp of a community or custodial sanction and discretion plays a role in the process, even when legislative or sentencing guidelines are quite prescriptive. This research field is filled with a plethora of methodological constraints, therefore only broad inferences can be made on how sentencers arrive at their final decisions. It is, however, an intricate part of the criminal justice process that requires consideration in this study. There is a dearth of understanding regarding the use of community service as an alternative to a short term of imprisonment in Ireland. This study provides the first nationwide examination of these criminal justice sanctions, to assess whether they are operating a true alternatives.

3.5 The comparative impact of custodial and non-custodial sanctions

It is essential to evaluate how far imprisonment does have a crime reductive value especially in relation to other sentencing options (Jolliffe & Hedderman, 2015, p. 2).

The impact of alternative custodial and non-custodial sanctions on re-offending has been of interest to academics and policy makers for many decades (Bales & Piquero, 2012; Killias, Gilliéron, Villard, & Poggia, 2010; Villettaz, Killias, & Zoder, 2006). Increasingly, governments strive to achieve an 'effective' criminal justice system by increasing incapacitative techniques, or, by widening the use of rehabilitative and humane punishments for those operating outside social norms. Quantifying the success of a system often involves comparing the outcomes achieved by particular sanctions, in order to ascertain which is most successful. For many, the outcome of interest is variation in recidivism rates, however additional consequences of criminal justice sanctions are also noteworthy. This study seeks to explore that variety of outcomes, and a review of literature on re-offending and other measures is therefore necessary.

A wide variety of methodologies are used to investigate how alternative sanctions affect re-offending outcomes. These include randomised control trials (RCTs), quasi-experimental studies, matched sample approaches, and regression-based studies. As outlined below, a number of meta-analyses and systematic reviews have collated the results of these studies to systematically compare the effect of custodial and non-custodial sanctions on rates of re-offending.

Across some research literature, the terms re-offending and recidivism are used interchangeably; this is somewhat misleading. Re-offending includes all subsequent

criminal acts committed after a particular sanction, as well as the rate of offending of particular offenders or groups of offenders, whereas recidivism, “defined as the commission of at least one criminal act after the completion of a sentence” (Nagin, Cullen, & Jonson, 2009, p. 120), is usually presented as a percentage of those re-arrested, re-convicted, or re-imprisoned. Recidivism outcomes include arrest, conviction, incarceration and parole violation. Interpreting differing outcome measures is problematic. Importantly, both re-offending and recidivism rates measure the effectiveness of criminal justice detection, rather than actual offending behaviour (The Scottish Centre for Crime and Justice, 2012). This should be borne in mind when interpreting findings outlined below.

This section begins with a discussion of the apparent strive towards effectiveness now evident in many jurisdictions and provides an examination of why ‘effectiveness’ appears to dominate criminological policy and practice development in many jurisdictions (Fox & Albertson, 2011), as well as identify its limitations. Results of systematic and meta-analytic reviews are then presented, as is literature examining the effect community service has on re-offending when contrasted with imprisonment. Research on the use of CSOs is discussed, and recidivism research in Ireland evaluated. The final section attempts to establish a more integrated understanding of recidivism, to aid understanding of the alternative outcomes of criminal justice sanctions. For this reason, factors associated with the onset of offending are not outlined separately; however it is acknowledged that overlap between all of these predictive factors is present.

3.5.1 The strive towards ‘effectiveness’ and evidence based policy and practice

Examination of mechanisms used to communicate research evidence to relevant parties, relating to the impact of criminal justice policies and practices is often neglected by criminological researchers, and some commentators dispute the role criminologists should play in policy development, claiming they cannot advise on policy issues, as understandings of the causes of crime are widely disputed (Blomberg, Mestre, & Mann, 2013; Taxman, Henderson, & Lerch, 2010). Others acknowledge that linking evidence to criminal justice policy is not straightforward, as political ideology and the public’s perception of crime is prominent when developing criminal justice initiatives (Blumstein, 2013).

The interest in evidence based practice across criminology has been attributed to “the positivist, empirically-oriented strands” (p. 154) evident within the discipline, which attempt to understand criminal behaviour; this was supplemented by the surge in evaluation literature examining “the various arms of the criminal justice system” (Freiberg & Carson, 2010, p. 154). In the US, the movement towards an evidence base in ‘community corrections’ (US terminology) can be attributed to a growing concern for accountability, and the expansion of rehabilitation efforts being utilised by probation agencies (Taxman et al., 2010).

Conversely, some criminal justice policy initiatives are developed without any evidence base, predominately driven by emotive responses to crime. Examples include the introduction of Megan’s Law in California and the introduction of three strikes legislations across much of the US (Freiberg & Carson, 2010).

This surge in interest in evaluative research is often attributed to Robert Martinson's article: *What Works? Questions and Answers About Prison Reform* which examined a large number of evaluations of imprisonment completed between 1945 and 1967. His findings were interpreted as concluding that nothing worked in the rehabilitation of offenders (Sarre, 2001). In the UK, the May Report published in 1979 claimed that "training and treatment had had its day and prisons should aim no higher than humane containment" (Hollin, 2004, p. 7). Although Martinson retracted many of the opinions he expressed in his original paper; it had little impact. The 'Nothing Works' thesis led to persistent efforts by criminal justice agencies to evaluate interventions; it was not until the 1990s that the idea that criminal justice interventions could have some, albeit tentative, impact on criminal behaviour, was supported by the publication of a series of large scale literature reviews and meta-analyses in the area (McIvor, 1997; Ward & Maruna, 2007). This interest in perceived 'effectiveness' of criminal justice interventions has remained in many jurisdictions and the expansion of 'What Works?' initiatives in the UK has "provided an opportunity to integrate science into practice" (Taxman & Sachwald, 2012).

This desire to uncover 'What Works?' has and will continue to dominate criminological research, policy and practice. However, evaluating sanctions and interventions based on narrow criteria, such as recidivism, is "deeply and irrevocably flawed" (McNeill et al., 2012, p. 7) and will be outlined throughout this thesis and borne in mind.

3.5.2 Custodial versus non-custodial sanctions: A consensus?

Taken collectively, review and meta-analytic findings detect a null (Villettaz et al., 2006) or slightly criminogenic effect for custodial as opposed to non-custodial sanctions (Gendreau, Cullen, & Goggin, 1999; Jonson, 2010; Marsh, Fox, & Sarmah, 2009;

Smith, Goggin, & Gendreau, 2002). Particular research designs may bias meta-analytic results and experimental designs are less favourable when evaluating the recidivism effects of non-custodial sanctions compared to softer quasi-experimental designs. Experimental designs produce very small, many non-significant results (Villettaz et al., 2006). Studies using propensity and variable by variable matching techniques support an increased criminogenic effect post custodial sanctions (Nagin et al., 2009). Regression based studies, and those of less methodological rigour often support that custodial sanctions have a criminogenic effect compared to non-custodial options. In summary, the majority of studies show no significant effect on recidivism between prison and community-based sanctions, however, results may be affected by publication bias as studies indicating the ineffectiveness of non-custodial sanctions are often not published (Marsh et al., 2009).

Researchers encounter a number of problems when attempting to synthesise and interpret meta-analytic and systematic review findings. Definitions of custodial and non-custodial sanctions are often broad and vague, and custodial sanctions can include all scenarios where an offender's liberty is revoked by confinement in a residential setting. Boot camps and therapeutic detentions are categorised as custodial (Nagin et al., 2009; Villettaz et al., 2006) and non-custodial sanctions (Marsh et al., 2009) across evaluative literature, making this type of research even more ambiguous.

Similar problems arise when researchers attempt to define non-custodial sanctions. The heterogeneity among non-custodial sanctions is even more challenging when interpreting meta-analytic results. Non-custodial sanctions can vary from a financial penalty to electronic monitoring, to community service work. They are often amalgamated and treated as a single 'non-custodial' category (Killias & Villettaz, 2008).

This is a significant problem when evaluating results of systematic reviews and meta-analyses that include research from countries with differing legal systems.

Difficulties also arise when appraising studies that compare a singular custodial and alternative non-custodial sanction. Length of prison sentence received/prison time served or length of time taken to complete a non-custodial sanction are often not recorded or controlled for during analysis (Bales & Piquero, 2012), and the variety of follow-up periods used can complicate interpretation. Re-offending reference periods often vary between studies, as does the starting point of said period. Some researchers consider the day sentence is decided on an appropriate starting point, while others use different starting points for different populations. Sanction completion date is occasionally considered an appropriate starting point, excluding non-custodial participants who reoffended during their sentence. The ambiguity surrounding the methods used can cloud a reader's ability to interpret comparative results.

It is important to note the limitations of systematic reviews and in particular, meta-analytic findings. One weakness is the possible publication bias effect referred to previously. Studies showing non-significant findings are often not accepted for publication (Walker, Hernandez, & Kattan, 2008). The inclusion of a wide variety of studies with differing sample sizes, opposing independent or dependent variables, and conflicting follow-up and custodial sentence lengths are significant weaknesses. The inclusion of studies with differing methodologies using dissimilar custodial and non-custodial sanction definitions, weakens the reliability of findings (Jonson, 2010).

Including a wide variety of non-custodial sanctions can be misleading when attempting to establish recidivism effects as findings can be ambiguous. So too, a lack of appropriate control of age and prior criminality within studies can mislead readers (Nagin et al., 2009).

Some of these limitations can and have been controlled for during analysis. Generating the N statistic can detect the size of publication bias and calculate how many additional studies would be required to alter the results (Orwin, 1983; Rosenthal, 1979). Some researchers code study design qualities and treat them as any another moderating variable (Jonson, 2010). Meta-analyses have been described as “blunt instruments when the studies involved are so uninformative about essential study features that there is no recourse but to generate better primary studies at the individual level” (Smith et al., 2002, p. 21). In an attempt to address some of these limitations, the next section will examine the particular effect community service compared to imprisonment has on re-offending, as explored in the literature.

3.5.3 Community service as an alternative to imprisonment: A review of findings

As discussed previously, community service attempts to achieve a wide variety of goals, including retribution, rehabilitation, and in some instances, provide training. Certain jurisdictions attempt to incorporate restorative justice principles in the community service process, while in others it acts as a direct alternative to custody (Bouffard & Muftic, 2006; Killias et al., 2010; Wing Lo & Harris, 2004). A number of methodologically rigorous studies using a variety of designs have compared the effect community service as an alternative to imprisonment have on recidivism (Farrington, Gottfredson, Sherman, & Welsh, 2002). Studies examining the experience of punishment, in particular short prison sentences compared to community-based sanctions, have also been completed. These offer a different perspective on the effect sanctions have on an offender’s alternative experience of punishment. This section will outline and discuss findings from such studies. For ease results are presented by geographical region.

Examining the US, one of the first studies carried out by McDonald (Bouffard & Muftic, 2006) compared the recidivism rates of 494 adult offenders sentenced to community service, to 417 adults sent to prison in New York. No significant effect between sanctions and no adverse effects post sanction were detected. The study, however, suffers from a weak design. The effects of a large number of confounders, including previous imprisonment, gender and age were not controlled. Re-arrest was used as the recidivism measure, but the statistical analyses used to assess re-offending rates are unclear. The author concluded that the community service programme was relatively inexpensive and could be used to divert low risk offenders from prison.

In North Dakota, an examination of 810 adult offenders sentenced by a local court to complete community service hours was conducted (Bouffard & Muftic, 2006). Many had committed a drug or alcohol offence and the average number of service hours to be completed was 57.6. Of the 810 offenders, authors chose a smaller random sample of 200 for preliminary recidivism analyses. Those that completed their community service hours were significantly younger, were required to complete fewer hours and allocated fewer days in which to complete their sentence. Successful completers had fewer prior arrests. Regression analysis indicated that older offenders, non-white offenders, those with more service hours to complete as well as those with longer follow-up periods were more likely to be re-arrested. The use of non-completers as a comparison group is a significant limitation, noted by the authors themselves. A comparison with those sanctioned to other sentences or a prison sentence would be more useful when drawing meaningful conclusions (Bouffard & Muftic, 2006).

A study completed in Israel compared the recidivism rate of 407 offenders sentenced to community service work, to 950 prisoners serving a maximum sentence of six months imprisonment. Under the relevant Israeli law, an offender sentenced to a six month

prison sentence may have this sentence converted to community service work by the presiding judge. Community service work requires offenders to work full time for the period of the service imposed. Those sanctioned to community work were older and were more likely to be married (Killias et al., 2010). Violent offending was more prevalent among the community service than the prison cohort; however they had fewer prior imprisonments. The authors used propensity score matching to balance these cofounders. For the purpose of this study, recidivism was defined as “the filing of charges in connection with a further offence during a specific period after release” (p. 77). This included both convictions and cases awaiting trial. A fourteen month follow-up period was used. Recidivism rates were 2.4 times lower among community service workers compared to those released from prison; propensity matching reduced this by one third (Nirel et al., 1997).

Killias, Aebi, and Ribeaud (2000) carried out a RCT comparing community service and short-term imprisonment in Switzerland, between 1993 and 1995. Offenders were randomly assigned to two groups, those receiving a community service or sentenced to a maximum 14 days in prison. For the purpose of the experiment those sentenced to imprisonment were afforded the opportunity to complete community service instead of their prison term. An interview was completed, and those suitable for inclusion were randomly assigned to ‘community’ or ‘prison’ groups. Community service took the form of unpaid work for the benefit of non-profit organisations; eight hours work equated to one prison day. Both re-conviction and re-arrest were used as recidivism outcomes. There was no significant difference between groups with respect to either recidivism measure after the two-year reference period; however the prison group were re-convicted at a slightly higher rate. Those in the community group had more convictions than the prison group during the two years preceding random assignment. The authors compared prevalence of conviction pre- and post-random assignment to

investigate rates of improvement. The community service group improved at much higher rates compared to the prison cohort. It must be noted that although participants were randomly assigned to groups, a 14-day custodial sentence is very short. The generalisability of these results is questionable as courts were likely to engage in this experiment due to the low numbers involved and the short prison terms imposed indicating participants were of low risk (Jolliffe & Hedderman, 2015). More stark differences may have been detected if longer prison periods were involved. A questionnaire was also distributed to participants to compare attitudes between groups; those in the prison group viewed the criminal justice system more negatively, including also the process of randomisation.

An update of Killias et al.'s original study, published in 2010, extended the follow-up period to 11 years, examining reconvictions and measures of social integration among participants. Participant numbers decreased from 84 to 80 in the community group and 39 to 38 in the prison group. The authors were particularly interested in the effect community and prison sanctions had on levels of social integration, as this is often neglected within the experimental literature. They accessed national files recording income, property, debts and welfare, employment and marriage information of participants. Although not statistically significant, re-offending was more frequent among those in the prison group, and no adverse effects on marital or employment status were detected among this group. Examination of incidence rates showed no significant difference between groups, and examination of re-offences did not show an escalation in the seriousness of offending among groups (Killias et al., 2010).

As mentioned above, matched method designs are often used to evaluate the effectiveness of particular sanctions. Wermink, Blokland, Nieuwebeerta, Nagin, & Tollenaar (2010) used longitudinal official record data of 4,246 adult offenders in the

Netherlands to compare recidivism post community service to that after short-term imprisonment. Community service in the Netherlands was first introduced as a direct alternative to a prison sentence of six months or less in order to ease the prison population, now it is an independent sanction that is not just imposed as an alternative to custody. The service work may be completed in an offender's free time, if in full time education or employment. To account for possible selection bias, the authors controlled for a large set of confounding variables combining matching by variable and propensity score matching. Their findings demonstrate that offenders had significantly fewer reconvictions after completing community service compared to imprisonment over an eight-year follow-up period.

Similarly, Muiluvuori (2001) compared data of offenders sentenced to community service to a control group of prisoners serving up to eight months in prison in Finland. This study applied a matching by variable strategy with respect to sex, age, the length of the sentence, as well as criminal history (previous prison committals). The use of "number of times in prison" to account for previous criminal history is somewhat limited as criminal history can be recorded in other forms. Re-offending was measured by "offences leading to conditional or unconditional prison sentences or sentences to community service" (p. 76). Differing follow-up scenarios were also used. The first calculated from date of 'judgment', the second deducted time incarcerated for the prison group and finally sentence completion date. A follow-up period of five years, found lower re-offending rates after community service compared to imprisonment in all three scenarios. However, when prior imprisonment was controlled for, the effect was no longer significant.

Despite the strong methodological design of these studies (the majority rating four or five on The Maryland Scale of Scientific Methods (Farrington et al., 2002)), study

weaknesses may bias results. The majority of studies used small samples, were geographically restricted and analysed male offenders, limiting the generalisability of results. Confounding variables were not extensively controlled for, indicating that groups still differed on relevant unobserved covariates. Appropriate matching on age was not carried out for the majority of studies. Finally, making causal inferences from these studies is further complicated by possible spill-over effects of prior prison spells. Except for the Swiss and Finish studies, studies had relatively short follow-up periods (Wermink et al., 2010). In conclusion mixed evidence exists, but overall findings do point to a reduction in re-offending after community service compared to imprisonment.

3.5.3.1 An examination of CSOs in England and Wales, Scotland and

Northern Ireland. A number of studies evaluating the use of CSOs, now referred to as community orders (COs) in England and Wales have been completed in the last four decades. A Home Office (1993) study found that of the 2,486 offenders who received a CO during 1979, 51 percent were re-convicted within two years and 59 percent within three years; both older offenders and female offenders had lower re-conviction rates compared to the general offender population. Differences in re-conviction rates were detected for particular offence types with those convicted of burglary having the highest rates. Unfortunately, detailed information regarding previous criminal history was not available to researchers.

The Ministry of Justice, in their recent annual compendium of re-offending statistics for England and Wales, compared recidivism rates of offenders sentenced to various probation supervision to those released after a short prison sentence (less than twelve months). Analyses using variable by variable and propensity score matching showed that re-offending among those sentenced to probation supervisions was consistently lower, compared to those serving short prison sentences. Differences in recidivism rates between those sentenced to a community order or short prison sentence have fluctuated.

In 2005 the difference in rates of re-offending was 6.4 percent, in 2006, 5.9 percent and in 2007, 2008 and 2010 were 7.2, 8.3 and 6.4 percent respectively. Examination of the 2010 cohort found that female offenders, older offenders, and those with more previous convictions who were released from prison, had higher re-offending rates than their counterparts in the CO group. However, those with no prior convictions who were sentenced to a CO had a higher rate of re-offending after one year, than their matched custodial group. Those released from custody offended more frequently than those in the matched CO group, and were more likely to be re-imprisoned (Ministry of Justice, 2011, 2013).

Jolliffe and Hedderman (2015) compared 5,500 offenders sentenced to a community order or released from custody under supervision, between 2005 and 2008. In comparison to the Ministry of Justice studies outlined above, their use of offenders subject to post-release supervision eradicates the effect supervision during a community order may have had on re-offending. Analysis using propensity score matching revealed a significantly higher rate and frequency of re-offending amongst those released from custody compared to the community order group. Re-offending was measured by the recorded offences on the Police National Computer system. Authors identified an increase in the likelihood of re-imprisonment of 40 percent among those released from prison when compared to the community order group. Stratification of offenders by likelihood of imprisonment indicated that those at low risk of imprisonment, who subsequently received a custodial sentence, were most negatively impacted. This challenges Ministry of Justice findings above. Limitations of this study relate to data availability. Propensity score matching did not include factors such as alcohol or drug abuse problems, socioeconomic status or family relationships. Pre-existing differences between groups may affect later re-offending. Sentence length served was not available to the researchers. However, they concluded that those released with supervision in the

community were likely to have served more than one year in prison, and were likely to have committed more serious offences.

Similar trends are evident in Scotland. McIvor (1992), using a sample of 406 offenders, investigated the impact CSOs had on reconviction. Two and three year re-conviction rates were 58 and 63 percent respectively. The severity and frequency of re-offences were slightly lower after receiving a CSO, when compared to offending during the years preceding the sanction. This indicates some improvement among this cohort of offenders. McIvor found no association between index offence and reconviction. The Scottish Government (2008) also established that re-conviction rates were lower following the completion of a CSO compared to release from custody. Sixty two percent of those discharged from custody were re-convicted within two years compared to 42 percent receiving CSOs. An interesting finding was that males with no previous convictions in receipt of a CSO had higher re-conviction rates compared to those released from prison. This supports Ministry of Justice findings above.

One explanation may be that first-time offenders convicted of serious crimes warranting a custodial sentence benefit from the deterrent effect of imprisonment, however more investigation is needed. More recently, analyses of 2008-2009 offender cohorts in Scotland, showed one-year re-conviction rates of 47 percent among those released from prison, compared to 27 percent among an unmatched CSO group. Again, the frequency of re-offending was considerably lower amongst the CSO group when compared to the prison cohort. Rates were 42.5 percent and 96.0 percent respectively (The Scottish Government, 2011). Sentence length and offender age were not accounted for during analysis.

Re-conviction analysis carried out in Northern Ireland by Ruddy & McMullan (2007) examined two-year re-conviction rates of those in receipt of a custodial and non-custodial sanctions in 2002. Those in receipt of a non-custodial sanction were re-convicted at a rate of 18 percent, over a two-year follow-up period. The two-year re-conviction rate for those adults discharged from custody was 47 percent. Non-custodial sanctions ranged between suspended sentences, probation orders, CSOs, and fines. Recidivism rates were highest among those convicted for theft and lowest among those convicted for sexual offences, within the custodial group. Within the non-custodial group, those convicted for burglary had the highest re-conviction rates and those convicted of sexual offences had the lowest rates of re-conviction. More in-depth analysis showed that just less than 51 percent (n=272) of those who received immediate custody were re-convicted within two years compared to 36 percent (n=174) of those in receipt of a CSO. The analyses conducted and comparisons made are particularly crude. Data is not stratified by sentence length nor are factors known to affect re-offending accounted for such as age, previous convictions or gender.

Findings from the studies above tend to suggest that rates of recidivism after community orders/CSOs when compared to custodial sentences, in particular short prison sentences, is lower. This is even more pronounced amongst female and older offenders when appropriate confounders are controlled for. There are a number of caveats. Appropriate statistical matching has not been completed in all studies (in particular studies completed in Scotland and Northern Ireland) nor the impact of a number of important confounders controlled for appropriately. These results should be interpreted with caution.

3.5.4 The comparative experience of community versus custodial punishments

Studies examining the comparative experience of punishment, in particular short prison sentences and community-based sanctions, offer a different perspective on the impact of custodial and non-custodial sanctions. Studies examining the experience of those under supervision in the community are relatively limited (Durnescu, Enengl, & Grafl, 2013). However, over the last number of decades, interest in the experience of non-custodial sanctions as alternatives to imprisonment has gained comparably more traction (Crank & Brezina, 2013; Laub & Sampson, 2003; Morris & Morris, 1962).

Generally, offenders under supervision in the community cite positive experiences during completion of their non-custodial sanctions (Weaver & Armstrong, 2011). This has also been the Irish experience (Healy, 2006; Walsh & Sexton, 1999). In contrast, the experience of imprisonment, in particular short-term imprisonment is characterised more negatively (Armstrong & Weaver, 2013; Trebilcock, 2011).

As discussed by May and Wood (2010), policymakers who rank criminal justice punishments on a continuum of severity often have no direct experience of serving such sanctions; consideration of the costs and benefits of serving custodial versus non-custodial sanctions may differ greatly for those required to complete them. As identified by Moore, May and Wood (2008), when compared with judges and probation officers, offenders are willing to serve less time on an alternative criminal justice sanction in order to avoid imprisonment. Therefore, the perceived punitiveness of custodial and non-custodial sanctions may be at odds with what one would expect (Morris & Tonry, 1990; Petersilia, 1990). It is important, therefore, to examine the comparative experience of offenders in receipt of alternative criminal justice sanctions.

A study completed by Armstrong and Weaver (2010) in Scotland involved qualitative interviews with 35 participants in receipt of a prison sentence of less than six months, or a community-based sanction; it examined the overarching experiences of both sanctions. Analysis showed that long-term problems with alcohol and/or illegal substances were experienced by the majority of participants serving short prison sentences. Respondents reported that a short prison sentence gave them time away from their lives and provided an opportunity to detox from illicit substances. This finding has been echoed in similar work with short-term prisoners (Armstrong & Weaver, 2013; Laub & Sampson, 2003; Trebilcock, 2011). Armstrong and Weaver, in their conclusions, raise questions concerning the use of short terms of imprisonment to punish persistent offenders for less serious crimes, often associated with substance misuse problems. They conclude that prison may be considered by judges and offenders a primary opportunity to access appropriate services.

This study found that the impact of serving numerous short prison sentences had on participants' experience of imprisonment tended to be discussed by interviewees. As the authors note, many studies attempt to examine the experience of one particular sanction in comparison to another, however findings from this study indicated that participants referred to the cumulative effect of serving numerous short prison terms, rather than the experience of any one particular sanction. Participants believed that their previous criminal history had a major influence on sentencers, irrespective of the time lapse since their last conviction (Armstrong & Weaver, 2010).

The majority of short-term prison participants claimed they did not fear prison. According to them, it had become a routine activity in their lives. The authors conclude that participants displayed a "lack of engagement with imprisonment as a punishment for a specific act of wrongdoing, and this lack of engagement seemed to harden over

time into a hostility and perceived illegitimacy of the criminal justice system itself' (Armstrong & Weaver, 2010, p. 11). Similarly, Clark and Brezina (2013) reported such findings, concluding that imprisonment does not act as a meaningful deterrent for some offenders.

In their comparative study Armstrong and Weaver (2010) report that those currently in receipt and those previously in receipt of a community sanction rated this experience more positively. Those currently serving a community sanction were glad they were not in prison and those from the prison group (with previous experience of community punishments) claimed community-based sanctions provided a sense of routine concerning work. They believed there was direct reparation to the community, and noted a sense of achievement when their community work was completed.

Some participants did refer to the negative consequences of completing community sanctions, in particular community service. Interviewees were resentful that they were not being paid, some claimed that women were inadequately catered for, while others reported drug use taking place on community service sites. These experiences however were expressed by a minority, rather than majority of participants (Armstrong & Weaver, 2010).

A preference for community-based sanctions was reported by the majority of respondents, although a minority of interviewees who engaged in intense drug use reported that they needed a short prison spell to assist them in their detox. Many interviewees from the short-term prison group reported 'killing' time waiting for their release. They reported that engagement with services and/or work was not required, but it did help with boredom while in prison. In contrast those in receipt of a community

sanction reported that engagement on their part was a requirement, such as attending meetings or completing unpaid work (Armstrong & Weaver, 2010).

Comparing the experience of prison and community sanctions, Armstrong and Weaver (2010) point out that although boredom and the pains of separation from family and friends articulated by the majority of short-term prisoners could be described as hard, “what was felt to be ‘hard’ about [this] punishment is not what is meant to be hard about it” (p. 21). The fact that respondents reported being able to complete a short term of imprisonment without exerting considerable energy meant that this form of punishment could be described as largely ineffective. In comparison completing a community sanction was associated with having to attend appointments and complete unpaid work, which the authors describe as being more aligned with normative principles of punishment. Supported by Durnescu’s (2013) work on the pains of probation, Armstrong and Weaver conclude that the experience of community-based punishments were “much more closely aligned to their intended purpose than prison” (Armstrong & Weaver, 2010, p. 22).

3.5.5 Irish recidivism research to date

Until recently, there was a notable absence of recidivism research in Ireland. The absence of a centralised prison data system (prior to 2000), and a lack of a unique universal criminal justice identifier have contributed significantly to this dearth of research (O'Donnell et al., 2008). Of late, research in the area has improved. Since 2012 both the Irish Prison and Probation Services have also completed national recidivism research. The first national recidivism study was published in 2008. Previously, small studies using both Irish prison and probation data were completed. There are however, a number of limitations to small scale recidivism studies. For the most part they lack

generalisability, do not include female offenders and use re-conviction or re-imprisonment data alone, making it difficult to calculate crime-free periods. Results of available Irish studies are outlined below.

A number of smaller recidivism studies using probation populations include Ian Hart's (1974) work on behalf of The Economic and Social Research Institute. This study examined re-conviction among a small number of male juvenile probationers. Results showed that 58 percent of the total 150 juvenile participants were re-convicted within the study's three and a half year follow-up period. Hart used self-report offending data to supplement a primarily qualitative study. More recently, Healy (2012) conducted a mixed methods study examining desistance among 73 probationers from five probation teams in Dublin. Participants aged between 18 to 35 years had committed a variety of crimes including: assault (10.9 percent), robbery (20.5 percent), drug offences (19.2 percent), and larceny (17.8 percent). Approximately one third were unemployed, and the majority were resident in their parental home at the time of interview. A 66 percent re-conviction rate over a 4.8 year period was detected. The average time to re-conviction of those who reoffended was just over two years. This gap in offending is contrary to much recidivism research, and findings may be attributable to the slow judicial process in Ireland, therefore the use of re-arrest data may be more applicable to Irish recidivism studies. This point will be discussed in Chapter Four.

Another small scale study using Irish Prison Service data involved the evaluation of the sex offender treatment programme at Arbour Hill Prison (O'Reilly & McDonald, 2009). The authors reported a sexual recidivism rate (re-conviction for a sexual offence) of 8.1 percent, a violent non-sexual recidivism rate of 7.3 percent and a non-violent non-sexual recidivism rate of 24.6 percent over varying follow-up periods (one to 121 months), among 248 prisoners released in 2008. No intervention effects between treated and

untreated groups were detected in any of the three re-offence categories. Investigation of some offender characteristics showed that time to re-offence was longer for older participants. Younger participants with more non-sexual previous offences had higher rates of violent re-offending. Authors manually accessed An Garda Síochána's PULSE (Police Using Leading Systems Effectively) system to assess re-offending among study participants. This was a time-consuming and laborious exercise, made possible only by the small number of study participants.

Ireland's first national recidivism study examined re-imprisonment rates of prisoners released between January 1st 2001 and November 30th 2004. This totalled 19,955 releases equating to 14,485 individuals (O'Donnell et al., 2008). The electronic recording and centralisation of key offender and offence information in 2000 enabled O'Donnell et al. to complete the first ever large-scale recidivism study of Irish prisoners. An examination of sample demographics revealed an average age at release of 30 years. The majority of the sample was male, unmarried and unemployed prior to their incarceration. Inspection of release rates showed that approximately the same number of releases occurred over each of the four years. Forty two percent of the sample had previous prison experience, however this could have included experience of prison remand, as authors were unable to differentiate. The authors calculated that 56 percent of their sample served sentences or were held on remand for less than three months. In order to calculate recidivism rates, survival regression analysis using the Kaplan-Meier nonparametric survivor function was used to account for differences in the follow-up times, as well as numerous release dates for individuals. As outlined above, the use of relatively short prison sentences meant that during the four-year study period a number of individuals were released and re-imprisoned on numerous occasions. Analysis showed that over one quarter of the sample was re-imprisoned

within one year, increasing to approximately half during the four-year follow-up period (O'Donnell et al., 2008).

Re-imprisonment is only one measure of recidivism, and captures only the most serious re-offences; not all re-offences are detected, and a small proportion will result in conviction and imprisonment. Timing is also an issue; there may be a considerable time lag between the date of re-offence and date of incarceration (Maltz, 1984). O'Donnell et al. argue that a sample of released prisoners by virtue of their previous prison experience are more likely to receive a custodial sanction, therefore increasing the predictive validity of using re-imprisonment instead of reconviction. The authors found significantly higher rates of recidivism among male ex-prisoners, those without formal education, and those who had reported being unemployed on prison entry. Age was also a significant moderator to re-offending, with younger offenders re-offending at significantly higher rates.

More recently, the Irish Prison and Probation Services have published national recidivism studies in conjunction with the crime division of the Central Statistics Office. The Irish Prison Service have tracked all prisoners who completed a sentence during 2007, 2008 and most recently 2009. Re-conviction within three years was used as the measure of recidivism. As will be discussed in section 4.3.2, a unique universal identifier is not used across all Irish criminal justice agencies, therefore, in order to assess reconviction, a linking procedure was carried out between national police data (An Garda Síochána records), Court Service data and Irish Prison Service data. A full description of linking procedures can be found in section 4.3.2.4. Across the 2007 sample, 62 percent reoffended; 51 percent of the 2008 sample were re-convicted and of the 2009 cohort, 48 percent were re-convicted within three years. The majority of these re-offences occurred within the first six months of release. Examining predictors of

recidivism, males had higher rates of re-offending compared to female offenders. Males, however, accounted for approximately 92 percent of the population studied in each year (Central Statistics Office, 2013a, 2015a; Irish Prison Service, 2013).

Similarly, the Probation Service in conjunction with the Central Statistics Office have examined the recidivism rates of offenders in receipt of a probation order (PO) or CSO in 2007, 2008 and 2009. As previously discussed, community service within the Irish legislative framework is considered a punitive, rather than rehabilitative measure, although its purposes are somewhat unclear, while a PO is designed to address the multiple needs of particular offenders (The Probation Service, 2012b). The Irish Prison Service study also used re-conviction as an outcome measure using a similar linking procedure (see section 4.3.2.4). Originally a reference period of two years from the date of imposition of either order was utilised for the 2007 cohort. This was increased to three years for the 2008 and 2009 cohorts. For the 2007 sample the combined rate of recidivism was 37.2 percent; analyses revealed a rate of 39.3 percent for the PO cohort compared to 33.5 percent for the CSO group (The Probation Service, 2012b). The overall recidivism rate of offenders in the 2008 study was 41 percent, however the reference period was extended to a three year period for this cohort. For the 2009 group this rate fell to 37 percent within a three year reference period. Akin to findings from the Irish Prison Service, recidivism was higher among male offenders and also decreased with age. Across all three studies the highest rates were seen among those under 18 years and the lowest among those aged 45 or more. Further analysis of these particular offenders is therefore warranted. Unfortunately, analysis by particular order was not provided (Central Statistics Office, 2015b; The Probation Service, 2013c).

Irish Prison and Probation Services studies are not comparable due to the inclusion and exclusion of particular offences, especially driving offences and a lack of statistical

matching between groups. However, among prison and probation groups the majority of re-offending took place within the first year of release or imposition of a community/probation order. Both the Irish Prison and Probation Services (2013) have pledged to monitor recidivism as part of their joint working strategy.

3.5.6 Predicting recidivism and desistance

The onset, maintenance and cessation of offending over the life course has been explored for many decades, across a number of jurisdictions (Bushway, Thornberry, & Krohn, 2003; Farrington, Auty, Coid, & Turner, 2013; Laub & Sampson, 2003; Loeber, Farrington, Stouthamer-Loeber, Moffitt, & Caspi, 1998; Piquero, 2004; Zamble & Quinsey, 2001). Researchers therefore are very interested in factors associated with the onset of offending behaviour, the predictors of continued offending, and the formulation of theory.

It is, however, also important to examine factors associated with desistance from offending. It is now accepted that desistance “is the outcome of a complex interaction between subjective/agency factors and social/environmental factors” (LeBel, Burnett, Maruna, & Bushway, 2008, p. 131). Understood to be interconnected, the main social factors identified in the desistance process include: marriage, employment, and parenthood. The subjective factors relate to personal and cognitive transitions made by offenders when interpreting the world (LeBel et al., 2008). Significant social and environmental changes also require consideration, as they may not have been relevant some decades ago (Laub & Sampson, 2003). Throughout the literature, offenders who move away from criminal activity recount overcoming personal obstacles, and barriers that previously impeded their desistance (Farrall & Calverley, 2006; Maruna, 2001),

therefore it is important to consider the individual transitions offenders make, as such processes will differ considerably between offenders.

3.5.6.1 Static risk factors. It is well established that static factors associated with an offender's age, race, gender and criminal history are most predictive of recidivism (Andrews & Bonta, 2010; Cottle, Lee, & Heilbrun, 2001; Gendreau, Little, & Goggin, 1996). The section below will explore the literature examining these factors.

3.5.6.1.1 Age. Associations between age, recidivism, and desistance have received considerable scholarly attention, across both theoretical and empirical writings. It is generally accepted that criminality and rates of recidivism decrease with age (Cottle et al., 2001; Farrington et al., 2013) and studies show that young offenders are at an increased risk of recidivism (Farrington et al., 2013; Gendreau et al., 1996). Commonly referred to as the age-crime curve, offending tends to peak during adolescence and decline as an offender researches middle adulthood (Farrall & Calverley, 2006). Age and its relationship with offending has played a key role in the development of some early offending theories, however attention has since been afforded to the interaction between age, criminal activity, and other social influences. In particular how other factors, such as employment, interact with age to explain the desistance process (Maruna, 2001).

Empirical evidence, although sparse in Ireland, indicates an association between age and recidivism, and age and desistance. O'Donnell, Baumer, and Hughes (2008) identified that prisoners aged 21 years and less, had a 50 percent higher rate of re-imprisonment over the four-year follow-up period, compared to offenders aged 30 years and older when released from prison, however Hughes (2012) in her assessment of

young offenders (those aged 21 and less) released from St. Patrick's institution⁷ found that participants who were older were significantly more likely to be re-imprisoned. Both the Irish Prison and Probation Services have published national recidivism studies examining re-conviction among Irish prison and probation samples. Across both studies recidivism rates were higher among younger offenders. Within the prison sample released during 2009, those aged up to 25 years (n = 3,005) had a 54.1 percent recidivism rate within three years of release compared to a 27.1 percent recidivism rate among those aged 41 years or more (n = 1,264) (Central Statistics Office, 2015b). A similar trend was seen among national probation samples. Offenders aged 24 years of less (n = 1,861) in receipt of a probation order or CSO during 2009 had a 51.5 percent recidivism rate within three years, compared to a 25 percent rate among those aged 45 years or more (n = 230) (Central Statistics Office, 2015b). Stratification by offence type is not provided within the prison recidivism study. Therefore one cannot deduce what effect age has on recidivism rates across differing offence types.

Healy (2012) examined desistance among Irish probationers (n = 70) and found secondary desisters (those that had not re-offended in one year) were significantly older when compared to active offenders (n = 49). Although considered as one of the most predictive factors of recidivism, age can provide us with little insight into the process of desistance. In examining the societal influences on offenders associated with the aging process (e.g. marriage and parenthood) "age is simply the dimension along which the behaviour of interest changes" (Bushway, Piquero, Broidy, Cauffman, & Mazerolle, 2001, p. 492). A more novel and nuanced approach is required when examining the effect of age on both recidivism and desistance across Irish offender samples.

⁷ No longer in operation, but at the time of the research cited above it held 16- and 17-year-old males who were sentenced or being held on remand.

3.5.6.1.2 Criminal history. Reviews have established that previous criminal history is one of the strongest predictors of future recidivism (Caudy, Durso, & Taxman, 2013; Gendreau et al., 1996; Lloyd, Mair, & Hough, 1994; Morgan, Kroner, Mills, Serna, & McDonald, 2013). Offenders who begin their criminal career at a young age (before age 10) have poorer outcomes in terms of recidivism, as well as subsequent length of criminal career (Cottle et al., 2001; Farrington et al., 2013). Moffitt's developmental taxonomy was formulated on the relationship between crime and age. Moffitt believed that offenders could be categorised into two groups: those who began their offending during adolescence, but terminated by approximately age 19 (adolescent limited); and those who begin their offending at a much earlier age but failed to desist before early adulthood (lifecourse persistent). For offenders in the lifecourse persistent group, Moffitt claims that the impact of environmental factors and negative experiences in childhood, in particular early criminal activity, has a detrimental effect on an offender's ability to desist from crime. Problems associated with offending cumulate during adulthood, making the transition out of crime increasingly difficult. In contrast those in the 'adolescence limited' group tend to naturally mature out of criminal behaviour before it becomes too established (Farrall & Calverley, 2006).

Previous incarceration and experience of other criminal justice sanctions are also associated with increased levels of recidivism. The impact of imprisonment will, however, depend largely on an offenders 'developmental history'. Studies using a matched sample approach show that first imprisonment between 18 and 38 increases criminal activity upon release when compared to those who were not imprisoned (Nieuwebeerta, Nagin, & Blokland, 2009).

Examining age of first criminal activity among a sample of 120 Irish adult prisoners found that on average participants received their first criminal conviction at age 17

(O'Mahony, 1997). Healy (2006) reported that criminal activity on average began at age 12, and first conviction was received at age 18 amongst her sample of 70 adult probationers. She found that age at first conviction was inversely related to overall risk of reconviction. Number of previous convictions and number of previous terms of imprisonment “were positively correlated with risk scores” (p. 121). On average offenders imprisoned at St. Patrick’s Institution (n = 60) reported starting offending at age 13, and reported receiving their first conviction at age 15 (Hughes, 2012). Thirty nine percent (n=34) had previous experience of imprisonment. Previous imprisonment, as discussed above, is regarded as a significant barrier to desistance from criminal activity (Petersilia, 2003).

Offence types and their association with re-offending were also explored. Young offenders imprisoned for a public order offence were at a greater risk of re-imprisonment compared to other offenders (Hughes, 2012). Irish prison recidivism study findings show that across all re-offences offenders were most likely to be re-convicted for a public order offence (Central Statistics Office, 2015a; Irish Prison Service, 2013). Irish probation study findings revealed similar trends, with public order and other social code offences being the most common re-offence category during the three-year follow-up period (Central Statistics Office, 2013b, 2015b).

3.5.6.1.3 Familial factors. Parental criminality and negative parenting practices predict both the onset and continuation of offending (Farrington, 2011; Farrington, Loeber, & Ttofi, 2012; Gendreau et al., 1996; Mulder, Brand, Bullens, & Van Marle, 2011). Much theoretical and empirical debate surrounds the influence of single parent households, family structures, parenting methods, and discipline practices on subsequent offending. Empirical findings show that “most family features are associated only modestly with the likelihood of antisocial behaviour” (Derzon, 2010, p. 288).

Familial influences are prominent in a large number of criminological theories, including theories of desistance. Sampson and Laub's influential social control theory claims that a lack of positive parenting results in poor internal constraints, which manifest in delinquent behaviour (Farrall & Calverley, 2006). Farrington and Ttofi (2011) highlighted that factors interact differently for boys identified as 'troublesome', and 'non-troublesome'. For example, good parental supervision buffered the effect of offending among troublesome boys, but not among non-troublesome boys. Studies have shown that maintenance of family contact during imprisonment reduces recidivism (Duwe & Clark, 2013); extensive exploration is required to unpick this complex process.

Social data pertaining to those involved in the Irish criminal justice system is limited, and the interaction between these factors and recidivism rates is relatively absent. Within a small sample of Irish prisoners (n= 108), O'Mahony (1997) found that 28 percent originated from families broken by separation, divorce, or desertion, while 13 percent reported spending time in institutional care. O'Mahony identified that 50 percent of his sample in Mountjoy "had a first degree relative who had been in prison" (p. 49) (a participant's brother made up 43 percent of such relatives while 20 percent reported having more than one sibling incarcerated previously). Although identified as a risk factor to criminality, a degree of caution is required as "a history of criminality is neither a necessary nor a sufficient condition for involvement in crime" (p. 50). Hughes (2012) reported that the majority (83 percent) of her participants had experience of a family member in prison, with approximately 25 percent of young offenders' fathers having been imprisoned. Few Irish studies have examined the influence of criminogenic family factors on subsequent offending behaviour. Our knowledge is limited to a few primarily descriptive studies, or one or two small scale recidivism studies.

3.5.6.1.4 Gender. Meta-analytic reviews have shown that gender is a weak predictor of recidivism (Gendreau et al., 1996), however rates of recidivism tend to be consistently lower among female offenders. Findings have indicated that gender is less strongly associated with re-conviction once age and previous criminality are controlled (Lloyd et al., 1994). Figures published in Ireland show that recidivism rates, both upon release from prison and during and after probation supervision, are lower among females than males. Recidivism rates of those released from prison during 2009 show a re-offending rate of 48.2 percent among males, compared to 41.2 percent among females (Central Statistics Office, 2015a). A similar finding is evident among offenders sanctioned to a community service or probation order. Combined recidivism rates were 38.3 percent and 30.4 percent for males and females respectively (Central Statistics Office, 2015b).

3.5.6.1.5 Other static factors. The association between of a number of other factors, including race and socioeconomic status/social class, and recidivism has been examined (Farrington et al., 2013; Gendreau et al., 1996). Their predictive validity is not as well established as static risk factors (Andrews & Bonta, 2010). Race, identified as a significant predictor of recidivism (Gendreau et al., 1996; Wehrman, 2010), is an under-researched criminological area due to a variety of methodological constraints, such as adequate sample sizes. The prediction of recidivism based on an offender's race is problematic. Other factors that are likely to affect marginalised groups, include poverty and unemployment, and may have an interactional effect when examining the association between race and recidivism (Stahler et al., 2013). O'Donnell et al. (2008) found that Irish nationals had higher re-imprisonment rates than foreign nationals. Unfortunately appropriate data pertaining to prisoner ethnicity is not provided in either Probation or Prison Service national recidivism studies. This area requires further exploration.

Socio-economic status or social class has been identified as “a less robust” predictor of recidivism (Gendreau et al., 1996), but has a number of theoretical underpinnings in terms of desistance and persistence of offending, for example strain theory. Its measurement is also difficult and may be impacted by a variety of other constructs. This makes untangling its predictive validity challenging. Findings that low family income and poor housing predicted both official and self-reported offending within the Cambridge Delinquency Study have been published, however authors caution that the predictive validity of socio-economic status may be compounded by family factors such as poor parenting and discipline practices (Farrington et al., 2013; Farrington et al., 2012).

Intelligence, impulsivity and other psychological traits such as low self-control have previously been identified as pre-cursors to offending behaviour (Farrington et al., 2013; Farrington et al., 2012). Personality measures, and psychological tests have shown little predictive validity in terms of recidivism (Gendreau et al., 1996), with the exception of psychopathy, established through the predictive validity of Hare's Psychopathy Checklist-Revised (Gendreau, Goggin, & Smith, 2002). Examination of 179 non-violent recidivists showed a positive relationship between anti-social cognition and recidivism, among those scoring high in the domains of psychoticism, but low scores in the domains of neuroticism and extraversion, as measured by Eysenck's personality test (Bourke, Boduszek, & Hyland, 2013). This indicates an association between personality traits and anti-social attitudes, a strong dynamic predictor of recidivism. As regards desistance processes, psychological traits tend to be relatively stable or very slow to change; therefore they are somewhat limited in their ability to explain why offenders change their offending behaviour (Weaver & McNeill, 2010).

3.5.6.2 Examining dynamic risk/criminogenic need. Dynamic risk factors (also referred to as criminogenic needs) are also predictive of recidivism, they have however not received as much empirical testing. According to Gendreau et al. (1996) this is because of the subjectivity required to measure such factors, confounded by the “considerable ambiguity” which surrounds the presence of these features (Caudy et al., 2013, p. 458). According to the Risk-Need-Responsivity model developed by Andrews and Bonta, criminogenic needs can be targeted during intervention. Empirical investigation into how these factors affect both recidivism and desistance are issues relevant for policy and intervention practices. As outlined above, static factors are among the strongest predictors of recidivism (verified across a large range of offender groups), however they are not amenable to change and therefore offer little insight into the effectiveness of interventions, and indeed for whom interventions may be most effective. A primary goal of this study is to identify for what offender groups criminal justice interventions are most effective, therefore an exploration of dynamic factors is paramount.

According to Andrews and Bonta (2010) the dynamic factors most predictive of recidivism include: previous antisocial behaviour; antisocial personality; antisocial cognition; and antisocial associates. Other factors less predictive of recidivism, but relevant, include: family/marital circumstances; low educational/financial/vocational achievement; lack of pro-social leisure activities; and substance misuse problems. Factors also important, but “by themselves are not crime producing” (Caudy et al., 2013, p. 459) include: personal or emotional distress, major mental health disorders, and physical health problems (Andrews & Bonta, 2010).

A study examining the associations between dynamic risk factors and recidivism completed by Caudy et al. (2013) observed the predictive validity of these factors,

measured by the Level of Service Inventory revised, across two offender samples. Their study aimed to identify factors most predictive of recidivism, and explore their validity when static risk factors are controlled. The authors claim that investigation into the predictive validity of constructs of such well-established risk factors is required, as the inclusion of criminogenic needs that have limited validity in risk assessments may actually inflate an offender's risk (as determined by these assessments). It may be that assessment of criminogenic need is best placed to inform treatment and placement decisions (criminal justice intervention) instead of informing risk classifications. Findings indicated that four of nine dynamic risk factors (criminogenic needs) predicted recidivism. These included: anti-social peers, education or employment needs, anti-social attitudes and alcohol or drug abuse. The authors conclude that findings support Andrews and Bonta's Risk-Need-Responsivity model, that factors predictive of recidivism should be used when assigning offenders to criminal justice interventions as well as classifying risk and further research is required to identify how changes in need/risk after criminal justice interventions affect recidivism rates. They warn that the use of risk assessments dominated by dynamic factors may "create unrealistic expectations about the impact correctional agencies can expect to have on offender recidivism outcomes, as targeting dynamic needs that are not causally related to recidivism will have little impact on recidivism" (Caudy et al., 2013, p. 464).

Crime and gender is a topic debated across much criminological literature, and dispute surrounds how gendered specific pathways into crime effect risk prediction. Therefore, the question arises, is the predictive validity of dynamic factors associated with criminality similar for males and females? Recent research in Ireland attempts to examine gender differences regarding criminogenic needs as measured by the Level of Service Inventory – Revised (LSIR) among a sample of 131 male and 100 female probationers. Results found that males scored higher in the domains of criminal history

and substance abuse compared to females, however females had higher levels of need in the domains of accommodation, emotional/personal and family/marital. The authors discuss these findings in relation to implications for the resourcing of services for female offenders in contact with Probation Services (Kelly & Bogue, 2014).

A study by Smith, Cullen, and Latessa (2009) used meta-analytic techniques to examine the predictive validity of the LSI-R risk assessment tool for females. A total of 25 studies which generated 27 effect sizes, representative of nearly fifteen thousand female offenders were included. Their results indicated “that the relationship between the LSI-R and recidivism for females is statistically and practically similar to that for males” (Smith et al., 2009, p. 198). Examination of eight domains most predictive of general recidivism found all to be predictive of both female and male recidivism. These eight domains include: ‘the big four’ – history of criminal behaviour, antisocial personality, antisocial attitudes/beliefs/values and antisocial associates, and the ‘modest four’ identified as “theoretically less proximate to the occurrence of criminal activity” (Andrews et al., 2012, p. 116). The modest four include: the home (marital/family), school/employment, leisure/recreation and substance abuse and criminal history. Substance abuse was related more strongly to recidivism among female than male offenders. The authors state that similarity between males and females does not mean that differences and inequalities do not exist between groups (Andrews et al., 2012).

The neighbourhoods where offenders return from prison has been found to predict recidivism. Kubrin and Stewart (2006) in their recidivism analysis in Portland found that offenders who returned to more disadvantaged areas were more likely to be re-arrested, even when individual characteristics were controlled, however these findings are not universally supported (Wehrman, 2010). In the Irish context, prisoners with a

Dublin address were in fact less likely to be re-imprisoned, contrary to theory of higher levels of crime in urban centres (O'Donnell et al., 2008).

Stahler et al. (2013) examined the interaction between individual predictors of recidivism and neighbourhood contextual factors. Their sample consisted of 6,465 individuals released from Pennsylvania prisons. They used re-incarceration within three years of release for either a new crime or a parole violation as their measure of recidivism. Findings indicate that characteristics relating to levels of poverty and disadvantage were not predictive of re-incarceration. Factors relating to 'collective efficacy' i.e. the levels of trust and co-operation among neighbours were also not predictive of re-incarceration. Spatial contagion (measured as an independent variable) was, however, predictive of re-incarceration. Offenders with an address near high concentrations of ex-offenders, who reoffended, were more likely to be re-incarcerated. Having an address in an area densely populated by other ex-offenders also impacted on the time between release and re-imprisonment. A limitation of the study is that researchers used an offender's address on admission to prison, rather than their release address. They claim based on previous studies that offenders tend to return to the same area upon release from prison. Furthermore, police activity in different neighbourhoods was not available, therefore could not be controlled for. This may have an impact on the likelihood of offenders being arrested and subsequently re-imprisoned.

Longitudinal studies examining the onset of offending have identified the presence of delinquent peers as a significant predictor of offending (Farrington, 1983; Farrington et al., 2012). However, whether offending attracts delinquent peers or delinquent peers affect the onset of offending requires consideration (Farrington et al., 2012). As mentioned, criminal attitudes and criminal associates are significant predictors of future re-offending (Gendreau et al., 1996; Mills, Kroner, & Hemmati, 2004). These factors

are amenable to change and interventions which attempt to target such associations in order to promote desistance. Mills et al. (2004), using the measures of criminal attitudes and associates (MCAA) scale, identified that number of criminal associates (self-reported) was strongly predictive of recidivism. Examination of attitudes showed that the antisocial intent scale (a component of the MCAA) was most strongly related to violent recidivism. Attitudes towards violence “improved the prediction of violent recidivism over and above a purely actuarial/static measure” (p. 726).

3.5.6.2.1 The presence of dynamic risk/criminogenic need among offenders in Ireland. Although limited, a number of studies have examined criminogenic need among Irish offender populations, and some have also explored their subsequent association with recidivism.

Adult prisoners

In the first Irish recidivism study, O’Donnell et al. (2008), identified higher rates of re-imprisonment among prisoners with lower levels of formal education, those who were unemployed, as well as those who were illiterate. As identified internationally, mental health problems are also a feature among Irish prisoners. An examination of 3,195 remand prisoners committed to Cloverhill Prison between 2006 and 2011 found that 22 percent had a previous primary diagnosis of any psychotic disorder. Further examination revealed that 30 percent had a lifetime history of psychotic symptoms, approximately 87 percent had a history of substance misuse (either alcohol or drugs), and 45 percent had a history of problems with both alcohol and other illicit drugs. Of the 3,195 male remand prisoners assessed, 23 percent were homeless on committal (McInerney et al., 2013).

Adult probationers

Among her sample of probationers Healy (2006) identified that 37 percent were unemployed, and received their primary income from social welfare. The vast majority lived in the family home. Examination of criminogenic need, as measured by the LSI-R showed that her sample of persisters, recently involved in criminal activity, had higher overall re-conviction scores and greater needs in the domains of criminal history, leisure/recreation, companions, alcohol and drugs and attitudes to offending compared to desisters (one year crime free). Examining CRIME PICS data, a measure of criminogenic attitude among offenders as well as criminogenic need, identified that persisters commonly had problems with boredom, finances and employment. Healy and O'Donnell (2006), using the psychological inventory of criminal thinking styles (PICTS), uncovered a significant difference between offenders on probation who reported active engagement in criminal activity, and those classed as secondary desisters in terms of current criminal thinking. There was no significant difference detected for historical criminal thinking. These findings are relevant to both criminal justice policy and practice due to the strong relationship between active engagement in offending and criminal attitudes, which may be reinforced by associating with other offenders.

Young Offenders

All but one of Hughes' (2012) sample of young offenders reported using alcohol in the six months prior to committal to St. Patrick's Institution, and all reported using drugs of some type, the most common being marijuana. Eighty six percent of respondents reported that their alcohol use had contributed to their arrest, while 72 percent reported they attributed their arrest to their drug use. Participants reported that the use of substances led to a range of problems at home, including arguments, physical fights and

damage to property. Examination of young Irish probationers' use of substances found that for more than 80 percent of cases, substance misuse was related to offending (The Probation Service, 2013a). As regards education and employment, 18 percent of Hughes's sample reported being illiterate, and all reported leaving formal education before the permitted age. Hughes reports that her sample of young prisoners were greatly influenced by their peers in prison, however they did not recognise the role peers played in criminality on the outside. Some interviewees did report plans to move away from their old neighbourhoods and distance themselves from their friends upon release.

3.5.6.3 Factors associated with the promotion of desistance. It is now accepted that desistance “is the outcome of a complex interaction between subjective/agency factors and social/environmental factors” (LeBel et al., 2008, p. 131). Understood to be interconnected, the main social factors identified in the desistance process include: marriage, employment, and parenthood. The subjective factors relate to personal and cognitive transitions made by offenders when interpreting the world (LeBel et al., 2008). Significant social and environmental changes also require consideration, as they may not have been relevant some decades ago (Laub & Sampson, 2003). Throughout the literature, offenders who move away from criminal activity recount overcoming personal obstacles, and barriers that previously impeded their desistance (Farrall & Calverley, 2006; Maruna, 2001), therefore it is important to consider the individual transitions offenders make, as such processes will differ considerably between offenders.

3.5.6.3.1 Subjective/agency factors. The role of identity is considered to play an important role in the desistance process. In his study of former offenders in Liverpool, Maruna (2001) describes how desisters transform their identities from offender to ex-offender by choosing to live by a ‘redemptive script’. Maruna describes how ex-

offenders who desist from criminality accept that past behaviours were beyond their control, something they should not be ashamed of, and have in fact prepared them for their current role in life. Stigma and shame have been documented as barriers to desistance (LeBel et al., 2008) while some advocate that stigmatising shame promotes recidivism (Braithwaite, 1989), overcoming these barriers and forming a new identity is, according to Maruna, a key element of the desistance process.

Empirical investigations of motivation among offenders show that, for some, the constant revolving door of prison life becomes tiresome. Qualitative investigations document how desisters, particularly those with a long history of prison sentences, terminated their criminal activity because of frustration with the experience of imprisonment (Farrall, Mawby, & Worrall, 2007). Burnett (1992), through interpretation of her data collected from 130 property offenders released from custody, found that confidence and optimism in their ability to desist from offending were important for success. Healy (2006) reports that Irish probationers, many with long criminal histories, reported growing tired of their criminal lifestyles. This was cited as a primary reason to desist from offending. Attitudes to re-imprisonment was found by Hughes (2012) to be a significant predictor of re-imprisonment among her sample of young offenders. Offenders who believed, or were unsure about whether they would be back in prison had a higher re-imprisonment rate. The role of individual factors and motivations to desist have now been incorporated into many desistance theories.

Laub and Sampson amended their original social control theory to emphasise the “components (of) human agency, situational influences and historical context” in the desistance process (Laub & Sampson, 2003, p. 55). Their longitudinal study of juvenile delinquents up to age 70 is one of the longest studies of criminal careers conducted to date. Sampson and Laub advocate that offenders in this study were “active players in

their own destiny” (p. 55), but stress the importance of social factors which impact offenders’ lives.

3.5.6.3.2 Social/environmental factors. Longitudinal studies have established significant associations between employment, marriage and desistance (Farrington et al., 2013; Laub & Sampson, 2003). Not only were employment and marriage correlated with desistance, the quality of an offender’s commitment to these structures played a role in the maintenance of desistance (Laub & Sampson, 2003). The effect of marriage and employment on offending is associated with spending limited time with delinquent peers, previously identified as a risk factor to continued criminality. Empirical evidence supports a causal effect of marriage on offending. Using data on 500 high-risk boys followed to age 32, Sampson, Laub, and Wimer (2006) found a 35 percent decrease in the odds of committing crime amongst participants who were married compared to those unmarried.

Employment is considered central to the desistance process as having a job “reinforces social conformity” (Devers, 2011, p. 8) and the negative effect of criminality on employment prospects is well documented (Petersilia, 2003). Employment creates new social supports and may in fact aid the transformation of previous criminal identities. However studies have shown that the effect of employment on desistance is variable. Many studies dichotomise employment, an offender is employed or not. As discussed above, the type of work and how committed an offender is to the work can affect its supportive value (Devers, 2011).

Parenthood impacts positively on the cessation of offending (Zoutewelle-Terovan, van der Geest, Liefbroer, & Bijleveld, 2012). Some authors claim that the process of desistance is slightly different for females, as they place a higher emphasis on family

responsibilities and child-rearing duties. Children and family were some of the most important motivating factors identified by some of Healy's (2006) respondents. Many reported that they had a "desire to live up to their responsibilities and look after their families" (p. 134).

3.5.6.3.3 *The interaction between subjective and environmental factors.* The interaction between individual and social factors contributes to the process and maintenance of desistance. LeBel et al. (2008), using data from the Dynamic of Desistance study completed by Burnett at the University of Oxford, investigated how both subjective and social factors effect desistance. Authors attempted to discriminate between three models associated with recidivism; the strong subjective model, the strong social model, and the subjective-social model. They used two dependant variables; re-conviction and re-imprisonment measured over a ten-year period of 126 property offenders. Age and prior convictions were included as continuous variables. In order to measure subjective variables, information collected during face to face interviews with participants in the original study was included. Actuarial measures of hope/self-efficacy, regret and shame, internalising stigma and alternative identities were also incorporated. Respondents were also asked about their social circumstances. Information was gathered on housing, finances, relationships, alcohol and drug use. Data was collected both prior to release and four to six months after release. Findings strongly supported the subject-social model. Regret about previous offending and identification as a 'family man' promoted desistance, whereas feeling stigmatised predicted re-offending after controlling for a number of social variables. The authors claim that hope (identified as self-efficacy to stop offending), when combined with identification as a 'family man' may buffer the effect of some social problems upon release. They state "with an adequate sense of hope, a person may both select into and take advantage of positive social opportunities such as employment or marriage" (LeBel

et al., 2008, p. 154). Limitations include the small sample size and the use of limited recidivism measures. Future examination of these interactive processes would benefit from examination of the number and frequency of re-offences, as well as measuring time to re-offence to test whether subjective states are time limited.

Therefore both subjective and social factors appear to play a role in the desistance process. Offenders' mind-sets on release and the predictive validity of their own self-reported likelihood of continued offending seem to indicate that individual identities and motivations are important in the process of desistance. This, however, does not detract from findings that one's social context can inhibit or promote the desistance process. The role of parenthood, marriage and employment are crucial in understanding a move away from criminality for some offenders.

3.5.7 Conclusion

The hypothesis that custodial sanctions have a slight criminogenic effect when compared to non-custodial options was supported by some meta-analytic results. Although the majority of results were non-significant, when all confounding variables were controlled, the general conclusion that custodial sanctions increase re-offending was supported (Gendreau et al., 1999; Jonson, 2010; Marsh et al., 2009; Smith et al., 2002).

Studies from the US, Asia, and Europe support that community service, when used instead of custodial sentences, reduces re-offending. Community service appears to reduce recidivism rates when used as an alternative to imprisonment, in particular, short-term sentences (Killias et al., 2000; Killias et al., 2010). This finding is also supported by research completed by a number of academics and justice

agencies/departments in England and Wales, Northern Ireland, and Scotland. To date, empirical research in Ireland is limited to a few national studies and some small-scale recidivism studies. This study attempts to address that gap.

3.6 Chapter summary

The ideology surrounding community penalties is strongly contested, especially in the Irish context. Changes in penal ideology and a discussion of the purpose of the CSO as a penal sanction provided a perspective on its use in lieu of imprisonment. By examining whether CSOs and short prison sentences are operating as true alternatives in Ireland, this thesis will investigate whether the aims of non-custodial alternatives are being realised. An examination of sentencing practice illustrated that a large variety of factors are considered before decisions are made. This study examines decisions made in cases lying on the cusp of a custodial or non-custodial sanction to identify any notable trends in the use of alternatives to custody by the Irish judiciary. Finally, there is a dearth of knowledge in relation to comparative rates of recidivism in the Irish context. This thesis examines the ‘alternativeness’ of these comparable criminal justice sanctions as regards re-arrest outcomes.

The aims of this research include examining whether CSOs and short prison sentences are operating as true alternatives in Ireland, investigating qualitatively, the alternative experiences of custodial and community participants, and finally, comparing re-offending rates of those receiving short-term prison sentences compared to those receiving CSOs, using a matched sample approach. This investigation will inform us about Irish penal culture and the use of alternatives to custody. The next chapter identifies the methodologies employed in order to satisfy the objectives outlined above.

CHAPTER FOUR

METHODOLOGY

Mono method research is the biggest threat to the advancement of the social sciences. Indeed, as long as we stay polarized in research, how can we expect stakeholders who rely on our research findings to take our work seriously? (Onwuegbuzie & Leech, 2005, p. 375).

4.1 Chapter overview

This chapter outlines the methodological approach chosen to achieve the aims of the study outlined in section 1.1.1. In order to examine the use short prison sentences and alternative CSOs, the profile of offenders in receipt and of both sanctions in Ireland were compared using quantitative methods. The comparative experience of completing these alternative criminal justice sanctions was investigated through qualitative interviews, before recidivism outcomes for both sanction groups were compared using propensity score matching (PSM) techniques.

This chapter begins with a discussion of the research design chosen, outlining the epistemological approach adopted for this study. Section 4.3 identifies the research methodology employed, beginning with the use of a Consultative Council (CC) Model for negotiating access to data with stakeholders and gatekeepers. The quantitative and qualitative methodologies employed are then outlined; information regarding access to data, linking procedures and the statistical analyses are detailed in section 4.3.2. Qualitative interview procedures are then presented; section 4.3.3 describes how interview questions were developed, as well as the procedure for identifying and

interviewing research participants. The method of constant comparison analysis was used to analyse interview transcripts and is detailed in section 4.3.3.4.

The chapter concludes with a discussion of ethical considerations and procedures employed during this study.

4.2 Research design

In this thesis it was necessary to investigate the use, ‘alternativeness’ and matched recidivism rates of community service and short-term imprisonment in tandem. It was decided that the study should incorporate both quantitative and qualitative research methods, therefore a mixed methodology design was chosen.

Across many disciplines, mixed methodologies are underutilised (Creswell & Plano Clark, 2011). Criminology is also subject to the fragmentation of qualitative and quantitative approaches to research (Maruna, 2010). Recently, leading criminological scholars, writing on the apparent ‘crisis’ within criminology, have called for a more integrated approach to enquiry and data collection, claiming that unification within the discipline is required (Wheeldon, 2014; Wheeldon, Heidt, & Dooley, 2014).

The research design used in this study aimed to augment the quantitative data with more illustrative qualitative data (Creswell & Plano Clark, 2011). As discussed previously, the emergence of effectiveness research and its endeavour to promote evidence-based practice within the criminal justice arena has gained considerable momentum in recent decades. Research findings from a variety of sources are required if the effectiveness of sanctions is to be examined accurately.

4.2.1 The philosophical position of this research

A pragmatic paradigm was chosen for this study and used as a guide when making decisions and carrying out the research. A term first coined by Thomas Kuhn, a paradigm or worldview, refers to beliefs and assumptions held by the researcher that they use to inform a research study. These worldviews inform research practice to varying degrees (Creswell, 2003; Grix, 2010). However, according to Morgan:

It does little good to think of paradigms as worldviews that include virtually everything someone thinks or believes; instead, it is important to clarify what is contained in a worldview, which in this case would primarily focus on a person's thoughts about the nature of research (2007, p. 52).

The nature of this research was a prime consideration when designing this study. Rather than detailing opposing epistemological positions (constructivism versus positivism) concerning the nature of knowledge acquisition, or ontological positions (idealism, materialism and realism) detailing the presence of one or numerous realities, an integrated pragmatic approach, as discussed below, was taken.

Combining qualitative and quantitative methods of inquiry has prompted significant debate (Creswell & Plano Clark, 2011; Onwuegbuzie & Leech, 2005; Tashakkori & Teddlie, 1998, 2010; Teddlie & Tashakkori, 2009). 'Purists' still maintain that qualitative and quantitative researchers differ as regards ontology, epistemology, axiology, rhetoric, and logic (Onwuegbuzie & Leech, 2005), and some scholars claim the underlying philosophical assumptions associated with both methodologies make their combination untenable (Creswell & Plano Clark, 2011).

Paradigms most applicable to mixed methods research include: post-positivism, often associated with quantitative or top down approaches to research; constructivism, often associated with a bottom up or qualitative approaches to social enquiry; participatory worldviews, cognisant of political anxieties and injustices, often facilitated by collaboration with research participants; and finally pragmatism, whose primary focus is on research questions, as well as the impact of research. A pragmatic research paradigm integrates the philosophies of positivism, post-positivism, as well as interpretivism and constructionism (Bachman & Schutt, 2014).

Creswell and Plano Clark advocate that multiple worldviews may be used in mixed method research; “the selection of multiple worldviews relate to the type of mixed methods design used rather than a worldview based on how the researcher attempts to ‘know’ the social world” (2011, p. 45). The worldview is decided by the activities being completed during each research phase, be they inductive or deductive. However as Morgan (2007) points out “any experienced researcher knows that the actual process of moving between theory and data never operates in only one direction” (p. 70). He instead advocates for “a version of abductive reasoning” (Morgan, 2007, p. 71) which moves back and forth between theory development and data collection.

More recently, debate surrounding the use of mixed methodologies has focused on researchers’ ability to decide on the most appropriate worldview for their research study (Creswell & Plano Clark, 2011). Pragmatism has been suggested as the most applicable paradigm when conducting mixed methods research (Creswell & Plano Clark, 2011; Feilzer, 2010; Tashakkori & Teddlie, 1998; Teddlie & Tashakkori, 2009). According to Feilzer (2010) “a pragmatic approach to problem solving in the social world offers an alternative, flexible, and more reflexive guide to research design and grounded methods” (p. 7). Instead of arguing what differences exist between positivism and

constructivism, a single reality or multiple realities, pragmatism offers a reflexive research process where issues of value, usefulness, and worthwhileness are contemplated (Feilzer, 2010).

A pragmatic paradigm was chosen for this study as different types of data were gathered in order to best answer the aims of the research. Interviews sought to provide insight into participants' interpretations of their world by providing in-depth interpretation of the prediction and quantification of matched recidivism rates provided by the quantitative research element. Matching techniques have been used to a greater extent to assess the impact of criminal justice sanctions by comparing cases with similar characteristics from different groups to assess the impact of interventions (Apel & Sweeten, 2010; Jolliffe & Hedderman, 2015; Ministry of Justice, 2013). Qualitative and quantitative results were assimilated in Chapter Six in order to best address the aims of this research.

4.3 Research methodology

The previous section examined the research methodology chosen for the study; this section outlines how the research was completed in order to address the research aims.

4.3.1 Consultative Council Model methodology

Comparative examination completed for this study had not been completed in Ireland previously, therefore discussions regarding feasibility with officials in the Irish Prison and Probation Services took place at the very beginning of the research process.

Following consultation with the Directors of the Irish Prison and Probation Services, a senior statistician at the Central Statistics Office, as well as the researcher's academic supervisor, it was decided that a group consisting of representatives from all criminal

justice agencies involved in this research, a member of the judiciary and the employment mentor⁸ should be convened to provide assistance with the project. Extensive discussion about the role and purpose of this group took place before documentation outlining the terms of reference of this group were drafted (see Appendix A). Invitations to join the group, referred to as the CC, were sent in March 2014 and the first meeting was held in April 2014.

It was agreed that the project had benefited from contributions from several criminal justice agencies and this ongoing collaboration would be beneficial throughout the duration of the research. It was envisioned that the CC would act as a forum where agencies could have an opportunity to be updated on research progress and outcomes, make suggestions, and provide assistance where necessary in advancing this research.

The CC aimed to foster collaboration between criminal justice agencies involved in this research project, particularly with regard to data access and quality. It also aimed to address issues that may have implications for the research project, to review the progress of the project when required, and where appropriate to help disseminate project information and findings within criminal justice organisations.

It was decided that the CC would act in an advisory capacity. Decisions concerning overall project design, the presentation of results, the inclusion of particular results, and the dissemination or publication of results all ultimately lay with the researcher and her supervisors subject to approval from the Central Statistics Office (see section 4.4.2). It was agreed that the CC would meet when required, resulting in two meetings being held during the course of the project and one further at completion.

⁸The researcher was employed by the Irish Penal Reform Trust as part of the Irish Research Council's employment based postgraduate scheme and had a mentor assigned to her.

From a pragmatic view point, convening such a council attempted to overcome any threats to successful completion of the project before they arose. By involving representatives from all criminal justice agencies in this type of forum, potential impediments were minimised that could affect the progress of the research. Those of most concern were permissions and buy in from the criminal justice agencies, time delays, access to relevant data, as well as sourcing interviewees in prison establishments and on community service sites. The council also had the wider aim to support collaboration for future research.

4.3.2 Quantitative research methodology

4.3.2.1 Criminal justice data in Ireland. Although outlined briefly in the Context Chapter, a more detailed account of data practices by Irish criminal justice agencies is required, before a detailed description of the quantitative data used for this study is provided. Since approximately 2000, the majority of manual and paper-based methods of data recording have been replaced with sophisticated computerised systems across the Irish criminal justice system (O'Donnell et al., 2008). Administrative criminological data is collected by a variety of agencies and stored in a number of different locations. These include: An Garda Síochána's Police Using Leading Systems Effectively (PULSE) system; the Courts Case Tracking System; the Prison Information Management System (PIMS) [formally Prison Records Information System (PRIS)]; and the Probation Service Case Tracking System. Irish criminal justice agencies collect and store data to meet operational needs, while data collection for research, evaluation, or policy development purposes is deeply neglected (Bacik, 2002; Hamilton, 2005; Hughes, 2012; Maguire, 2008; O'Donnell, 2004, 2008; Rogan, 2012a, 2012b).

A common unique individual identifier is not utilised by all criminal justice agencies. This inhibits greatly the ability to follow offenders through the criminal justice system, as well as produce any longitudinal study of these individuals. There is little detail on the number of people that flow through the Irish criminal justice system, how long they stay, and at what cost.

There is also a lack of detailed offender information such as ethnic origin, educational attainment, marital or other familial details being collected and/or stored centrally by all criminal justice agencies. Where this information is collected, it is not comparable, and is not updated with each subsequent contact an offender has with a criminal justice agency (Hughes, 2012).

Although criminal justice data remains limited, improvements in recent years include greater collaboration between criminal justice agencies, as well as with the Crime Section of the Central Statistics Office. There has also been commitment to improve data and research across the system (Department of Justice and Equality, 2014). Such progress made this research endeavour possible. Access to data, as well as other data procedures, are outlined in forthcoming sections.

4.3.2.2 Quantitative data collation. Data was gathered from: PIMS; the Probation Service's case management records and An Garda Síochána's PULSE system. Data from two offender populations was collated. The first set comprised of prisoners committed under sentence to Irish prisons for a period of less than twelve months between the 1st of January 2011 and the 31st of December 2012. The second was those required to complete a comparable CSO in lieu of a custodial sentence under the supervision of the Probation Service during that period.

4.3.2.3 Quantitative data access procedure. Data access was facilitated by the Crime Section of the Central Statistics Office. All quantitative data was accessed at Central Statistics Office offices in Cork where the researcher was assigned an office and a standalone computer for the duration of her analysis. As discussed in more detail in the ethical procedures section access to RMFs (research microdata files) can only be permitted through Central Statistics Office machines, therefore relocation to Cork was required in order to complete all data analysis.

In January 2014, a senior statistician from the crime division of the Central Statistics Office requested committal data from the Irish Prison Service and case data from the Probation Service pertaining to all individuals committed to prison under sentence of twelve months or less and those in receipt of a Central Statistics Office between the 1st of January 2011 and the 31st of December 2012.

A data pilot took place in March 2014, but was restricted greatly as the relevant agencies had not transferred all required data to the Crime Section of the Central Statistics Office. Between May and July 2014 the researcher relocated to Cork for initial data linking, cleaning and initial analysis. A short postponement was experienced due to further delays in the transfer of data from the Irish Prison Service and Probation Service. Initial analysis was completed in July 2014. Between May and October 2015 relocation to Cork was again required to complete further comparative work, as well as examine and compare rates of recidivism between CSO and short-term prison (STP) cases. Significant delays accessing all relevant data were experienced during this timeframe. A request was made to move data to suitable Central Statistics Office offices in Dublin, however this request was denied, due to the lack of precedent in the research area.

4.3.2.4 Quantitative data linking procedure. A combination of name, date of birth, and address details from all data systems⁹ was used to ascertain number of previous convictions since 2003 and examine whether cases had re-offended within a two-year reference period. A designated member of the Crime Section of the Central Statistics Office completed linking using a specifically designed algorithm. This service was not available to researchers who completed the National Recidivism Study (NRS) (Hughes, 2012). A mixed-model method incorporating automatic and manual matching was designed by the Central Statistics Office to achieve 95 percent matching between Irish Prison and Probation Services and An Garda Síochána's data systems in this research study; 66 percent of matches were automatically matched by the Central Statistics Office. Additional sorting/matching algorithms to simplify manual matching of the remaining 29 percent of cases were completed before data was made available for analysis (see Appendix B for details on matching algorithm used by the crime division of the Central Statistics Office).

4.3.2.5 Variables collected. Data collected from the PRIS system included: prison establishment, principal offence committed, sentence length grouped, sex, age, address [county], education level, employment status, court type, court location, prison committal and official release dates. A number of data sets were received from the Irish Prison Service, which were then sorted, cleaned and collated.

Data obtained from probation case management records system included: principal offence committed, alternative sentence length (in lieu of a custodial sentence), sex, age, address [county], court type and location, CSO commencement and completion dates, and case outcome details (see section 4.3.2.6). Again, a number of data sets were

⁹ Data gathered from Irish Prison and Probation Services was linked with data records from An Garda Síochána.

received from the Probation Service as errors were identified which required rectifying.

Data was again sorted, cleaned and collated.

The number of previous convictions recorded since 2003 and dates of re-arrest for each case were accessed from An Garda Síochána's PULSE records and added to data sets using the linking procedure described in section 4.3.2.4. Inferences about the number of first-time offenders in the CSO group could not be made definitively. For some cases in the CSO cohort ($n = 2029$) whether no previous convictions since 2003 were recorded on the PULSE system, or that no information was available on the system could not be successfully delineated.

4.3.2.6 Quantitative data preparation procedure. Data was received in its rawest form. Information collected on the Prison Service's PIMS data base changed between 2011 and 2012, therefore significant data sorting and cleaning took place before data was merged. Raw offence data was categorised using the 16 offence codes set out in the Irish Crime Classification System (Central Statistics Office, 2008). For outcome analysis these were condensed into seven dichotomous variables: sexual, violent, drugs, property, public order, motoring and other offence so comparisons between findings from this study and the NRS (Hughes, 2012; O'Donnell et al., 2008) could be made.

Courts were classified by twenty-four District and eight Circuit Court jurisdictions, as per the District Court (Districts) Order 2013 and the Sittings of the Circuit Court 2014¹⁰. A series of dichotomous court variables were also created, these included whether a court was in a rural or urban area. Urban areas were defined as Limerick city, Cork city,

¹⁰ available at: <http://www.courts.ie/Courts.ie/library3.nsf/16c93c36d3635d5180256e3f003a4580/3900ef192a63db2f80257bfa0040d480?OpenDocument>

Dublin, Waterford city and Galway city, all other courts were classified as rural. Courts were defined by their proximity to a prison. Courts in close proximity to a closed prison included Dublin, Portlaoise, Limerick, Cork and Castlerea. Courts located in and out of Dublin were also separated for analysis.

Whether an offender had previous convictions as recorded on the PULSE system since 2003 were dichotomised as yes or no.

Case addresses by county were coded by province. PIMS and the Probation Services' case management records do not collect address details in a comparable manner. Cases were also coded according to whether they were inside or outside Dublin, similar to that completed for the NRS (O'Donnell et al., 2008).

The number of days taken to complete either a CSO or the number of days spent in prison were calculated using CSO start dates, prison committal dates, CSO completion dates, and official release dates provided by the Irish Prison and Probation Services.

Data were categorised using three or four categories for STP and CSO cases respectively, for inclusion in regression models. Time completing respective sanctions were categorised as: less than three months; between three and six months, between six and 12 months and finally longer than 12 months for CSO cases.

Irish Prison Service cases with employment information were coded as, employed, pensioner/retired, student and unemployed. For outcome analysis these were condensed into employed or unemployed.

The age Irish Prison Service cases reported leaving school were categorised: before age 15; after age 15 up to age 18; after age 18 up to age 21; and after age 21. School

attainments levels were also categorised: illiterate/semi-literate/write name only; some primary education; completed primary education; some secondary education; completed junior certificate; completed leaving certificate; completed third level education; and group certificate/other. These were condensed into 'illiterate', primary school only, secondary school only and third level education for outcome analysis.

Outcomes of CSO cases were coded into two categories, whether community service hours were performed satisfactorily, or not. This group are referred to as CSO non-completers in Chapter Five. Codes included in the CSO non-completer category were: no appearance by defendant, warrant issued; result of breach/failure to comply as detailed above; CSO revoked, and committed to prison or place of detention. Eighteen CSO case outcomes were coded as 'death of offender', these were excluded from recidivism analysis.

For the recidivism component of the study data was recorded as missing for 41 CSO cases and 319 STP cases. The majority of this missing data was due to missing or inaccurate committal and release dates for Irish Prison Service cases and commencement or completion dates for CSO cases.

4.3.2.7 Statistical analysis. Statistical analyses were performed using PAWS Statistics 21.0 and R software version 3.1.3.

4.3.2.7.1 Descriptive analysis. The majority of data received from the Irish Prison and Probation Services was categorical in nature. Continuous variables included age, number of previous convictions, days spent completing respective sanctions and, for CSO cases only, number of community service hours and number of alternative prison months. To compare cases in the STP and CSO groups, chi-square analysis using

Pearson's χ^2 and Mann Whitney tests were used to compare categorical and continuous variables, respectively. The assumptions for these tests were met, and each prison committal or CSO contributed to only one cell of the contingency table (Field, 2009). According to Field (2009) expected frequencies in each cell should be greater than five, however, for larger contingency tables it is acceptable to have up to 20 percent of expected frequencies less than five. All data cells met this criteria.

In order to predict the likelihood of an offender receiving a STP sentence versus a CSO, and to identify variables for PSM analysis, logistic regression was performed. Logistic regression procedures used categorical predictors, which according to Field (2009) do not have to be normally distributed. The assumption of multicollinearity was also met; all tolerance values were greater than 0.1 and variance inflation factor values were not greater than 10. The dependent variable was binary and each score was independent, meeting all assumptions of logistic regression (Agresti, 2007; Menard, 2009). The Wald statistic was used to examine what contribution each of the individual predictors had on the outcome.

4.3.2.7.2 Measuring recidivism. Defining and determining rates of recidivism is a complex task. As Maltz has stated, "recidivism, in a criminal justice context, can be defined as the reversion of an individual to criminal behavior after he or she has been convicted of a prior offence, sentenced and (presumably) corrected" (1984, p. 1). It is important to note that official criminal records are incomplete and often do not record all instances of criminal activity (Alfred Blumstein & Larson, 1971) Time to a re-offence, and the frequency with which an offender continues or desists from offending are important when examining recidivism (Piquero, 2004).

Identifying risk of recidivism is standard practice among a large number of criminal justice agencies, and numerous risk assessment instruments have been developed to identify offenders at greatest risk of re-offending. As outlined in section 3.5.6, risk factors, often categorised as static and dynamic, have been shown to predict re-offending more accurately than chance (Andrews & Bonta, 2010). A risk factor is an “experience or event that if present is associated with an increase in the probability (risk) of a particular outcome over the base rate of the outcome in the general (unexposed) population” (Kazdin, Kraemer, Kessler, Kupfer, & Offord, 1997, p. 377).

The identification and measurement of factors associated with recidivism has received much scholarly attention (Gendreau et al., 1996; Smith et al., 2002). Identification of factors associated with risk of recidivism can be used to inform criminal justice policy and practice on how best to reduce re-offending (Cottle et al., 2001) and supports the Risk-Need-Responsivity model developed by Andrews, Bonta and Hoge (1990). Caudy, Durso and Taxman (2013) claim that “the need principle, a central tenet of the Risk-Need-Responsivity model, states that rehabilitative interventions should target specific offender risk factors that are both dynamic (amenable to change) and criminogenic (directly related to recidivism outcomes)” (Caudy et al., 2013, p. 458). Weaver and McNeill however, offer caution; “risk must be understood not as an attribute of offenders but in a multifaceted and contextualised way” (2010, p. 24). Therefore, risk factors predictive of recidivism must be considered alongside the social, environmental and personal experiences of offenders attempting to cease offending.

A better understanding of how risk and need predict recidivism among Irish offender populations is required to achieve the most successful criminal justice outcomes. An understanding of recidivism and risk can help identify and promote the processes by which offenders eventually desist from offending behaviours.

4.3.2.7.3 Measuring recidivism for the purposes of this study. The measure of recidivism used in this study was re-arrest. Analysis of rates of re-arrest at follow-up periods of six months, one and two years after release from a sentence of imprisonment of less than a year or the commencement of a CSO are presented in Chapter Five. For STP cases, a reference period of two years was limited to 2011 cases only, due to the possible presence of right censorship (to adequately examine re-arrest rates upon release the follow-up period of two years was too short for prison cases sentenced in 2012). For ease of interpretation, the comparable impact of a CSO and STP on subsequent re-arrest after two years is limited to cases in receipt of sanctions during 2011. Incapacitation effects were considered and reference periods for STP cases began after release from prison using official release dates. The recording of breach proceedings for those in the CSO group was also considered and CSO completers and non-completers were examined in isolation. As stated by Maltz (1984) “the choice (of recidivism measure) is dictated as much by data availability and completeness as by theoretical considerations” (p. 66). See section 6.5.1 for a discussion of limitations associated with using re-arrest as a measure of recidivism.

For this study, re-arrest as opposed to reconviction or reimprisonment was the most appropriate re-offending measure because of the short reference period available, access to conviction data (which is recorded by the Courts Service of Ireland) which is compounded by the extensive delays experienced at lower court level (Healy, 2012). See section 6.5.1 for a more in-depth discussion of using re-arrest as a recidivism measure.

Offences coded as ‘detected’ within An Garda Síochána’s PULSE system were used as a measure of re-arrest among cases in this study. An offence is classified as detected when criminal proceedings have been commenced for at least one person for the offence

(T. Linehan, personal communication, March, 2014). Re-arrest rates were therefore considered most appropriate for this study to measure comparative rates of recidivism as recorded by official means.

4.3.2.7.4 Propensity Score Matching (PSM) techniques. Conceived by Rosenbaum and Rubin, “the term propensity score analysis... is used most frequently as a general term for the set of related techniques used to correct for selection bias in observational studies” (Guo & Fraser, 2009, p. 4). To measure the effect of an intervention on an outcome, in this case receiving a CSO as a direct alternative to a short prison sentence, a RCT is considered the gold standard of research design. In criminological research generally, successfully completing a RCT is limited by many ethical and practical constraints. For these reasons, researchers often use regression-based modelling when estimating the effect of an intervention by statistically controlling for covariates; however, these techniques are not without limitations as discussed in Chapter Three (Jolliffe & Hedderman, 2015; Nagin et al., 2009). A quasi experimental study design was used to compare the impact of CSOs and STPs on re-arrest. Such designs are often used when an RCT is unpractical or unfeasible in order to evaluate the impact of a certain treatment (Guo & Fraser, 2009).

PSM methods were used for this study in order to match participants in both groups on a number of observed characteristics. PSM methods presume that selection bias is based only on observed characteristics, it does not account for unobserved factors affecting participation (Guo & Fraser, 2009). In essence “the propensity score is a conditional probability that expresses how likely a participant is to be assigned or to select the treatment condition given certain observed baseline characteristics” (Thoemmes & Kim, 2011, p. 4).

A logistic regression model was estimated to predict the likelihood of receiving a CSO. The aim of this model was to estimate the impact a number of variables had on receiving a community order. The propensity score was estimated from the model (see section 5.4.5.2 for results). Once variables were identified, propensity score matching was implemented using R software (see Appendix C for code used in R). To measure balance on available covariates the standardised bias (SB) for each variable was generated both before and after matching. Rosenbaum and Rubin suggest that a standardised absolute difference equal to or greater than 20 percent is an indication of imbalance (Apel & Sweeten, 2010). Prior to matching, using the criteria set out above, previous convictions recorded since 2003 and the province Ulster were imbalanced (see Table 24). If 10 percent is used as a more strict criteria then 'rural court', 'Munster', 'property', 'drug', 'public order' and 'other offence' were all imbalanced before matching was completed.

One to one optimal matching yielded poor results (see Appendix D), and nearest neighbour matching using a defined caliper of .2 was therefore completed. Nearest neighbour matching matches subjects from treated and untreated groups, in this case CSO and STP cases whose propensity score is closest (Austin, 2011a). According to Thoemmes and Kim "a caliper is a pre-determined maximum discrepancy for each matched pair on the propensity score for which matches are allowed" (2011, p. 10). A review of studies recommend the use of "calipers of width equal to .2 of the standard deviation of the logit of the propensity score" (Austin, 2011b, p. 161). Notably, Austin found that when covariates were dichotomous, caliper width had a minimal impact when estimating differences in risk or means (Austin, 2011b). Statistical consultation received as part of this study recommended the use of a caliper of .2 when completing PSM techniques.

After matching, all variables fell below the balance threshold of twenty and the stricter criteria of ten. The sign of the standardised bias indicated whether more of a specific characteristic is displayed by CSO or STP cases (Apel & Sweeten, 2010). A positive sign indicated that more CSO cases displayed the characteristic, whereas a negative sign signifies that more STP cases displayed that characteristic (see Table 24).

In order to assess the impact short-term imprisonment or alternative CSO had on re-arrest rates, sanction type was then regressed onto the outcome variable of re-arrest after six months and one year using data generated from PSM. Standard regression models and models using matched data were compared. Results are discussed in Chapter Five.

4.3.2.7.5 Time to event analysis. In order to calculate recidivism rates, survival regression analysis was used to account for differences in follow-up times, as well as cases where the event of interest, [re-arrest], has not occurred; referred to as censored cases (Hosmer, Lemeshow, & May, 2008). Kaplan Meier techniques were used (Kaplan & Meier, 1958), similar to techniques used as part of the NRS (O'Donnell et al., 2008). Survival analysis is used widely in studies of recidivism (Maltz, 1984). The probability of being re-arrested at monthly intervals, across both CSO and STP cases, are presented in Chapter Five.

Cox Regression models were then used to build predictive models of re-arrest among CSO and STP cases. In order to examine re-arrest at a variety of follow-up times a survival function was generated accounting for a number of predictor variables (see section 4.3.2.5) at a given time. Cox regression models, commonly referred to as proportional hazards models investigated the impact available demographic and criminogenic variables had upon a time specified event, in this case, time to re-arrest (Klein & Moeschberger, 2003; Kleinbaum & Klein, 1996).

In order to test the overall statistical significance of Cox Regressions models the likelihood chi-square statistic is calculated by comparing the deviance of the model, with all of the demographic and criminogenic variables specified, against the model without all variables. To understand the effects of demographic and criminogenic variables, the Exp(B) was interpreted as the predicted change in the hazard for a unit increase in the variable (Klein & Moeschberger, 2003; Kleinbaum & Klein, 1996).

4.3.3 Qualitative research methodology

In order to provide a more rounded picture of the ‘alternativeness’ of these sanctions, a mixed methods design was employed during this study. Semi-structured interviews were conducted with participants currently completing a CSO or short prison sentence. As outlined in Chapter Three, a review of the literature revealed that recidivism research is often completed without sufficient focus on the operation of criminal justice sanctions, how sanctions are experienced, and their impact on offenders’ future goals. Examining the comparative experience of completing sanctions aimed to augment findings from matched recidivism analysis.

4.3.3.1 Semi-structured interview schedule design. A participant demographic questionnaire and semi-structured interview guide were drafted for use with interviewee participants. The demographic questionnaire (see Appendix E) aimed to gather demographic and offence-related information, as well as information concerning participants’ prior contact with the criminal justice system. Open-ended questions in the interview schedule gave participants the ability to discuss their experience without imposing predetermined ideas about what answers they might give (see Appendix F).

The semi-structured interview guide was divided into four main sections, each created with reference to an area of enquiry, informed by the literature synthesised in Chapter Three. In addition, the following studies greatly informed the drafting of questions (Armstrong & Weaver, 2013; Searle, Knaggs, & Simonsen, 2003; Weaver & Armstrong, 2011).

The opening section of the schedule aimed to put participants at ease by asking about how long they had been completing their prison sentence or CSO, as well as the court process. These questions provided context and some brief details of the events that led to participants receiving their criminal justice sanctions.

The first section commenced an enquiry into participants' experience of their current criminal justice sanction. This section explored how participants spent their time in prison or during their CSO, what they believed the purpose of the sanction was, what they found difficult, and the positive or negative changes, if any, that had occurred since beginning of their sanction were also explored.

The second section sought to gather participants' views on the use of CSOs instead of short terms of imprisonment. This group of questions explored participant's views of CSOs as alternatives to short-term imprisonment, their comparableness, whether they were viewed as equal or unequal, and whether participants considered themselves suitable for community service.

Questions in the third and final section of the interview schedule explored participants' motivations to re-offending and any barriers they faced to becoming crime free. These questions explored the effect criminal justice sanctions had on these motivations, and whether they had facilitated desistance in any way.

Closing questions gave participants an opportunity to add anything they believed was missed in the questions asked during interviews. Participants were asked how they had found the interview and if any issues were difficult to discuss. After the final comment participants were thanked for their participation.

4.3.3.2 Inclusion criteria. At the study's outset, broad inclusion criteria were set for interview participants. Participants were required to be serving a prison sentence of less than 12 months, or be currently completing a CSO. As the comparableness of sanctions, experiences, motivations to re-offend and desist were explored, it was decided that interviewees should be approaching the end of their sentence, i.e. approaching release or completion of their CSO. This was set as having completed at least 75 percent of their sentence or CSO. This would facilitate the exploration of the concepts outlined above as participants would be more inclined to reflect at the end of their respective sanctions.

4.3.3.3 Sampling. Purposive sampling was utilised to reflect particular groups within the research population of interest from both CSO and STP groups. Purposive sampling has two primary aims: to make sure those topics of relevance can be discussed during interviews, and secondly, to ensure diversity in order to explore matters of interest (Ritchie, Lewis, Nicholls, & Ormston, 2013).

Participants were not chosen randomly; rather particular characteristics were used as the basis of sample selection e.g. those serving very short sentences, those serving sentences or community orders for a variety of offences and those with prior prison or community service experience. It was also attempted to sample a variety of ages within the sample. A degree of theoretical sampling occurred as prospective participants were approached. Older offenders were sought out in order to undertake further analysis, as it

was thought their experience may differ from that of the younger cohort (Ritchie et al., 2013).

4.3.3.4 Semi-structured interview procedure. All twenty-one semi-structured interviews were completed between August and October 2014.

4.3.3.4.1 Semi-structured interview locations. Mountjoy prison is a closed prison for adult males. It was chosen as a research site as it is the main committal prison for Dublin city and county. Since ethical approval had been granted (see section 4.4), it was the researcher's responsibility to contact the prison campus governor to seek his approval directly. All relevant approvals, interview guides, and the proposed recruitment procedure were forwarded to the campus governor. Due to a change in personnel a short delay occurred, however full permission was granted in July 2014.

Prison interviews took place in clinical service rooms located in the main prison. On one occasion an interview room in the circle of the main prison was used because of room availability. One interview took place in an interview room in Mountjoy West (a separate building from Mountjoy's main prison campus).

Three community service sites were identified by a senior probation officer who oversaw all community service sites in the Dublin area. These three sites were chosen because of the large numbers of CSO participants being received onto these sites. Manual work in a group setting was completed by participants in two of the community sites, while one site was predominantly education based (participants took part in group work and completed group courses such as anger management). Two were located in the West Dublin area and one in Dublin city centre. Community service supervisors were identified by the senior probation officer and their details made available. Each

supervisor was contacted to ask if CSO participants meeting the study's inclusion criteria were currently completing orders on their community service site. Interviews with all CSO participants took place in an interview room in the Probation Service's headquarters located in Smithfield, Dublin.

4.3.3.4.2 Interviewee selection. In order to identify prospective participants, the researcher met with the designated prison staff member ($n = 1$) and community service supervisors ($n = 3$) to discuss the study's inclusion criteria. At each meeting staff members consulted their administrative records to identify prospective interviewees.

In the prison setting the staff member accessed the PIMS data base where all prisoners currently held in the prison meeting the study's inclusion criteria could be identified. Participants to be approached were selected as they appeared on the list generated by the member of prison staff taking into consideration their prospective release dates, sentence lengths, offence types and ages. This protocol took place on two occasions to facilitate reflection on findings gathered from the first five prison interviews and determine how many more were required in order to reach data saturation.

At community service sites, paper records were consulted by community service supervisors. If the prospective participants were currently on site the supervisor approached them to ask if they were willing to speak with the researcher. If participants identified by supervisors were not on site, supervisors agreed to approach participants and ask if they were willing to speak to the researcher. The researcher made herself available on a number of days to travel to community service sites to meet with prospective participants.

All perspective interview participants were approached and each was provided with an information sheet about the study (see Appendix G). Whether the prospective participant met the study's inclusion criteria was again verified. This information sheet was read to all participants at least 24 hours before written consent was sought. It was suggested that all prospective participants should contact the designated member of prison or probation staff if they were interested in taking part in the research, following a 24-hour period of consideration. The liaison staff member then contacted the researcher to inform her of participants willing to take part. Interviews were then arranged.

4.3.3.4.3 Response rates. In total, 12 prisoners serving short prison sentences were approached and 11 interviews conducted. One prospective interviewee who was approached subsequently did not meet the study's inclusion criteria. Fourteen CSO participants were approached and 10 interviews were completed. Two individuals did not wish to take part and two individuals did not turn up for interview.

4.3.3.4.4 Interview procedure. Two pilot interviews were completed to assess the usefulness of the interview schedule. The second section of the interview schedule which examined whether participants were aware of legislative changes promoting the use of community service, proved difficult for some participants to understand. Extra time was taken to explain this question to all further interview participants.

All interviews began by outlining the study in brief, as well as a synopsis of the information sheet that had previously been read to participants. At this point all interviewees were given the opportunity to ask questions. Issues around confidentiality were explained again during the consent procedure and all participants were shown the

participant ID that would be used instead of their names. Participants' names were only recorded on the consent form.

Before any questions were asked an outline of what the interview would entail was provided. At this point, participants were reminded that they could withdraw from the study at any time, without having to give a reason. They were told that if they did not want to answer a specific question that it could be skipped over without any problem.

The demographic sheet was administered before the recorder was switched on, which also helped put interviewees at ease and build some rapport.

Issues around social desirability, truthfulness, accurateness and, of course, forgetfulness must be considered when discussing the topics contained in the interview schedule.

Although the researcher was impartial and was not affiliated with any of the criminal justice agencies overseeing participants' sanctions, participants may still have felt under some pressure to provide answers they thought were appropriate (Copes, Jacques, Hochstetler, & Dickinson, 2015; Roberts, Feilzer, & Hough, 2012). Research has shown good levels of validity among offending populations when completing research (Farrington et al., 2013) and as outlined in Chapter Five many participants' descriptions of community service and short-term imprisonment were similar, giving validity to interviewee accounts.

According to Onwuegbuzie and Leech (2007), the use of qualitative software tools increases rigour within a qualitative study. This is particularly relevant when large data sets are involved. The qualitative software tool NVivo was used during analysis. Strauss and Corbin (2008) claim that researchers who conduct constant comparison analysis often use some type of qualitative software to aid them. As discussed below (see section

4.3.3.4), grounded theory methods which include the constant comparison of data were used to generate theory. The compatibility of these methods with quantitative methods make it versatile and appropriate for use in mixed method studies (LaRossa, 2005). NVivo software aided the storage, sorting and coding of qualitative data, and increased the rigour of the qualitative element of this study.

While interview data was being collected and during analysis the researcher's academic supervisor acted as a peer de-briefer (often referred to as peer auditor). This involved discussions between the researcher who was conducting the interviews and analysing transcripts and the academic supervisor regarding methodological and analytical procedures. This provided an opportunity to examine emerging themes and increases the credibility of the findings (Leech & Onwuegbuzie, 2011).

4.3.3.5 Constant comparison analysis of qualitative data. The constant comparison method of data analysis was used to analyse qualitative data collected as part of this study. The constant comparison method, rooted in the grounded theory approach to data analysis was developed by Glaser and Strauss in the 1960s. A grounded theory methodology seeks to generate theory from within the data itself (Holloway & Todres, 2010). According to Strauss “the grounded theory style of analysis is based on the premise that theory at various levels of generality is indispensable for deeper knowledge of social phenomena” (p. 6). Importantly, any qualitative method of analysis is required to be systematic in its approach to data collection and analysis, however methods cannot be standardised as researcher discretion is required throughout. In essence there can be no ‘hard and fast’ rules controlling qualitative methods of analysis (Strauss, 1987).

4.3.3.5.1 Theoretical and philosophical perspective. Grounded theory

approaches are largely based on how reality is socially constructed, and the processes by which this occurs. According to Strauss (1987), social phenomena are complex, therefore to investigate them sufficiently, complex grounded theory techniques are required. Grounded theory takes an inductive approach to data analysis, whereby research findings do not constitute broad generalisations, but are better described as contextual judgements. This approach emerged as a shift from theory confirmation to that of theory development became evident across much qualitative research (LaRossa, 2005).

A symbolic interactionist perspective provides the basis to a grounded theory approach (Pidgeon, 1996). Derived from pragmatism, symbolic interactionism “assumes that people construct selves, society and reality through interaction” (Charmaz, 2006, p. 189). According to Annells (1996), symbolic interactionism is both a theory of human behaviour, and a method of inquiring about human processes. Herbert Blumer, an originator of symbolic interactionism, inferred that the meanings humans attribute to other humans, institutions, and objects, will determine what actions are directed towards such things. Annells states, “when human beings associate with each other, they are involved in interpretative interaction” (1996, p. 381). Language is said to be intrinsic to such processes, and according to Blumer, one of the most important symbols humans use to express themselves.

Comparison underlies all analysis when utilising a grounded theory approach, and the constant comparison method ensures that any theory generated stays rooted in the data (Boeije, 2002); it uses “logic to generate meaning” (Grove, 1988, p. 277). Constant comparison analysis merges two contrasting schools of thought when advancing theory development. The first, rooted in epistemological assumptions, and the second within

the pragmatist philosophical tradition (Charmaz, 2006; Strauss, 1987) which was considered suitable to the design employed in this study.

4.3.3.5.2 Rationale for choosing constant comparison analysis. Constantly comparing data allows the researcher to develop and refine emerging theories. As theories develop, subsequent questions will arise. The constant comparison method allowed for the analysis of data throughout the data collection period. Using concepts emerging from previously collected data, the researcher could decide what required further investigation, often referred to as theoretical sampling (Boeije, 2002). This new data was then compared to previous data to identify similarities and differences, ensuring that inferences were strongly rooted in what interviewees have said. Creswell (2013) recommends that data collection should continue while analysis of previously collected data is occurring.

Constant comparison analysis is one of the most widely used qualitative methods of analysis (Leech & Onwuegbuzie, 2011). It is most appropriate for studies where little is known about the topic or a new perspective is required. The use of constant comparison analysis ensures that theory develops from data, rather than already existent literature (Charmaz, 2006). Since its inception, many scholars have added to or amended the specific constant comparison techniques used when analysing qualitative data. Some advocate that it can be used outside of a grounded theory framework (Fram, 2013), however for this study, constant comparison analysis was interpreted as an element within the grounded theory perspective.

According to Boeije (2002), the use of the constant comparison method can increase the internal validity of findings. The constant comparison of data, categories and themes highlight the variety that exists within data, by underlining both similarities and

differences. It also increases external validity, if sampling has been conducted adequately, as it will create a strong basis for the credibility of findings. The flexibility of this method along with reasons outlined above supported its use in this study.

4.3.3.5.3 Constant comparison analysis methodology. The purpose of constant comparison analysis is to build rather than test a theory, provide a set of analytic tools to analyse data, help deduce multiple meanings from data, provide a process to aid researchers examine data, as well as help identify relationships across data (Leech & Onwuegbuzie, 2008). Constant comparison methods involve the fragmenting and subsequent connecting of data. Pieces of data were coded and separated from their interview transcript. Extracts were compared and combined with other fragments until connections were made. This aided the researcher to appreciate the overall picture of what an interviewee said (Boeije, 2002).

Theoretical sampling is essential for developing a constant comparison approach to data collection and analysis (Glaser & Strauss, 2009). According to Suddaby (2006) “theoretical sampling violates the ideal of hypothesis testing in that the direction of new data collection is determined, not by a priori hypothesis, but by ongoing interpretation of data and emerging conceptual categories” (p. 634). As themes articulated from a number of participants during interviews became apparent, new questions emerged. The process of analysing data throughout the data collection phase allowed the researcher to slightly modify interview questions and techniques in order to reach an adequate level of data saturation. Therefore, constant comparison and theoretical sampling proceeded simultaneously (Taylor & Bogdan, 1984).

According to Glaser (1964), and Lincoln and Guba (1985) the constant comparison method of analysis involves four stages. For the purpose of this research these stages

were followed in the context of what the research questions aimed to achieve. In a similar way to Boeije (2002), a purposeful approach to data collection and analysis was taken. Initially, comparison within each interview was completed. Following that, further comparisons of interviews in both the prison and community service groups were carried out.

4.3.3.5.4 Comparing incidents and coding into appropriate categories. The first stage of analysis involved identifying provisional themes, and comparing incidents that apply to such themes. Firstly, open coding was completed. This involved studying each transcript passage to determine what has been said. Passages were labelled, if more than one passage was labelled similarly they were compared, and new information then identified (Boeije, 2002). Previously coded passages were constantly compared with new data, codes compared to examine whether previously developed codes were applicable. New codes were generated to refine and develop original codes (Bowen, 2008). This comparison enabled the researcher to identify concepts and label them appropriately. This exercise generated a summary of each interview, and a preliminary list of codes referred to as a code tree (Boeije, 2002). Transcripts of interviewees sentenced to a short prison sentence were compared to each other, as were transcripts of those sentenced to a CSO before both sets compared to each other for comparative analysis. The following steps were completed during stage one.

1. To analyse each section of transcript the researcher posed a number of questions, for example: what might the respondent be referring to? What is the context of this paragraph? What is the tone of the text?
2. Meaningful pieces of the text were placed into a free code and labelled according to their significance.

3. Memos were written regularly to capture the thought process behind placing text into certain codes. This added to the trustworthiness and credibility of findings.
4. New codes were created as new information emerged from examining transcripts.
5. Each section of transcript was compared with the information in existing codes for look alike, feel-a-like qualities.
6. If the text did not fit with an existing code, a new code was created.
7. A miscellaneous code was created for text that appeared meaningful, but its significance unknown.

4.3.3.5.5 *Integration of themes and their properties.* The second stage involved a more detailed comparison between interviews. Interviewee responses of those sentenced to a short prison sentence were compared to those in receipt of a CSO. Fragments from different interviewee transcripts that were given the same or similar codes were compared. Often referred to as axial coding, this process was used to define categories by comparing and collating the combination of codes that exist for that concept (Boeije, 2002). Similarities and differences between interviewee responses were highlighted, as well as combinations of codes compared which created new more appropriate codes. Codes continued to be created until saturation was reached. The steps completed in stage two are listed below.

1. At the end of each transcript the researcher examined each category/concept and attempted to identify provisional rules for inclusion.
2. A code was created to include incomplete text that required further examination.
3. Throughout subsequent transcripts, text that fit the provisional rules were attached to corresponding codes; new codes were created as new categories emerged.

4. After three transcripts were coded, the researcher reviewed the 'miscellaneous' code and sorted it into new or existing codes as deemed appropriate.
5. After three-five transcripts were coded the researcher reviewed existing categories for overlap, and revised category names or provisional rules as appropriate.
6. Memos were drafted throughout this process.
7. After all transcripts were coded, the researcher reviewed the 'incomplete' code to compare if any questions that arose from some interviews had been addressed in other interviews. New codes were created as appropriate.
8. Those remaining in the 'incomplete' code were flagged for follow-up and examined by the researcher.

4.3.3.5.6 Defining the theory. The third stage involved delimiting and integrating categories/concepts into themes. Overlapping categories/concepts or undefined categories/concepts were re-examined until final versions emerged (Grove, 1988). This stage promotes a cyclical process of constant comparison, each time a new interview was analysed stages one and two were repeated until no new categories/concepts could enhance the already emerging theory. Analysis was considered complete when theoretical saturation had occurred; that is when no new themes could be identified nor any issue arise that may dispute an already established category (Bowen, 2008). The steps involved in stage three are outlined below.

1. Once the entire sample had been comparatively coded, all categories were reviewed to check for overlap, any emerging relationships, or any ambiguities.
2. Categories were re-coded, merged or expanded as appropriate.
3. Information within each free code was analysed to create appropriate tree (higher level) codes.

4. Tree codes were analysed for emerging themes.
5. The academic supervisor peer reviewed a sample of the data and any discrepancies were discussed in order to limit researcher bias.

4.3.3.5.7 Writing the theory. Stage four involved clarifying ideas which led to the formulation of multiple theories. Themes emerge from the categories/concepts that were defined by the codes assigned to them. Memos stored in NVivo software were consulted to remind the researcher how coding decisions were made, and how data was interpreted. A theory for each theme was constructed. These themes are presented in Chapter Five and discussed in Chapter Six.

It is important to note that these stages did not occur in isolation, each stage was repeated until analysis was considered complete. This process was not linear; rather stages are presented in this format to aid understanding of the process. The use of code mapping during theory write up helped to make the qualitative process of categorisation and theory development clearer. This technique allowed the reader to visualise coding processes and clearly identify the links made from research questions to the data analysed (Anfara, Brown, & Mangione, 2002).

4.4 Ethical considerations

Due to the nature of the study and the anticipated problems with data access, efforts to obtain permissions and ethical approval were commenced quite early in the research process and required much deliberation and consideration. This section begins with an outline of the procedures for obtaining approval, both from the higher education institution and the stakeholders involved in this research. Ethical principles are then discussed with consideration given to how these principles were complied with.

4.4.1 Institutional ethical approval

Institutional ethical approval was sought from Dublin Institute of Technology (DIT) Research Ethics Committee in April 2013. Conditional approval was granted in May 2013 pending the receipt of the formal approval and support from the other stakeholders involved in the research project. A letter of conditional approval was provided prior to applications being made to stakeholders. Full institutional approval was granted in January 2014 (see Appendix H).

4.4.2 Stakeholder ethical approval

In March 2013 formal contact was made with both directors of the Irish Prison and Probation Services to discuss the feasibility of completing the research project. A meeting was convened at Irish Prison Service headquarters and the research proposal presented to both directors. Agreement in principle was granted and the idea that a consultative group would be convened to oversee the research proposal was discussed (see section 4.3.1).

Before applications for ethical approval were made to stakeholders, queries regarding data then held by each criminal justice agency were made. In May 2013, discussions were held with the Corporate Affairs department of the Irish Prison Service, and the researcher met with a senior probation officer in the Probation Service to discuss data availability.

Applications for ethical approval were submitted to the Probation Service and An Garda Síochána and an application for research approval to the Irish Prison Service was made in June 2013. Applications required a detailed description of the study, an outline of ethical considerations, as well as an outline of the value of the research to the criminal justice agencies including a description of demands on resources and time. A meeting was held with an Assistant Director of the Probation Service to discuss the research application. Approval from these three criminal justice agencies was granted between June 2013 (Irish Prison Service) and October 2013 (Probation Service and An Garda Síochána) (see Appendix I).

A meeting was also convened with senior statisticians at the Crime Section of the Central Statistics Office in June 2013. The feasibility of conducting such research was discussed and agreement in principle given that the Central Statistics Office would facilitate data access and linking (see sections 4.3.2.3 and 4.3.2.4). Due to the sensitive nature of data being accessed, the lack of precedent regarding researchers accessing such data in Ireland, and Central Statistics Office protocols when accessing microdata, all data analysis had to be completed on site at the Central Statistics Office in Cork. Relocation for the periods of data analysis outlined above was therefore required. An application to access the appropriate RMF was made to the Central Statistics Office in January 2014. Approval was granted in February 2014 when the researcher and her supervisor were appointed under the Statistics Act, 1993 as officers of statistics of the

Central Statistics Office (see Appendix J). All statistical output was approved by a senior statistician at the Central Statistics Office before removal by the researcher.

4.4.3 Ethical principles and procedures

Probably the greatest risk in bureaucratizing ethics is creating the impression that when one has complied with the ethical requirements one is “done” with ethics and can forget about it (Paoletti, Menendez, & Tomas, 2013, p. 3).

4.4.3.1 Informed consent. Obtaining consent is a vital part in conducting any research using human participants. Two key aspects of consent are that it be informed and voluntary. The nature of the prison setting has a direct effect on a researcher’s ability to obtain informed consent from research participants, as autonomy is considered the philosophical basis of informed consent (Aveyard, 2010). Issues associated with prisoners’ diminished autonomy include: physical illness, mental illness, and substance misuse, as well as the highly controlled environment in which prisoners live (Magyar, Edens, Epstein, Stiles, & Poythress, 2012). This results in participants being particularly vulnerable (Eldridge, Johnson, Brems, & Corey, 2011). These are also applicable to research participants under the supervision of probation services, as similar issues regarding autonomy arise.

Initially, consideration was given to how participants would be approached to inform them of the study. It is best practice that an independent person (i.e. not the researcher) makes an initial approach to inform the prospective participant of the study and ask them if they agree to be approached by the researcher. This is challenging within the prison and probation environment. Due to practical implications, members of staff working in either healthcare or discipline usually take on this role. However, these

members of staff are not completely independent, due to their normal day-to-day involvement with prospective research participants. Some staff may decide themselves that participants are not appropriate for reasons outside of the exclusion criteria and some may subconsciously put pressure on participants to agree to be approached by the researcher.

The prison setting has been referred to as 'inherently coercive' (Dubler, 1982).

Examples of clear coercion to partake in prison research include direct pressure from prison staff or a belief that the participant will be punished for not partaking in research (Moser et al., 2004). A recent study investigating coercion in prison settings found no significant coercive influences affecting a prisoner's capability to make an autonomous decision to partake in research (Edens, Epstein, Stiles, & Poythress, 2011). However Moser et al. (2004), by comparing incarcerated subjects to a control group, concluded that the environment may have influenced prisoners' ability to give informed consent; however, direct coercion had not occurred.

Coercion can also be understood in terms of broader incentives or motivations for partaking in prison research. For example, spending longer periods of time out of cells, and meeting new people from outside the prison institution (Office for Human Research Protections, 1993). The above was considered before research participants were approached, but also during the entire study. Staff working in the prison were made aware of such and involved in discussions around how such influences can be overcome.

According to Eldridge et al. (2011) certain considerations should be taken into account when obtaining consent from participants. Researchers should avoid recruiting participants for studies at times of particular vulnerability, for example, immediately

after an individual's entry into prison or immediately after sentencing. Information was provided throughout the study and consent obtained at every relevant stage of the research project. It was important to inform prison and probation staff of why this research was needed, and the principles of good research practice were outlined to all staff involved in the study. Those who declined to partake in research were also supported, as it was explained that not taking part had no negative repercussions (Stiles, Epstein, Poythress, & Edens, 2012).

4.4.3.1.1 Informed consent and the quantitative study. Subjects involved in the quantitative element of this study were identified through the Irish Prison and Probation Services' electronic data systems. It was not practicable to seek consent from individuals for the RMF part of the study for two reasons: the large sample sizes involved (national samples) and the difficulty in accessing a transient population. The Data Protection Acts 1988 and 2003 provide an exemption where individual consent is not required when sensitive data is used for statistical or research purposes by the data controller, in this case the Irish Prison and Probation Services and An Garda Síochána. This exemption only applies when it is unlikely distress will be caused to individuals by providing this data (section 2B). The data used in this study is routinely collected by the Irish Prison Service, the Probation Service, and An Garda Síochána, and linking between these databases has previously been carried out by the crime division of the Central Statistics Office (Central Statistics Office, 2013a, 2013b).

4.4.3.1.2 Informed consent and the qualitative study. All qualitative interview participants were approached about the study by a designated member of the Irish Prison Service (in the case of prison participants) or a community service supervisor (in the case of community service participants). This member of staff acted as a liaison officer who could be contacted if issues arose during interviews. Although best practice

could not be observed when approaching participants, the researcher revisited the consent procedure as much as needed during the interview.

A short information document was provided to liaison officers to inform them of how to approach prospective participants and the researcher explained the study and protocols to each liaison staff member (see Appendix K). These designated members of staff then approached potential participants to inquire if they were willing to speak to the researcher about the study. The designated member of prison or probation staff then liaised with the researcher and informed her of all participants willing to be approached.

All prospective interviewee participants were approached and provided with information about the study. An information sheet (see Appendix G) was read to all participants and the opportunity to ask questions afforded to all prospective participants. Potential research participants were given an account of the foreseeable risks and benefits associated with participating in the research study. They were also assured that they could withdraw from the research study at any time and that this decision would not have any negative consequences. All participants were given at least 24 hours between initial approach and the seeking of formal consent. Participants were not offered any incentive to participate in interviews, however community service participants were afforded community service hours for taking part in the research interview. This was because they completed interviews during their community service working day.

Formal consent was sought in advance of any questions or recording taking place. An approved consent form drafted in accordance with the DIT Research Ethics Committee's standard format for written informed consent (see Appendix L) was read to all participants and the use of a recorder explained. Participants were given the

opportunity to ask questions before a participant number was assigned to them. A consent form outlining that they understood what was involved was signed by each participant. These forms were kept in a locked cabinet in the researcher's office.

4.4.3.2 Confidentiality. The confidentiality of information relating to identifiable persons was protected at all stages of the research process including; collection, storage, processing, and dissemination.

The creation of a national data set of individuals processed by the Irish Prison and Probation Services carried a number of risks, including the potential identifiability of such collated data. As outlined in section 4.3.2.2, all quantitative data was held at the Central Statistics Office in Cork and all data analysis was conducted on site. A senior statistician completed data linking (see section 4.3.2.4) and the RMF data file was transferred to a standalone computer made available to the researcher for her analysis.

As set out in the Central Statistics Office's Code of Practice on Statistical Confidentiality all identifying data was removed from the RMFs created (Central Statistics Office). These files were thoroughly pseudo-anonymised to the satisfaction of Central Statistics Office statisticians. PIMS and probation identifiers were retained on data sets for future verification (i.e. assessing data errors, accessing missing data) and follow-up purposes (i.e. assessing re-offending and developing a cohort of offenders that could be followed longitudinally). The risk of anyone accessing this 'data key' was very low as it was only be held at secured Central Statistics Office premises with strictly controlled access protocols. To further anonymise and safeguard the data sets, date of birth was converted to age and address reduced to county. No names were ever contained on the data sets transferred to the researcher by the Crime Section of the Central Statistics Office.

All output from statistical analysis completed by the researcher was checked by a designated senior statistician at the Central Statistics Office before removal by the researcher for drafting of results. When fewer than five individuals in an entire population exhibited a certain characteristic (e.g. offence type by sub-population), this information was deemed disclosive. Steps were taken to ensure that additional measures were used (e.g. table redesign) to ensure that cells with counts less than five and sensitive data combinations did not pose a risk to confidentiality. Care was taken where rows or columns were dominated by zeros and in particular where a total was one or two. Rows and/or columns were combined to increase the number of respondents in small cells. If this was not possible, values of low-frequency cells or cells dominated by a small number of large contributors were suppressed. Linked tables (tables which have been produced from the same microdata and have at least one row/column heading in common) were avoided where possible. Prior to any data analysis, broader categories were produced where appropriate, e.g. offence type, court type (see section 4.3.2.6).

The principle of confidentiality was explained to all qualitative interviewee participants, and the limitations of such also identified. It was made clear to participants that the content of the interview would be confidential, with the exception that the researcher would be obliged to disclose any information that would otherwise pose an immediate danger to the health, safety and wellbeing of the research participant and/or those around him/her (in accordance with the Prisoner Based Research Ethics Committee (PBREC) Guidance Document).

To ensure confidentiality, interview transcribing was carried out by the researcher and transcribed data thoroughly de-identified. Information that could potentially identify individuals was removed from interviewee transcripts such as names, dates etc. All data was held on an encrypted computer in a locked office. Participant numbers were

assigned instead of names or pseudo names. These numbers will be used to present findings.

Upon completion of the study, data will be destroyed as per guidelines set out by DIT, the Central Statistics Office and the Data Protection Acts 1988, 2003. Personal interviewee data will not be retained any longer than necessary (Dublin Institute of Technology, 2011). If an interviewee disclosed any material that the interviewer believed required reporting (e.g. previous serious offending) it was agreed that the designated liaison officer from the Irish Prison or Probation Service would be contacted. This did not arise during interviews.

4.4.3.3 Potential risk to participants. In most cases, researchers are not the most suitable people to decide whether the perceived benefits of their research outweigh the potential risks to participants (Paoletti et al., 2013). For this reason institutional and stakeholder ethical procedures required any possible risks this research could pose to prospective participants to be identified. This was included in the information sheet received by all participants.

Risks to confidentiality were regarded as low in both the qualitative and quantitative elements of this study. All quantitative analysis took place at Central Statistics Office premises and all statistical output was thoroughly checked by a designated member of staff before removal from the premises, in order to ensure that output was sufficiently aggregated. The Central Statistics Office acted in accordance with the Statistics Act 1993 when making RMFs available to the researcher. It retained the role of data holder, however, the researcher had responsibility for ensuring the confidentiality of all outputs generated during analysis, as stated in the policy on access to RMFs published by the Central Statistics Office.

The interview schedule dealt with a broad range of issues, none of which were deemed highly personal or sensitive. All interview participants were given the option of disclosing/discussing their current offence. One participant chose not to disclose or discuss the offence for which he received his criminal justice sanction.

4.5 Chapter summary

This chapter provided insight into the research design and methodology utilised to address the aims and objectives of the research. The chapter demonstrated how a mixed methods approach was most suited to the research objectives identified in Chapter Three. How qualitative data augmented quantitative data collected during this research is shown extensively in Chapter Six.

Ethical considerations, practicalities and appropriate permissions formed a large part of the research process. Flexibility on the part of the researcher was required as data accessed as part of this study could only be analysed in Cork. The involvement of many different stakeholders required organisation, reflection and the management of expectations.

Findings from the qualitative and quantitative procedures outlined throughout this chapter are outlined in the next chapter.

CHAPTER FIVE

RESULTS

5.1 Chapter overview

This study aimed to explore the use of CSOs in lieu of short prison sentences, compare the experience of completing such punishments, as well as investigate the outcomes of these alternative criminal justice sanctions. This chapter commences with a description of the profile of cases in receipt of CSOs and short prison sentences. Analysis of individuals in receipt of multiple sanctions, as well as comparative analysis of CSO and STP case attributes is then presented. Sections 5.2.2 and 5.2.3 address the questions of equivalence between community service and short-term imprisonment and issues of consistency across court type and jurisdiction, respectively.

Findings from the qualitative part of this study, which compared the experience of completing these sanctions, are presented in section 5.3. This section compares offenders' experiences of sanctions, as well as the comparative outcomes of CSOs and short terms of imprisonment as experienced by recipients. The purposes of community-based sanctions and alternatives to custody, like the CSO, are not well defined, therefore the types of evidence used to evaluate such community interventions need to be "varied and diffuse" (McNeill, Farrall, Lightowler, & Maruna, 2012, p. 3).

Recidivism outcomes as measured by re-arrest for CSO and STP cases sanctioned during 2011 and 2012 using reference periods of six months, one, and two years are then presented. Matching techniques were used to examine the impact receiving a CSO in lieu of a custodial sentence had on subsequent rates of re-arrest. The chapter concludes with a summary of observations.

5.2 The use of community service orders and short prison sentences in Ireland

This section presents descriptive findings of the use of CSOs and STPs in Ireland during 2011 and 2012.

5.2.1 Demographic information

5.2.1.1 Duplicate cases. The final data sets for this component of the study consisted of $n = 5,231$ CSO recipients and $n = 6,784$ cases in receipt of a STP sentence during 2011 and 2012. A number of participants in both cohorts had received multiple sanctions, see Table 1. When compared to the CSO cohort, more STP cases were in receipt of multiple sanctions. During these two years 20 percent of STP cases were committed to prison for a short period on at least two occasions.

Table 1

Participants receiving multiple sanctions during 2011 and 2012

Number of sanctions received	STP	CSO
2	1103	345
3	226	31
4	40	5
5	3	1
6	1	
Total (at least 2 sanctions received)	1373	382

5.2.1.2 Short-term prison cohort demographics. The total STP cohort consisted of 6,784 prisoners aged between 16 and 75 ($M = 29.7$, $SD = 9.45$), with 6182 (91%) of the cohort being male and 602 (9%) female. This gender trend is somewhat dissimilar to figures detailing all committals to prison during the years 2011 and 2012, in which females accounted for 13.6 and 15.5 percent of committals respectively (Irish Prison Service, 2011, 2012a). On average, cases in the STP cohort reported leaving full time education aged 15.3 years ($SD = 2.302$). Participants had an average of 8.74 previous convictions ($SD = 8.78$) with a median of 7.00. Twelve percent ($n = 764$) had no previous convictions recorded since 2003 (see section 4.3.2.5). Half of STP cases were aged between 25 and 39 years. Theft and related offences was the most common offence group among the STP cohort. See Table 2 for more detail.

5.2.1.3 Community service order cohort demographics. The CSO group consisted of 5,231 cases aged between 16 and 68 ($M = 28.69$, $SD = 8.45$), with 4,801 (92%) of the cohort being male and 430 (8%) female. Information regarding criminal convictions recorded since 2003 was available for 61 per cent ($n = 3202$) of the CSO cohort; participants had on average 8.22 previous convictions ($SD = 18.27$) with a median of 4.00. For the remainder of the CSO cohort ($n = 2029$), no prior criminal history since 2003 and no information available could not be delineated, therefore inferences about the number of first-time offenders in the CSO group could not be made (see section 6.5 for discussion of this limitation). See Table 3 for more information.

Table 2

Demographic and offence related information: STP cohort

Demographic Information	<i>n</i>	%
Gender		
Male	6182	91
Female	602	9
Age		
<18	131	2
18 to <21	823	12
21 to <25	1454	21
25 to <30	1546	23
30 to <40	1802	27
40 to <50	740	11
50+	288	4
Occupational Status at Prison Committal		
Employed	1008	15
Pensioner/Retired	8	<1
Student	61	1
Unemployed	5706	84
Missing	1	-
Education Level at Prison Committal		
Illiterate/Semi-literate/write name only	301	5
Some Primary Education	228	3
Completed Primary Education	1076	16
Some Secondary Education	1239	18
Completed Junior Certificate	1964	29
Completed Leaving Certificate	548	8
Completed Third Level Education	224	3
Group Certificate/Other	1203	18
Missing	1	-
Age Leaving Full Time Education		
Before age 15	1805	28
After age 15 before age 18	3993	61
After age 18 before age 21	594	9
After age 21	135	2
Missing	257	-

Table 2

Demographic and offence related information: STP cohort continued

Offence Related Information	<i>n</i>	%
Offence Type^a		
Sexual Offences	50	<1
Assaults and Related offences	610	9
Dangerous and Negligent Acts	491	7
Robbery, Extortion and High-jacking Offences	33	<1
Burglary and Related Acts	463	7
Theft and Related Offences	1366	20
Fraud, Deception and Related Offences	226	3
Controlled Drug Offences	419	6
Weapons and Explosives Offences	234	3
Damage to Property and to the Environment	421	6
Public Order and Other Social Offences	1086	16
Road and traffic offences	901	13
Offences against Government etc.	346	5
Offences not elsewhere classified	147	2
Prison Sentence Length on Committal		
<3 Months	2328	34
3 to <6 Months	2325	34
6 to <12 Months	2128	32
Missing	*	-
Time Served in Prison		
<3 Months	3489	52
3 to <6 Months	1819	27
6 to <12 Months	976	14
Missing	500	7
Committal Prison		
Castlerea Prison	737	11
Cloverhill Remand Prison	1051	16
Wheatfield	738	11
Cork Prison	1169	17
Limerick Prison (Female)	207	3
Limerick Prison (Male)	503	7
Midlands Prison	470	7
Mountjoy Prison (Female)	395	6
Mountjoy Prison (Male)	1003	15
Portlaoise Prison	*	*
St. Patrick's Institution	507	8

Note. Cells with counts less than 5 are marked with a *

^a Homicide and kidnapping offences were omitted due to low cell counts

Table 3

Demographic and offence related information: CSO cohort

Demographic Information	<i>n</i>	%
Gender		
Male	4801	92
Female	430	8
Age		
<18	24	<1
18 to <21	621	12
21 to <25	1421	27
25 to <30	1254	24
30 to <40	1276	24
40 to <50	492	9
50+	140	3
Missing	*	<1
Offence Type^a		
Sexual Offences	14	<1
Assaults and Related offences	564	11
Dangerous and Negligent Acts	304	6
Robbery, Extortion and High-jacking Offences	52	<1
Burglary and Related Acts	272	5
Theft and Related Offences	833	16
Fraud, Deception and Related Offences	132	3
Controlled Drug Offences	594	11
Weapons and Explosives Offences	130	2
Damage to Property and to the Environment	256	5
Public Order and Other Social Offences	1125	22
Road and traffic offences	756	14
Offences against Government etc.	109	2
Missing	90	2
CSO hours received		
40 to <100 hours	716	14
100 to <200 hours	2695	52
200 and more hours	1771	34
Missing	49	<1
Alternative Prison Sentence Length attached to CSO		
<3 Months	1161	22
3 to <6 Months	2513	48
6 to <12 Months	1256	24
More than 12 Months	254	5
Missing	47	<1
Case Outcome		
CSO completed	4158	80
Other outcome	981	20
Missing	92	<1

Note. Cells with counts less than 5 are marked with a *

^a Homicide, kidnapping and offences not elsewhere classified were omitted due to low cell counts.

5.2.1.4 A comparison of community service order and short-term prison

cohorts. Chi-Square tests and independent t-tests were conducted to establish whether demographic and offence variables differed between CSO and STP cohorts. On average, cases in the STP group ($M = 29.7, SD = 9.5$) were older than those in the CSO group ($M = 28.7, SD = 8.4$). This difference was significant $t(11755) = 6.18, p < .001$; however the magnitude in the differences in the mean (mean difference = 1.01, 95 per cent CI: 0.7 to 1.3) was very small, $r = .06$.

For those with previous convictions recorded since 2003, cases in the STP group ($M = 8.7, SD = 8.8$) had on average slightly more previous convictions compared to those in the CSO group ($M = 8.2, SD = 18.3$). This difference was not significant $t(3955) = 1.51, p = .13$ and represented a very small effect size $r = .02$. Geographic distribution of cases with and without recorded previous convictions by province showed significant associations between having no previous recorded convictions and being from the Munster region, among both CSO and STP cases. No significant associations were detected between having an address in Leinster or Connacht and having or not having previous convictions for both CSO and STP cases. Among CSO cases, but not among STP cases, a significant association between having no previous convictions/no information available and being from Ulster was detected [$\chi^2(1, n = 4592) = 7.877, p = .005, \phi = -.04$]. The skewness in the distribution of first-time offenders between CSO and STP cases in Ulster is not a concern as the effect size is very small, and differences in proportions minimal.

Differences were detected in the likelihood of receiving a CSO in three of the four provinces. Cases were less likely to receive a CSO in the Munster region [$\chi^2(1) = 23.024, p = .000, \phi = -.05$], and the Connacht region [$\chi^2 = 21.814, p = .000, \phi = -.04$], however these effect sizes were very small. Notably, cases were more likely to

receive a CSO in the Ulster region [$\chi^2 = 275.793, p = .000, \text{phi} = -.2$] and this effect was quite noticeable. There was no significant association between sanction received and being from the Leinster region (see section 4.3.2.6 for details of data preparation).

Significant associations were detected in the thirteen offence categories as presented in Table 4. Analysis showed that more cases convicted of a drug or public order offence received community service than was expected, however these effect sizes were small.

Comparison of the number of days spent in prison and the number of days taken to successfully complete alternative CSOs showed that on average, cases in the STP cohort ($M = 92.3, SD = 81.6$) spent fewer days in prison compared to the average time taken to successfully complete a CSO ($M = 297.1, SD = 193.6$). This difference was significant $t(4983) = -63.61, p < .001$; the magnitude in the differences in the mean (mean difference = -204.4 , 95 per cent CI: -210.7 to -198.1) was quite large, $r = .67$.

Table 4

Associations between sanction type, demographic and offence characteristics of CSO and STP cohorts

Demographic and offence characteristics	CSO		STP		Chi-squared test	Stan. Res.	Effect Size
	<i>n</i>	%	<i>n</i>	%			
Gender					$\chi^2 = 1.607, df = 1, p = .205$		.01
Male	4801	92	6182	91		0.3	
Female	430	8	602	9		-0.9	
Offence categories							
Sexual Offences**	14	22	50	78	$\chi^2 = 11.857, df = 1, p = .001$	-2.6	.03
Assaults and Related Offences***	564	48	610	52	$\chi^2 = 12.777, df = 1, p = .000$	2.6	.03
Dangerous and Negligent Acts**	304	38	491	62	$\chi^2 = 8.324, df = 1, p = .004$	-2.1	.03
Robbery and Related offences**	52	61	33	39	$\chi^2 = 11.360, df = 1, p = .001$	2.5	.03
Burglary and Related Offences**	272	37	463	63	$\chi^2 = 11.992, df = 1, p = .001$	-2.5	.03
Theft and Related Offences***	833	38	1366	62	$\chi^2 = 30.341, df = 1, p = .000$	-3.8	.05
Fraud and Related offences*	132	37	226	63	$\chi^2 = 5.903, df = 1, p = .015$	-1.8	.02
Drug offences***	594	59	419	41	$\chi^2 = 108.465, df = 1, p = .000$	7.5	.09
Weapons and Explosives Offences**	130	36	234	64	$\chi^2 = 8.429, df = 1, p = .004$	-2.2	.03
Crimes against Property**	256	38	421	62	$\chi^2 = 8.285, df = 1, p = .004$	-2.1	.03
Public Order Offences***	1125	51	1076	49	$\chi^2 = 70.037, df = 1, p = .000$	5.7	.07
Road Traffic Offences*	756	46	901	54	$\chi^2 = 4.863, df = 1, p = .027$	1.5	.02
Offences against Government***	109	24	346	76	$\chi^2 = 70.937, df = 1, p = .000$	-6.2	.07

Note. Homicide, kidnapping, and offences not elsewhere classified were omitted due to low cell counts.

* $p < .05$. ** $p < .01$. *** $p < .001$.

5.2.2 Equivalence between community service and short-term imprisonment

An alternative prison sentence is attached to each CSO by the presiding judge. A judge may mandate an offender to serve this sentence if found in breach of their order. Table 5 identifies the average number of community service hours equivalent to one month of imprisonment by court type. On average, across all court types, offenders were required to complete just under 28 hours community service for each corresponding month of alternative imprisonment.

Table 5

CSO hours equivalent to one month's imprisonment by court type

Court type	<i>n</i>	Average CSO length	CSO hours equivalent to one month of imprisonment	Average alternative prison sentence in months
District Courts	4784	$M = 149$ hrs $SD = 56.9$	34	4.4
Circuit Courts	436	$M = 179$ hrs $SD = 67.4$	10.1	17.7
Urban Courts	2466	$M = 152$ hrs $SD = 57.1$	29.2	5.2
Rural Courts	2252	$M = 154$ hrs $SD = 59.2$	26.9	5.7
Courts close to a prison	2235	$M = 152$ hrs $SD = 57.5$	29	5.2
Courts close to a prison (excluding Dublin Courts)	605	$M = 146$ hrs $SD = 51.0$	35.8	4.1
Court not close to a prison	2483	$M = 154$ hrs $SD = 58.7$	27.2	5.7
Dublin Courts	1630	$M = 154$ hrs $SD = 59.6$	27.2	5.7
Courts outside Dublin	3088	$M = 152$ hrs $SD = 57.3$	28.5	5.3

Further analysis showed the average number of community service hours equivalent to one month of imprisonment differed considerably by offence category. The average equivalence was highest for dangerous and negligent acts (31 hours), public order

offences (36.2 hours) and offences against government (34 hours) and lowest for sexual offences and robbery and related offences both 13.3 hours. See Table 6.

A comparison of average alternative prison sentence attached to a CSO, to the average short prison sentences received by the STP group, by offence category is shown in Figure One. Analysis found that sentence lengths among CSO cases were longer for all offence categories except crimes against property, for which they were equal. This increased length was most pronounced for sexual offences and robbery and related offences.

Figure 1

Short prison sentence and alternative prison sentence by offence type

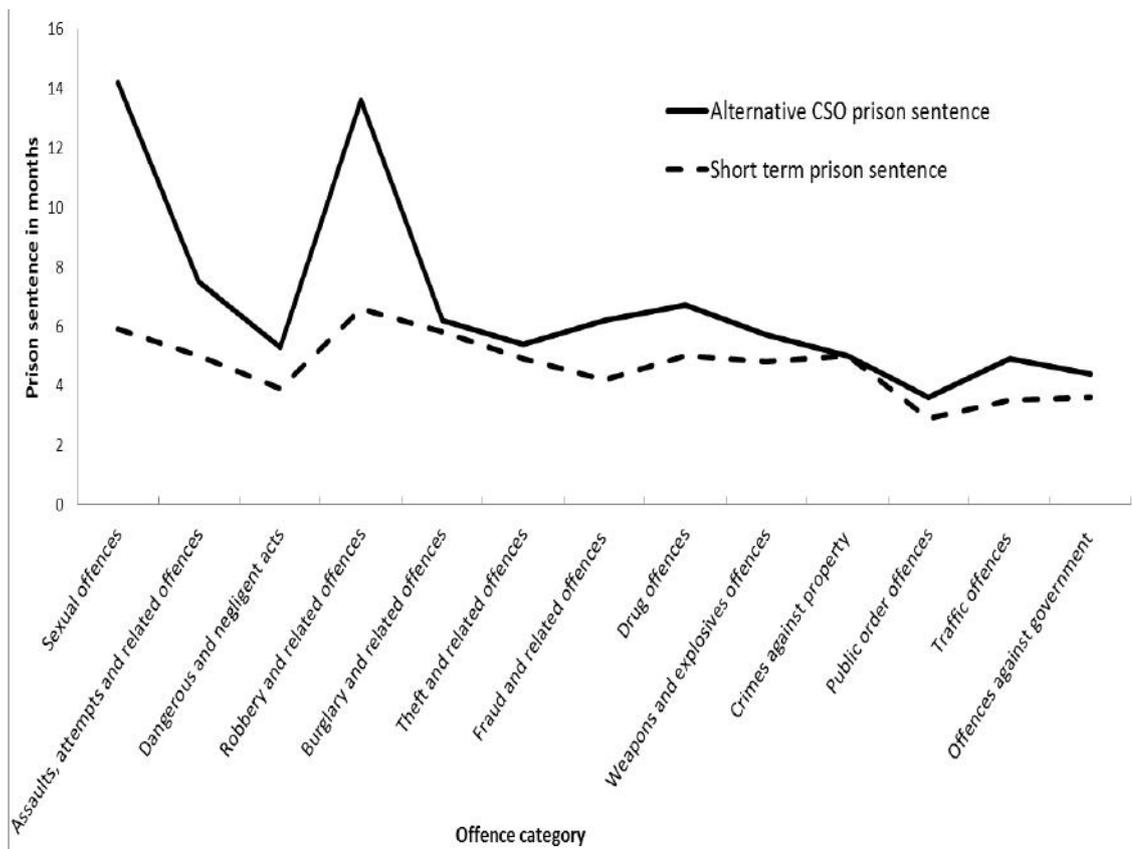


Table 6

A comparison of equivalence rate per month of imprisonment and average alternative prison sentence by offence category

Offence categories	CSO <i>n</i>	Average CSO length <i>M</i> = <i>hrs</i> <i>SD</i> =	CSO hours equivalent to one month of imprisonment	Average alternative prison sentence in months
Sexual offences	13	<i>M</i> = 189 hrs <i>SD</i> = 51.6	13.3	14.2
Assaults, attempts and related offences	564	<i>M</i> = 164 hrs <i>SD</i> = 60.8	21.8	7.5
Dangerous and negligent acts	304	<i>M</i> = 165 hrs <i>SD</i> = 55.7	31	5.3
Robbery and related offences	52	<i>M</i> = 181 hrs <i>SD</i> = 59.8	13.3	13.6
Burglary and related offences	271	<i>M</i> = 156 hrs <i>SD</i> = 60.1	25.3	6.2
Theft and related offences	832	<i>M</i> = 144 hrs <i>SD</i> = 58.2	26.7	5.4
Fraud and related offences	132	<i>M</i> = 156 hrs <i>SD</i> = 60.7	25	6.2
Drug offences	593	<i>M</i> = 164 hrs <i>SD</i> = 56.1	24.3	6.7
Weapons and explosives offences	130	<i>M</i> = 149 hrs <i>SD</i> = 58.1	26.2	5.7
Crimes against property	255	<i>M</i> = 146 hrs <i>SD</i> = 60.6	29.3	5
Public order offences	1124	<i>M</i> = 131 hrs <i>SD</i> = 54	36.2	3.6
Traffic offences	756	<i>M</i> = 162 hrs <i>SD</i> = 55.2	33.9	4.9
Offences against government	109	<i>M</i> = 148 hrs <i>SD</i> = 53.8	34	4.4
Total equivalence rate	5225	<i>M</i> = 151 hrs <i>SD</i> = 58.5	27.6	5.5

Note. Homicide, kidnapping, and offences not elsewhere classified are not displayed due to low cell counts.

5.2.3 Analysis by court type and jurisdiction

Analysis of court characteristics on sentencing decisions were carried out through the creation of a number of dichotomous variables. All courts were classified according to three criteria: whether they were in a rural or urban location; if they were in close proximity to a prison; and finally if they were located within the Dublin region. There were significant associations between sanction received and whether the court was located in a rural or urban area: more CSOs than expected were sanctioned by rural courts [$\chi^2 (1, n = 11,029) = 43.648, p = .000, \phi = .1$]. The odds of receiving a CSO in a rural court were 1.2 times higher than receiving a short prison sentence in a rural court. In courts not located close to a prison more people than expected received a CSO [$\chi^2 (1, n = 11,029) = 80.685, p = .000, \phi = .1$]. This was also the case in courts located outside the Dublin region [$\chi^2 (1, n = 11029) = 17.091, p = .000, \phi = .04$]. All effect sizes were very small.

5.2.3.1 District Court jurisdictions. Across all District Courts the average number of CSO hours imposed per month of alternative imprisonment was 34. This varied when examined by District Court jurisdiction. District Courts are organised on a regional basis into 23 jurisdictions, as well as the Dublin Metropolitan District. For presentation purposes courts are referred to by their assigned jurisdiction number in text. District Court numbers and geographical locations are presented in Table 7. In District Court 18, the average equivalence was 70.5 hours, in comparison to 23 hours in District Court 15. Examination by offence category showed that community service hours per month of alternative prison sentence also fluctuated across District Court jurisdictions. For example, an offender in District Court six received an average of 23 hours community service per one month alternative prison sentence for a public order offence, whereas an offender in District Court nine received on average of 92.6 hours

per one month alternative prison sentence. More detailed analysis of the offence threatening/abusive/insulting behaviour in a public place ($n = 366$), a crime within the public order offence category, indicated notable variation. On average, offenders received 50.1 hours community service per month of alternative prison sentence; however this ranged from 102 to 30 hours when examined across all District Court jurisdictions. This was also observed for the offence of intoxication in a public place ($n = 400$), a crime within the public order offence category. CSO hours per alternative month imprisonment ranged between 91.4 and 13 hours across District Court jurisdiction for this specific offence.

Analysis also examined the association between sanction received and District Court jurisdiction. Quite a number of significant associations were detected. More CSOs were sanctioned in District Court one than expected, whereas fewer than expected were sanctioned in District Court four and District Court 13. The odds of receiving a CSO in District Court one were seven times higher than receiving a short prison sentence. The odds of receiving a short prison sentence in District Court four were 11 times greater than receiving a CSO and in District Court 13, it was four times higher. See Table 7.

5.2.3.2 Circuit Court jurisdictions. As outlined previously there are eight Circuit Court jurisdictions; analysis examined the association between sanction received and Circuit Court jurisdiction. As can be seen in Table 8, more CSOs were sanctioned in the Northern Circuit Court jurisdiction than expected, whereas fewer than expected were sanctioned in the Cork, South Western and Eastern Circuit Court jurisdictions.

Across all circuit courts the average number of community service hours per month of imprisonment was 10.1. This varied when examined by jurisdiction. In the Dublin

Circuit Court jurisdiction, the average number of hours per month's alternative prison sentence was 9.6, in comparison to 14.9 hours in Cork Circuit Court jurisdiction.

Analysis of offences (stratified by offence group) dealt with at Circuit Court level found that more offenders than expected received a CSO for offences categorised as violent [$\chi^2 (1, n = 926) = 29.428, p = .000, \text{phi} = -.2$], whereas fewer than expected received a CSO for a traffic offence [$\chi^2 (1, n = 926) = 17.176, p = .000, \text{phi} = .1$].

Table 7

Association between District Court jurisdiction and receiving a CSO instead of a STP

District Court jurisdiction versus sanction	CSO group		STP group		Chi-squared test	Standardised Residual	Effect size
	<i>n</i>	%	<i>n</i>	%			
Dublin Metropolitan District***	1482	40	2232	60	$\chi^2 = 23.607$, $df = 1$, $p = .000$	- 2.9	.05
District 1 County Donegal***	261	82	56	18	$\chi^2 = 206.093$, $df = 1$, $p = .000$	10.7	.1
District 2 Counties Leitrim, Donegal and Sligo	45	38	74	62	$\chi^2 = 1.342$, $df = 1$, $p = .265$	- .9	.01
District 3 County Mayo	66	40	101	60	$\chi^2 = 0.859$, $df = 1$, $p = .386$	- 0.7	.01
District 4 Counties Galway and Roscommon***	13	7	188	93	$\chi^2 = 111.902$, $df = 1$, $p = .000$	- 7.9	.1
District 5 Counties Cavan and Monaghan***	234	61	151	39	$\chi^2 = 51.362$, $df = 1$, $p = .000$	5.3	.07
District 6 County Louth***	240	65	127	35	$\chi^2 = 77.615$, $df = 1$, $p = .000$	6.5	.09
District 7 County Galway	103	37	174	63	$\chi^2 = 3.987$, $df = 1$, $p = .049$	- 1.5	.02
District 8 County Tipperary	67	51	65	49	$\chi^2 = 3.247$, $df = 1$, $p = .077$	1.4	.02
District 9 Counties Longford and Westmeath**	137	36	247	64	$\chi^2 = 8.833$, $df = 1$, $p = .003$	- 2.2	.03
District 10 Counties Louth and Meath***	19	10	179	90	$\chi^2 = 92.153$, $df = 1$, $p = .000$	-7.2	.1
District 12 Counties Clare and Galway	58	37	100	63	$\chi^2 = 2.626$, $df = 1$, $p = .106$	- 1.2	.02
District 13 County Limerick***	54	17	274	83	$\chi^2 = 91.121$, $df = 1$, $p = .000$	- 7.2	.1
District 15 Counties Laois and Offaly***	179	57	133	43	$\chi^2 = 26.964$, $df = 1$, $p = .000$	3.9	.1
District 16 County Wicklow*	49	34	96	66	$\chi^2 = 5.133$, $df = 1$, $p = .028$	- 1.7	.02
District 17 County Kerry***	8	8	88	92	$\chi^2 = 47.627$, $df = 1$, $p = .000$	- 5.2	.1
District 18 Cork County 1***	50	25	148	75	$\chi^2 = 26.071$, $df = 1$, $p = .000$	- 3.8	.1
District 19 Cork City	601	45	733	55	$\chi^2 = 2.533$, $df = 1$, $p = .116$	1.1	.02
District 20 Cork County 2*	101	50	100	50	$\chi^2 = 4.344$, $df = 1$, $p = .044$	1.6	.02
District 21 Counties Tipperary and Waterford**	99	56	79	44	$\chi^2 = 11.688$, $df = 1$, $p = .001$	2.6	.03
District 22 Counties Carlow and Kilkenny	100	46	116	54	$\chi^2 = .953$, $df = 1$, $p = .332$	0.9	.01
District 23 County Wexford***	119	64	68	36	$\chi^2 = 32.960$, $df = 1$, $p = .000$	4.3	.1
District 24 Waterford City***	131	67	65	33	$\chi^2 = 46.160$, $df = 1$, $p = .000$	5.1	.1
District 25 County Kildare	133	45	161	55	$\chi^2 = 0.596$, $df = 1$, $p = .473$	0.6	.01

* $p < .05$. ** $p < .01$. *** $p < .001$.

Table 8

Association between Circuit Court jurisdiction and receiving a CSO instead of a STP

Circuit Court Jurisdiction versus Sanction Type					Chi-squared test	Standardised residual	Effect size
	<u>CSO</u>		<u>STP</u>				
	<i>n</i>	%	<i>n</i>	%			
Dublin Circuit*	150	48	163	52	$\chi^2 = 5.543, df = 1, p = .02$	1.4	.08
Cork Circuit ***	21	19	89	81	$\chi^2 = 28.530, df = 1, p = .000$	-3.8	-.20
Northern Circuit***	72	70	31	30	$\chi^2 = 35.451, df = 1, p = .000$	4.2	.20
Midland Circuit*	54	54	46	46	$\chi^2 = 5.950, df = 1, p = .02$	1.7	.08
South Western Circuit***	*	*	35	-	$\chi^2 = 19.611, df = 1, p = .000$	-3.3	-.20
South Eastern Circuit	51	52	48	48	$\chi^2 = 3.590, df = 1, p = .058$	1.4	.06
Western Circuit	16	32	34	68	$\chi^2 = 2.457, df = 1, p = .117$	-.05	-.02
Eastern Circuit***	7	11	57	89	$\chi^2 = 28.378, df = 1, p = .000$	-3.9	-.20

Note. Cells with counts less than 5 are marked with a *

* $p < .05$. ** $p < .01$. *** $p < .001$.

5.3 The comparative experience of completing a community service order and a short term of imprisonment

As outlined in section 4.3.3.4, interviewee transcripts were analysed using the constant comparison method of qualitative analysis. Analysis aimed to compare the experience and perceptions of interviewees from both groups; some experiences were, however, isolated to one group or the other. Data was coded, re-coded and finally condensed into four main themes: ‘alternatives?’; perceptions of sanction suitability; routine, and finally, ‘The System’. An overview of themes and sub-themes are presented in Figure Two.

5.3.1 Interviewee demographic information

The demographic information collected from interviewees is presented in Appendix M. In total, ten CSO interviewees and 11 STP recipients were interviewed. The mean ages of the two groups were broadly similar; those in the CSO group were slightly younger ($M = 30.5$ years, $SD = 7.62$) than STP interviewees who had an older mean age of 32.1 years ($SD = 7.54$).

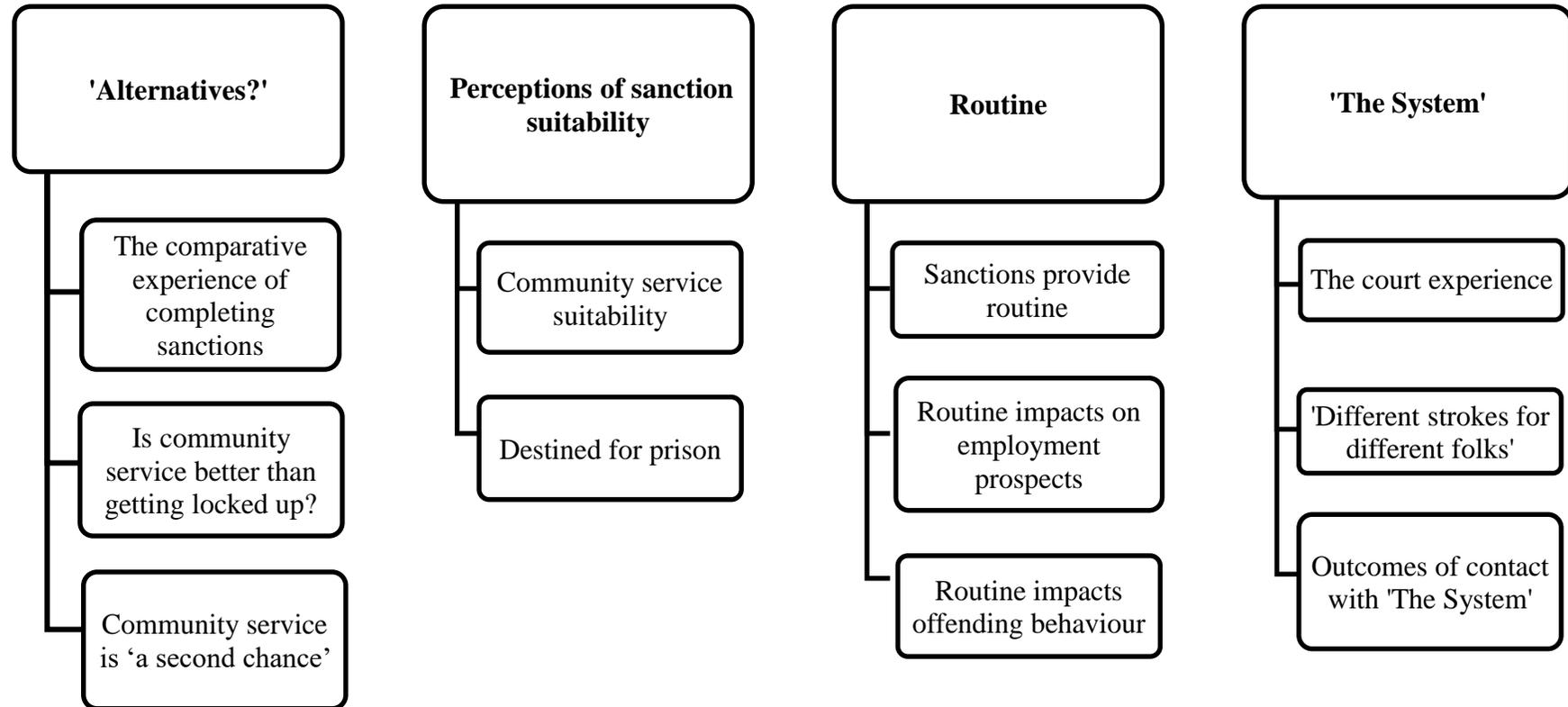
Four of the ten CSO interviewee participants had previous experience of imprisonment, compared to ten of the 11 STP recipients. The frequency of prison sentences served was much greater for STP than CSO interviewees. Only one CSO interviewee had experience of juvenile detention compared to 82 percent ($n = 9$) of those in the STP group. In general, self-reported offence types were broadly similar between groups. Two of those in the CSO group had received their CSOs for possession of illicit substances, whereas drug offences were not represented in the STP group, although as outlined below, many STP interviewees struggled with addiction issues.

Primary school level education was for nine of the 11 STP group interviewees their highest educational achievement; in comparison, many CSO participants had achieved leaving certificate qualifications¹¹ or higher. More interviewees were employed or in full time education prior to starting their CSO (50%, $n = 5$) compared to 36 percent ($n = 4$) of STP interviewees. Accommodation arrangements were broadly similar across groups.

¹¹ The leaving certificate is the final examination in the Irish secondary school system.

Figure 2

Outline of themes and sub-themes



5.3.2 ‘Alternatives?’

Interviewees’ perceptions of how a CSO and short term of imprisonment compared and the sanction they would have chosen if afforded the opportunity unearthed some thought-provoking dialogue. One theme which emerged from analysis of interview transcripts was ‘alternatives?’, which unpacks the views of participants on the true alternative nature of these criminal justice sanctions, hence the use of a question mark when naming this theme. Coding procedures resulted in three main subthemes emerging: ‘the comparative experience of completing sanctions’; ‘is community service better than getting locked up?’; and ‘community service is a second chance’. This theme recognises the contrasting experience of completing a CSO as an alternative to a short prison sentence, and vice versa.

5.3.2.1 The comparative experience of completing sanctions. Interviewees were asked how they occupied their time during their respective sanctions. A variety of community service sites were used to recruit CSO recipients. A large proportion of CSO recipients were required to complete manual work during their order; gardening, painting, and cleaning among a range of other activities. Some interviewees completed skills training, as well as courses in alcohol awareness and anger management as part of their orders. In comparison, those in the STP group occupied themselves with the prison gym, spending time in the prison yard, in the prison workshops, reading, and watching television. The sub-theme ‘the comparative experience of completing sanctions’, discusses four concepts identified through comparative analysis. These were: a sense of normality; difficulties encountered; motivated to complete sanctions; and sanction outcomes. These are outlined below.

5.3.2.1.1 A sense of normality. Interviewees across groups spoke of ‘a sense of normality’ when describing their respective sanctions, but the ‘normal’ they described was quite different. When asked how sanctions compared, participants in both STP and CSO groups outlined how community service maintained a sense of regularity compared to imprisonment. Importance was attributed to activities such as choosing one’s own meals and sleeping in one’s own bed; respondents reported living ‘normally’ and completing typical activities while completing community service. Those in the STP group also emphasised the normality of community service compared to even a short spell of imprisonment:

So they [CSO recipients] can stay with their family, their kids, like doing normal things in life, like in here [prison] for instance we can’t even walk to the shop; we have to get a form and fill out a form and then wait two days to get the shop, like. It’s just ah, I don’t know, I really don’t. [STP P3]

When probed about this sense of ‘normality’, CSO recipients described how completing community service had increased their sense of belonging within wider society. When completing their community work, recipients reported feeling similar to other people, i.e. those principally in regular employment. An interesting finding was that participants believed community service provided a certain level of anonymity. In general, the public was unaware that recipients were completing a criminal justice sanction; they only witnessed interviewees dressed in work attire completing manual labour. Notably, CSO recipients associated putting on their ‘boots and gloves’ with an increased sense of ordinariness. An increased sense of self-worth associated with completing a work task was also reported by a number of CSO recipients:

Ya, 'cause you look forward to it you know, it's a good, well that's what I think anyway, but like ya, walking out in the work gear you know it's positive isn't it, you're working and I look forward to doing it on a Wednesday so, it's alright for me, you know....Positive 'cause you feel good, 'cause you're doing something, no one knows you're doing community service, but you know you feel like, you're like everyone now, same as everyone that's working you know, you're working, but ya that's what it does for me. [CSO P10]

A large proportion of participants from both CSO and STP groups were unemployed prior to starting their respective sanctions. Completing community service provided participants in this sample with a sense of camaraderie with those in regular employment:

Ah ya definitely, 'cause you get lunch and all over there so like it's grand so [INAUDIBLE] it's just like going to work as well in a sense, like you get up in the morning, get the bus, see people that are going to work or whatever like so like it's nothing different like except you're probably only going once a week so that's the only difference ya so. [CSO P3]

For those in the STP group, many of whom had completed numerous prison sentences, coming into prison was also described as a 'normal' activity. The majority reported having peers in prison, claiming they knew what to expect. Others used humour to describe their experience of imprisonment; phrases such as 'part of the furniture' [STP P10] 'one big hostel' [STP P2] were used to deflect when participants were asked to describe how they felt when committed to prison on this occasion. Nearly all STP participants described the

prison environment as familiar and normal, many identifying how they had become institutionalised at a young age:

Institutionalised I presume. It's the only way I can describe it. Institutionalised. As I said I'm in and out of prison since I was young, so as I said I'm part of the furniture.
[STP P10]

Similar to CSO recipients, STP participants also discussed the desire to feel 'normal' within society. As outlined above, completing community service work seemed to heighten offenders' sense of ordinariness with the working public. Respondents in prison, however, identified themselves as different and far more removed from general society:

If I say to someone on the outside I was in jail before they'd kind of step back and go oooh criminal [laughs][pause] it's kind of awkward too being known as a jail bird. [STP P2]

Participants in both groups acknowledged this sense of normality when completing their respective sanctions; however their experiences contrasted greatly. Community service was attributed to maintaining normality in offenders' lives; it also increased offenders' sense of ordinariness within greater society. In contrast, those in the STP group reported a sense of normality within the closed prison environment, using humour to describe their familiarity with coming to prison.

5.3.2.1.2 Difficulties encountered. Participants from the CSO group reported fewer difficulties while completing their orders when compared to STP recipients. A few

acknowledged the financial cost associated with getting to and from community service sites, describing this as burdensome. Those in full time employment found juggling their community service hours with a full time job somewhat difficult. One CSO participant found it necessary to quit his employment due to his community service commitments. Although only one participant reported this difficulty; it impacted this young man's life greatly:

'Cause I was supposed to work six days a week, 'cause I had my daughter on a Saturday, I could only work five and then they wanted me to do community service which made me work four and they needed a person in there six days a week. They were keeping me on 'cause I could do the five, but they needed someone there six days a week. So pissed off that I lost my job. [CSO P5]

The difficulties associated with completing a short term of imprisonment were much greater. Examples included a lack of education arrangements for those serving short prison sentences, the availability of illicit substances in prison, over-crowded conditions, the volatile nature of the prison environment, involvement in feuds, and violent attacks as well as the maintenance of family relationships. STP recipients experienced difficulties accessing services because of the short time they would spend incarcerated. Many reported being turned away from classes and workshops because of the nature of their short prison sentence:

There were classes there, but because I'm on a small sentence the teacher said, there is classes here but because of the small sentence he said come if ya want to do your

junior cert or leaving cert you'd only be started and it could be a waste of time he says. [STP P4]

A difficulty acknowledged by offenders in both groups when comparing sanctions was the physical restraint or perceived confines of the prison setting. Although participants across groups acknowledged that community service could be physically challenging. The physical restrictions experienced during imprisonment were considered more demanding according to interviewees from both groups. Much reference was made to the tangibility of prison walls, as well as the continual nature of serving a prison sentence:

Ya, 'cause you're on the landing you know, you're tied you know what I mean. You're tied in here, every day. You're based here, d'ya know what I mean... [during community service] as I said, you're on the outside like, you're not locked up. You can go home like, and still have your life. Go home to your family and still carry on with what you're doing, you know what I mean. In prison you're just stuck behind bars. [STP P4]

Being physically separated from children and partners was identified as a major point of contrast when comparing these alternative sanctions of relationships. Reflecting on the impact of imprisonment caused some interviewees distress and guilt:

Ah, I felt a bit down, because of ya the kids, when I was leaving them behind, I mean my common law wife and two kids, and she's supporting them, it's basically it. I don't mind coming into prison, I have to, but it's just what I'm leaving outside. [STP P10]

Some participants in the STP group identified that imprisonment was easier for those without meaningful relationships on the outside. For such offenders, the pains of imprisonment were not felt as strongly. As identified previously, many interviewees in the STP group had much prior experience of imprisonment. When compared to completing a CSO, being separated from their families, in particular their children, was considered a harsher punishment for both offenders and their families.

Difficulties completing sanctions were predominantly experienced by those in the STP group. The intermittent nature of completing community service work compared to the enduring nature of even a short spell of imprisonment was notable when interviewees compared sanctions. The majority of those in the CSO group completed their orders with little or no trouble. Participants in the STP group experienced difficulties with addiction, relationships, housing, and employment. These issues emerge again in forthcoming analysis.

5.3.2.1.3 Motivated to complete sanctions. The motivation required to complete sanctions was discussed with participants across groups. Many CSO recipients spoke about their willingness to ‘get stuck in’ and ‘get on with the work’. The majority reported readiness to complete any task assigned to them, often comparing their community service experience to having a regular job. For those whose community service did not involve physical tasks, they were also dedicated and motivated to complete their orders:

Everyone used to say community service. They think he’s gonna be out picking up litter or you know, but to actually get something out of it. As I said I did [an] alcohol awareness thing and I took little bits away from it. Next week I’m going to

do the anger management, I'm not an angry person, but I'm sure I'll take something out of it you know. [CSO P8]

In comparison, those serving short prison sentences reported a dearth of available activities. Being afforded education, training, or work opportunities was not likely because of their short sentences. Many were unaware of when they would be released and while the majority did not want to stay any longer than required, the likelihood of getting released on a temporary basis meant many respondents did not apply themselves while in prison:

Just 'cause it's a short sentence like you know, so I just didn't bother getting stuck into anything like you know so, there's no point in doing anything you could be out any day you know...They won't take ya on, 'cause they know themselves you could be gone at any time, so they don't really take ya on to anything you know. You have to be serving longer sentences like, like everyone serving longer sentences get the jobs or gets this and that like. You know. [STP P6]

Important at this point, is the fact that some STP recipients were motivated to complete prison sentences. Those who reported chaotic lives in the community, the homeless, and those with substance misuse problems referred to prison as 'a break from the outside'. They were motivated to come into prison 'to sort themselves out' and the majority were motivated to detox from illicit substances. A number of participants reported 'needing prison'. Due to their circumstances in the community many STP recipients stated that they would have chosen to complete a short prison sentence instead of a CSO if given a choice on this occasion:

I think it's 'cause of the situation that I was in, I would have rathered what I got like, the 5 months, 'cause I was after coming off so many tablets like. I was taking, I was getting three tablets a day off the doctor like every day and then I was taking Zimmophane, Roche 5, Roche 10 all sorts of tablets on the outside. I just wanted to come in, just freshen up and get out a different person. [STP P3]

Respondents believed that prison was the only available option to receive help for their addiction:

See a lot of them [prisoners] stay in here sorting there addiction out you know, there's not enough places out there to sort your addiction out like. There's not enough beds, places to go like d'ya know what I mean. [STP P11]

It was clear that recipients' incentives to complete sanctions differed between groups. Those in the CSO group wanted to get stuck into their assigned work and complete their sanctions quickly. In comparison, those in the prison group were motivated by goals such as detoxification. How offenders perceived the purpose of sanctions therefore differed considerably. The theme of sanction suitability in section 5.3.3 discusses in greater depth the idea that the criminal justice system operates differently for certain types of offenders. Those from the CSO group did not regard their community work as providing a break from the chaos of life.

5.3.2.1.4 Sanction outcomes. The final sub-category discusses broadly the outcomes of a CSO compared to a short term of imprisonment as experienced by recipients. Many short-term prisoners were unable to untangle the outcomes of this specific prison sentence

from the others they had experienced; many spoke about the cumulative effect of imprisonment on their lives. This is similar to observations made by Armstrong and Weaver (2010) and discussed further in Chapter Seven.

An important outcome reported by CSO recipients was appreciation of how their community service work affected others. Those completing manual work for charitable organisations claimed community service was ‘doing some good’; they recognised how their work made a difference to others:

To say I didn't mind to be honest with ya, with kids like that down there it really opened up my eyes to be honest with ya, I don't mind working for places like that, that's no problem to me to work on something like that for them 'cause I know I'm doing some sort of good and even like the back garden where we were in the house there loads of trees and that and... it's all gone it's grand and they have a lovely back garden. I feel happy to do something like that. [CSO P1]

Respondents considered community service as a way in which offenders could pay back to society for the crimes they had committed. Those in the STP group also valued this concept. According to interviewees, the outcomes of community service were more positive than those of a short prison sentence. The respondent below identifies how outcomes varied between sanctions. Notable is this respondent's emphasis on ‘harm’ compared to providing help:

Community service is like whatever amount of hours you've to do a week like that's not going to harm anybody, you're helping the community. Like, it's not

harming you, you're helping people you know like, you're getting punished for what ya done by helping the community you've took something and now you have to give it back. [STP P3]

Respondents also reflected on the comparative financial cost of serving a short prison sentence or completing a CSO. Some interviewees believed that completing community service in fact saved the state money as community service provided services that would have had to be paid for otherwise:

Well, this is exactly how they compare right. A short sentence right, it's gonna cost the state 2,000 euros a week to keep a prisoner. Community service is gonna cost the state nothing, it's gonna give the state something because they're not going have pay painters to paint a church or an old folks home you know what I mean, simple as that. [STP P9]

An outcome of community service described by nearly all CSO recipients was how their orders had changed their outlook on life. Many were positive about re-joining the work force. In particular, CSO recipients reported gaining new skills during their community service; meeting new people was also a positive outcome reported by interviewees. This respondent acknowledges how the impact his community work had on others, changed his attitude about certain things:

Well you're doing work there and you're not getting paid for it. It's work that has to be done so up in [place name], where I am, you get to see people with special needs and things and it makes ya think, well you know like [laughs], it's always worse out

there and there are people in a lot worse situations as well, especially in [place name]. You see the work people do up there is very very good. It's... when you're helping out and you're painting a room or someone's house in [place name], it's... I mean there's a bit of pride in doing it. If somebody goes in there who isn't capable of doing that and then now they have a lovely room or their garden has been done so they're happy with that. [CSO P7]

As identified above, some STP interviewees were motivated to complete a term of imprisonment in order to help them address their substance misuse problems. For those who reported such problems, stability was an outcome of imprisonment, however, imprisonment had a negative effect on other aspects of life. As outlined below, family relationships were greatly impacted by imprisonment:

It's back to the same thing, back to my family. They're suffering as well, my daughter is suffering, but it's me that's after bringing all this on the family d'ya know what I mean so. [pause] yes course, it's prison isn't it. D'ya know what I mean, that's going back to the family thing that's how you're being punished, not seeing your family. If you haven't got family, jail wouldn't be a problem, it's the family situation d'ya know what I mean. Family. [STP P7]

The impact of imprisonment was not confined to interviewees' time in confinement. For many, the outcomes of imprisonment were felt long after they were released. They described losing homes, possessions and employment:

Well, ya well when you're getting out you have no social welfare, all your benefits are cut, you're starting all over again with that. If you were working, your job's gone like, you know all stuff like that, everything you had going for ya on the outside is all gone 'cause you're after being in here for the couple of months and that like. Everything is gone. [STP P6]

In general CSO participants did not know what to expect before starting their CSO. Many knew that completing physical work would be part of their punishment, what transpired through discussion was that community service was not the punishment they expected. Many were unaware of the positive outcomes it would have:

Ahhh... mentally I was prepared ya but not but I wasn't prepared for the good side of it I was prepared for like going out and doing the hard work that was about it.
[CSO P3]

The effect of sanctions on recipients' motivations to re-offend was discussed at length. Many CSO recipients enjoyed their community work, but its deterrent effect was also discussed. Working without pay was the least enjoyable outcome of completing community service:

Basically you're working for the community for free of charge, kinda voluntarily, well not really voluntarily like 'cause the judge orders and basically it keeps ya out of prison like. It's not too bad doing it, but when you're finished it, after working for free, you don't want to work again for free so you're going to stay away from trouble aren't ya. That's what I think anyway. [CSO P9]

The majority of those in the STP group spoke about the revolving door nature of the prison environment, some referring to their first prison sentence as the start of ‘a rotating belt’, claiming there was a greater chance of re-offending after a prison sentence. When asked about the outcomes of a short prison sentence some respondents claimed they learned how to commit crimes while in prison, while others spoke about its ability to temporarily stop an offending cycle:

[Pause] Em... I suppose to put a stop to people out committing crime isn't it. When you're on, when you're out there committing crime every night like, I suppose it [prison] puts a stop to it doesn't it. Breaks up your cycle. [STP P8]

The perceived deterrent effect of imprisonment compared to completing community service work was also discussed. Interviewees in both groups believed that completing unpaid work had a greater deterrent impact on offenders than serving a short prison sentence. Ordering offenders, in particular young offenders, to complete community service was perceived to have more positive outcomes as regards re-offending according to participants in this sample:

They would think harder about doing it again if they had to work five days a week for three or four hours a day d'ya know, or else come in here [prison] and just live the life or riley for three months, or work for three months they'd learn, especially young people. They hate work, d'ya know what I mean. They don't know what the bloody thing is. I think community service would be a lot better than prison, you know. Sometimes prison could wreck a young-fella you know, a young-fella could

come in and get mixed up with the wrong crowd, or come in for drunk and disorderly and come out an armed robber you know what I mean. [STP P9]

Sanction outcomes were wide ranging. In general the aftermath of imprisonment was reported as more negative, however it provided short-term stability for those with substance abuse problems. It was reported that community service had a positive effect on the offender, as well as the community where unpaid work was completed. The impact these alternative sanctions had on interviewees' relationships were very different for those committed to prison for a short time compared to those required to complete community service. The physical barrier created by imprisonment diminished offenders' ability to maintain relationships, especially with their children. In comparison, those in the CSO group discussed how family members were proud that they were completing their community work, a further motivation to complete their sanction. The alleged deterrent impact of sanctions was much harder to decipher. Participants in both groups aspired to move away from their previous offending behaviour; however those in the STP group were less sure of their ability to live a crime free life.

5.3.2.2 Is community service better than getting locked up? As outlined above, a large proportion of interview discussion focused on the comparative nature of a CSO and short prison sentence. Offenders were asked what sanction they would have chosen if afforded the opportunity; this comparison of sanctions resulted in complex reasoning by interviewees. The sub-theme - 'is community service better than getting locked up?' - outlines how interviewees balanced the pros and cons of completing these sanctions. When asked initially, the majority of interviewees across both groups agreed that completing community service was more preferable than a short prison sentence:

I don't know, they're good for the community d'ya know what I mean? Probably paint the school fences, the church fences, I'd rather do that all day long. I'd rather do that for the ten months, than be in here [prison] for ten months, d'ya know what I mean, that's a form of rehabilitation as well, that's a fact. [STP P7]

A first-time offender who received the maximum number of community service hours was adamant that receiving community service was better than having to serve a short prison term:

At the time I was happy because it was ah [pause] better than getting a custodial sentence so anything other than a custodial sentence I was happy with so I thought the hours might have been... 240 sort of surprised me a bit, I didn't think it would be that long but I'll take it over a custodial sentence any day of the week. [CSO P7]

Further discussion revealed that some respondents considered community service the easy option compared to imprisonment. This sentiment was evident across groups. The majority of those in the CSO group, many of whom had not been in prison previously, were very fearful of incarceration:

Well I've obviously never been to prison but I've heard the horror stories. Having to get up and go and do a bit of gardening or painting over being locked up for 22 hours a day that's seems like an easier option to me. [CSP P7]

For those in the prison group, nearly all of whom had experienced non-custodial sanctions previously, community service was considered less taxing than imprisonment:

Ah it's handy like, you just do a bit of painting or something. Community service is like it's easy enough and if ya don't do it you just get brought back to do the sentence so you'd be better off doing the community work that's all I think, to be honest with ya. [STP P5]

Further probing, however, revealed the preference for community service among the majority of interviewees was not straightforward. Although they reported a preference for community service over custody, participants in both groups discussed how the alternative prison sentence attached to a CSO was an important factor to consider if given the choice between sanctions:

Well I'd rather... well it depends how long community service you got and how long of a sentence you got. My sentence was two years, or 150 hours community service so I took community service 'cause I'd be seven or eight months doing the community service when I'd have to do about 18 and a half 19 months in prison, so it was pointless. I think I would have been very stupid if I didn't do it. [CSO P9]

Those in the STP group were more aware than CSO recipients of how the prison system operated; the use of temporary release [TR] for short sentence prisoners influenced their decision in this hypothetical situation. This was the main reason some STP interviewees provided for prison being their preferred option:

You know if you're getting two hundred and something hours' community service or a month in prison, a lot of people will take the month in prison you know what I

mean. You're in a week and you're going back out on TR you know what I mean.

[STP P11]

When asked directly what sanction they would have chosen, some STP participants were reluctant to choose community service as they lacked belief in their ability to complete the order in its entirety. A number of interviewees spoke about the prospect of failing community service and having to serve the alternative prison sentence attached to an order. Offenders in the STP group considered a short prison term more achievable than completing community service hours, highlighting the complexity of non-custodial alternatives. For them, it was easier to get prison 'out of the way' in the first instance:

Prison it seems, people are just used to coming to prison aren't they. Instead of having to get up and going into work every day. They'd probably do it for a day or two and then you'd stop it then wouldn't ya. Ya like, doing probation like, I'd be half way through doing probation and I'd mess it up and I'd probably have to come into prison and do the sentence anyway, like I'd rather have done it from the start, I'd have had it out of the way, d'ya know what I'm trying to say. [STP P8]

Not only was the alternative prison sentence attached to a CSO given consideration, the time it takes to complete community service was deliberated by STP and CSO interviewees. The continuous weighing up of aspects of community service and short-term imprisonment identified how complex a comparison of these sanctions actually was:

As I said earlier community service takes seven, eight, nine months, ten months whatever and all you need to do is three months in prison and it's finished. I have

known people who have done it, rather take prison, no thanks to the CSO there's your prison sentence. I've seen it done and I know people personally who did it.

[CSO P9]

Although those in the CSO group, many with little or no experience of imprisonment, had considered the time it takes to complete community service, as well as the alternative prison sentence attached to their order, community service remained their preference over imprisonment. In comparison, STP interviewees' experience of imprisonment, the view they had of themselves as repeat offenders, and the role of imprisonment played in their lives influenced whether they would chose to complete community service if afforded the opportunity. They did, however, believe community service was the better option for the majority of offenders, in particular young offenders.

5.3.2.3 Community service is a second chance. A theme identified through analysis of interview transcripts was the perception of community service as a second chance. This chance, however, was construed in many different ways. Some interviewees considered community service only as a chance to avoid imprisonment, while others considered it an opportunity to improve their life situation. Imprisonment, as discussed below, was considered the last step on the criminal justice ladder, while community service appears to be situated just ahead of it. The respondent below is quite explicit in his comparison of community service and imprisonment. He considers community service 'a second chance', but emphasises the alternative as rotting in a prison cell:

Will we give him a second chance and throw him out to society, or will we just leave him rot, what do you think miss? You know. [STP P2]

Many CSO recipients believed that the courts, and in the case below, the judge, were testing them by ordering them to complete community service. This is linked with the perception that community service was a chance to improve one's life situation:

Well obviously the judge is giving us community service so he can see if we are going to get into more trouble or if we're going to keep this bad attitude or whatever up; so another chance to make your life better I guess. [CSO P2]

Many CSO recipients had little or no prior involvement with the criminal justice system and were very fearful of receiving a prison term. These participants perceived community service as a chance for them to turn away from offending. In contrast, some STP recipients spoke about getting 'chances' previously. Many believed they were unworthy of an alternative to prison as they had previously been afforded opportunities to complete non-custodial sanctions:

'Cause I've had all those chances when I was younger you know. They should be giving those chances to kids somebody worth saving you know. [STP P9]

Interviewees interpreted their CSO as a 'last chance' before being sent to prison. Be that a last chance from the courts or from the criminal justice agency overseeing the completion of their sanction:

Because you're giving someone a last chance, it's as simple as that and after that if ya don't cop on well I'm sorry for ya you're going to jail. It's just as simple as that isn't it? [CSO P1]

The emphasis interviewees placed on community service as a 'last' chance warranted further probing. In the instance below the respondent refers with awkward humour to a CSO as his 'lifeline'. An offender's perception of the consequences of not successfully completing community service provides a glimpse into how community service was interpreted as an alternative to imprisonment. This respondent's description of the court process provides even more insight into how communication between courts and offenders strongly influence an offender's perception of the sanction they receive:

Like if you don't do this you're going to jail and that's it like, you've no well
lifeline [laughs] you're screwed. [CSO P3]

When asked if the judge had specifically said this, the interviewee responded:

Well he kinda wavered on that fact that if you don't complete this you're going
straight to jail and you won't even get a chance to sit in court like you'll just get
brought straight to prison [laughs]. [CSO P3]

Many considered their CSO a last opportunity to change the direction their lives were taking. As discussed above, prison was considered a rotating belt which was difficult to stop, whereas receiving community service was interpreted as a point at which offenders either changed their behaviour or ended up in prison:

Ya I think it would be ya 'cause they see it's at that stage that they either learn if I
do something after this I'm going to jail it's in black and white and everyone knows
that. [CSO P1]

This idea was supported by STP interviewees' interpretation of prison as the last stop on the criminal justice path. This visualisation of prison as the last stop on one's criminal justice journey raises interesting questions regarding the use of community service as a direct alternative to imprisonment. Notable is this respondent's reference to 'normal life' when comparing community service and imprisonment, as well as his emphasis on there being nowhere else to go:

They're leading a normal life, as in here [prison], it's just the one stop, there's no further they can go. As I say, it's A - B - C - D; that's it. [STP 10]

The perception that community service was a second chance or even a last chance for interviewees to move away from their offending behaviour before being sent to prison is an interesting concept. How offenders interpret and identify with criminal justice sanctions provides interesting insight into how non-custodial alternatives are viewed by those required to complete them. It seems that a CSO is positioned just before imprisonment; neither perceived as an equal or acceptable alternative, but rather a last chance before redemption is no longer possible.

The theme 'Alternatives?' identified contrasting perceptions of how a CSO and short term of imprisonment compare. Many of those completing a short term of imprisonment had much experience of the prison system; they were fully aware of how it operated.

Difficulties with accessing facilities and a lack of incentive to access services were attributed to serving a short sentence. The reported outcomes of imprisonment were, however, mixed. For those with drug and alcohol problems, imprisonment provided respite from their chaotic lives in the community; however, the outcomes of spending even a short

time in prison were largely negative as regards family relationships, housing, and education.

In comparison, community service was associated with maintaining and even enhancing normality in the community. Not only was it reported that communities benefited from the unpaid work completed, many recipients reported a change of outlook and an appreciation for those less fortunate. Comparing the outcomes in term of deterrence was more difficult. STP recipients did not want to return to prison; however if afforded the opportunity to complete community service, many stated they would have preferred to complete their prison term due to the length of time a CSO takes to complete and the underlying belief they would fail anyway. Many interviewees interpreted community service as their last chance before ending up in prison. Whether receiving community service operates as a turning point on an offender's offending trajectory requires further investigation. The use of community service as an alternative to imprisonment was advocated by all interviewees, but an offender's suitability for a particular sanction was given much attention during discussions, as outlined in the next theme.

5.3.3 Perceptions of sanction suitability

Offenders' self-reported appropriateness for particular criminal justice punishments emerged as a theme through discussion of community service and short prison sentences as alternative sanctions. Interview dialogue centred on offenders' assumed suitability for community service, including the qualities required to successfully complete a CSO. As described in section 2.5.1, community service suitability is assessed by the Probation Service and the final decision to impose an order rests with the presiding judge.

Comparing attitudes between groups revealed that those in the CSO group attached more emphasis to individual offender attributes and their level of commitment to sanctions compared to those in the STP group, whose focus was on the role criminal justice professionals had in assessing suitability and appropriateness for sanctions. This suggests that those in the STP group considered their destiny to be in the hands of others compared to community service recipients. According to STP interviewees, the Gardaí and other criminal justice professionals played a large role in determining their suitability for community service.

Notably, interviewees in both groups considered imprisonment unsuitable for certain types of people. Many offenders in the STP group considered themselves unsuitable for community work, claiming they were destined for prison. Some believed they would never be afforded the opportunity to complete community service. The theme ‘perceptions of sanction suitability’ outlines comparative analysis of offenders’ perceived appropriateness for these two alternative criminal justice sanctions. Comparative analysis is described through two sub-themes: ‘community service suitability’ and ‘destined for prison’.

5.3.3.1 Community service suitability. The idea that some offenders ‘deserved’ community service was suggested by participants in both groups. A number of interviewees from the CSO group claimed they were worthy of community service because their involvement in criminal activity was either relatively short, a once off occurrence, or the less serious nature of their offence; many CSO participants minimised the harm caused by their offending. The respondent below was clearly grateful for being afforded the opportunity to complete community service, but describes how the judge considered him suitable for community service because he was ‘not that bad’:

The judge like had a look at my case and he thought about it real well so I'm lucky anyway that I got it...what I'm trying to say is I'm not that bad so. I did deserve it in some kind of way. [CSO P2]

First-time offenders were considered by others particularly worthy of community service. This sentiment was evident across groups. Those in the STP group described how some offenders, for example those imprisoned for defaulting on a fine payment did not deserve a prison sentence; according to interviewees an alternative punishment was warranted in such cases:

People, first-time offenders and all isn't it. Some people don't deserve to go to prison for some of their crimes like, for like fines and all that. The likes of them places... they should be doing community service and all instead of filling up the spaces in prison... ah ya I'd like if they started giving out more community service to people that deserve it, that need it like, instead of sending them to prison, as an alternative like. [STP P8]

When probed further, interviewees from both the CSO and STP groups claimed some offenders, themselves included, were unsuitable for prison as they could not cope within the environment:

Just I don't know, they just wouldn't be the type for prison. They just wouldn't like to come in, it wouldn't be for them you know, they'd rather the community service ya. [STP P6]

The reverse was also discussed. A small proportion of interviewees believed that certain offenders were undeserving of community service. As discussed in previous analysis, a CSO was considered an offender's 'last chance' before imprisonment; some interviewees considered repeat offenders unsuitable for non-custodial sanctions:

Ya it's [pause] I think, I think it should be for first-time offenders, but if they are repeatedly offending no not really. If they are constantly going to keep offending why should they constantly get a chance again and again. [CSO P5]

There was, however, a lack of consensus on the issue of persistent offending. Many STP participants, the majority of whom had some experience of non-custodial sanctions, believed their prior involvement with the Probation Service did not make them unsuitable or undeserving of community service. The interviewee below identifies how age played a role when completing non-custodial sanctions:

Even if they have failed a couple of years ago, like myself with probation, I got probation a couple of years ago 'cause I was only a young fella then d'ya know what I mean I believe if you're 24 and you have one second one [probation sanction], you turn 25 you mature up, is that what ya say? You mature up. D'ya know what I mean. [STP P7]

STP interviewees considered prison 'a young man's game' claiming they were too old and therefore unsuitable for prison life:

Ya well I'm realising in here I'm a lot older. When you come into a prison now you're looking at kids younger than your own kids, d'ya know what I mean and that when it kind of hits ya that you're a bit old for this place you know. [STP P9]

The issue of addiction was raised during discussion of community service suitability. Some STP interviewees did not agree that substance misuse problems should result in offenders being automatically considered unsuitable for community work. The respondent below believed his involvement in a methadone maintenance programme did not make him unsuitable for community service. He makes an interesting comparison to being assessed for disability payments.

Well as I said they [Probation Service] keep telling me I'm not [suitable] 'cause I'm on methadone. I think I am, I can work, I've no problem working like d'ya know what I mean, if I'm not suitable for work why am I not on disability payments? You know what I mean. That's what the labour keep telling me, I'm sure I'd like to work but when it comes to probation or community service I'm not fit to work you know what I mean. [STP 11]

This was, however, not the overall consensus; one STP participant considered himself unsuitable for community service due to his chaotic substance misuse issues. Although he states he would have attempted community service if afforded the opportunity, as discussed across other themes, he lacked sufficient confidence in his ability to complete a CSO:

‘Cause I have a drug problem, a bad bad drug problem. But as the man says, I would have gave it a shot. Now I’m back to prison, don’t like prison anymore. [STP P4]

The assessment for community service suitability was raised by a number of interviewees, the majority of these were in the STP group. Several recipients were unsure whether they had received a formal assessment prior to the CSO being imposed. Some STP interviewees claimed their previous criminal histories, the Gardaí, and other criminal justice officials often obstructed them from completing community service. Some STP interviewees expressed confusion about why they were deemed unsuitable for community service after assessment by the Probation Service:

Ya I understood the court process and all that, it was actually, I was actually asked to do community service, and I was given 120 hours and the Garda blocked me from actually doing it like, so I couldn’t do it. I had to come in and do a four month sentence. That was last year. This Garda just blocked, said I wasn’t suitable for it or something. [STP P6]

One STP participant, a member of the travelling community, agreed that movement within the community made community service difficult to complete for many travellers. This, according to him, was a primary reason for travellers being considered unsuitable for community service. Demographic data on the number of CSOs received by members of the travelling community were unavailable for quantitative analysis. This participant, however, reported:

In other words you're a traveller you're not gonna stay in the one place and you're not gonna do it [community service] you know [laughs] and it is true miss. He [judge] knows a settled person will stay in that house and do his probation, a traveller won't. He'll end up going away. You know what I mean, down to his cousins or brothers and he'll get arrested down there. They'll say you didn't do this and he'll say oh well [laughs] I'll go to jail. [STP P2]

Comparing interpretations of sanction suitability between groups revealed that those in the CSO group were more concerned with individual offender attributes and an offender's commitment to community work compared to those in the STP group. An offender's attitude was considered important when discussing suitability for community service:

It really depends on your attitude going into community service. I just get on with it. For some people they can have a bad attitude to everything they do in life. I think I just accepted it and embraced it and do it and get on with it.... ya ya you've got some foreign nationality guys that don't show up a lot and I think it's just down to they have no respect for the system, they just don't want to know. They don't care and have the wrong attitude. I think if you have the right attitude you'll do ok. [CSO P7]

According to interviewees, community service required a great deal of commitment on the part of the individual. This was particularly relevant when compared with completing a prison sentence.

The effort and commitment in the community service would be getting up and getting the bus and being there on time and with prison you're there all the time [laughs] you don't have to be committed to it you're thrown in there [laughs] d'ya know what I mean [laughs] and you're just left there for six months or whatever like d'ya know what I mean. [CSO P3]

Participants spoke of individuals who were disappointed they had received community service. They considered these offenders unsuitable for community work as they were not committed to the process. One STP participant claimed if offenders were not committed to completing community service they should inform the judge instead of breaching their order a few weeks later.

Community service suitability, as outlined above, focused on individual offender traits including the commitment required to complete a CSO. An offender's perceived unsuitability for imprisonment made them more suitable for community service according to some participants. The second sub-theme, outlined below, focuses on interviewees' perception that some offenders were destined for prison. Comparisons between groups are made in forthcoming discussion.

5.3.3.2 Destined for prison. The sub-theme 'destined for prison' argues that those in the STP group perceived themselves differently when compared to the CSO group as regards sanction suitability. As discussed in previous analysis, a lack of self-belief in their ability to complete an unpaid work sanction successfully meant that STP interviewees had given little consideration to completing community service. Many in the group were adamant that prison was inevitable, resulting in STP interviewees appearing unmotivated to

engage with community service. This respondent had quite a negative view of community service:

I knew I was going to prison anyway so why would I do this community service.

[STP P1]

The idea that offenders believed imprisonment was unavoidable raises interesting questions regarding the use of community service as an alternative to short-term imprisonment. In order to be considered for community service an offender must first give his/her consent. Many STP interviewees described knowing, before the court process, that they would be sentenced to a term of imprisonment. When asked how, many claimed their prior criminal activity and previous experience at court meant they would definitely serve a prison term. Other reasons included their social background, as well as the area in which they resided. The respondent below, a member of the travelling community, describes the inevitability of prison for him:

I knew he'd sentence me miss... the minute he'd seen me I knew he'd sentence me. [Laughs]. It's the name miss you have when you're in court. 'Cause my name is [surname] d'ya know what I mean or [surname] or whatever you know they'll know you're from that town, small area for instance like [area] or [area]. [STP P3]

The predictability of imprisonment for those in the STP group was probed further. Interviewees believed they were never afforded the opportunity to complete community service. This respondent believes his criminality may not have continued if he had been given that opportunity.

I know I've got a couple of chances over the years, in and out of court and all like, but I never got that community service thing so if I was given that chance I'd probably be ok. [STP P7]

This sentiment echoed through conversations with those in the STP group. Some offenders in the group believed imprisonment was the only option used by some courts. They claimed people like them, those that were 'no good' were destined to be imprisoned. The perception that alternatives to imprisonment are not used by the courts raises interesting questions regarding the use of imprisonment in Ireland.

I think they don't consider it. You know what I mean and that's being honest with ya. A lot of them don't as I says they they you know what I mean if they go and get a report and they say he's this and that convictions and this and that ah he's no good, lock him up. D'ya know what I mean. A lot of them don't consider it at all like that's being honest with ya, you know what I mean. [STP P11]

Alternatives to imprisonment, in particular for young offenders, were discussed by many STP interviewees, especially older respondents. As stated below, this interviewee claims that imprisonment is the first resort of the majority of the judiciary advocating that alternatives are required in order to avoid the harm caused by imprisonment:

Like a lot of people do come in here, young fellas, that have never touched drugs really in their lives, and they go out of here strung out on heroin like so I think they really should consider like giving community service for people and all that instead of just sending them into prison like. It's just the first option with them most of the

time, just prison, prison you know. Ya they should definitely consider it [community service]. [STP P6]

Differing perceptions of sanction suitability emerged through discussion of the adequacy of community service as an alternative to a short term of imprisonment. Dialogue with participants revealed strong opinions regarding the appropriateness of some offenders to either a CSO or short term of imprisonment. Analysis revealed that those in the CSO group, although grateful to have received a non-custodial sanction, believed they deserved it in some way. Notably, those in the CSO group emphasised the role commitment played when comparing suitability for community service or short-term imprisonment. Those from the STP group agreed that a certain level of self-belief was required in order to complete community service.

A certain proportion of offenders in the STP group believed they were never afforded the opportunity to complete community service; while others considered themselves unsuitable due to substance misuse or other life factors. Most starkly, however, was the perception among some STP participants that they were destined for prison. This raises interesting questions relating to the comparative experience of completing a CSO as an alternative to a short prison sentence. If some offenders do not consider themselves suitable for a non-custodial sanction, then requiring judges to consider a CSO before imposing a prison sentence may require some preliminary preparatory work with offenders who are well accustomed to the prison regime.

5.3.4 Routine

Routine emerged as a noteworthy concept as interviewees discussed their experience of completing sanctions, their motivations to desist from offending, as well as their aspirations for a crime free future. As discussed earlier, the impact sanctions had on participants was notable; the perceived impact of sanctions into the future was also raised by a number of interviewees. Analysis resulted in the theme of routine being stratified into three main subthemes: sanctions provide routine, routine impacts on employment prospects, and routine impacts offending behaviour. The contrasting experience of completing a CSO as an alternative to a short prison sentence, and vice versa, as well as the similarity and differences of both sanctions in the context of routine are discussed below.

5.3.4.1 Sanctions provide routine. Both CSO recipients and short-term prisoners identified how criminal justice sanctions provided them with an enhanced sense of routine and structure. Participants in both groups made reference to the specific times activities took place; this was particularly relevant for those in the STP group through their emphasis of the restrictive nature of the closed prison environment. References to meal times and being unlocked from their cells provided them with a very predictable regime during their incarceration. As discussed, many STP participants were accustomed to the prison environment, meaning that the routine and structure of prison life was not new for them:

Ya miss, but ya get settled into it after the first two weeks, d'ya know what I mean.

You just get your own routine you know people give you some clothes until you get your own clothes in d'ya know what I mean. You know so it's grand like. [STP P2]

Aspects of the prison regime, however familiar, were described positively by many STPs. This STP participant identifies how the prison schedule improved his physical health. This, however, was supplemented by him not drinking alcohol during his incarceration:

A lot healthier, it preserves you, 'cause everything is all on a schedule, it's all about timing. And I'm not drinking. You're getting your dinner on time, your breakfast on time, it's all routine. [STP P10]

Many CSO participants discussed getting up in the morning, catching a particular bus, as well as the times they began and finished their community service work each day. The majority of CSO interviewees claimed this routine was untypical for them prior to starting their criminal justice sanction:

It was hard at first, but being at home all and being around everyone else, so like I got into a routine just getting up early and going to bed early and all that every day like so I didn't have any trouble in the end. The first week or two maybe, but that was it. [CSO P3]

An improved routine was identified as a positive outcome of sanctions by interviewees in both groups, but in particular by CSO participants. Many of the CSO group identified how their community work provided them with purpose; it provided them with meaningful activity as they now used their days more productively.

Am... positive changes maybe... a month ago I had nothing to do, been looking for a job just wake up do nothing but now I'm getting up doing something... I feel like not just bored sitting there so it's something to do anyway. [CSO P2]

Participants from the STP group described how the enhanced routine and structure meant that the time spent serving their sentence passed quickly. In comparison, many of those in the CSO group planned the number of weeks it would take to complete their community work. They spoke of setting weekly goals in order to complete the required number of hours, in the shortest time possible. In contrast, STP interviewees spoke of time passing quickly while in prison. The strict routine and structure of the prison environment meant that days merged into weeks and weeks into months. It seemed that during one's imprisonment having a stable routine aided the passing of time:

Ah like if you get your routine sorted out, go to the gym, the day goes fairly quick. The weeks then start going quick then, time does go quick if you use it properly. [STP P8]

For those in the CSO group, maintaining this new routine upon completion of their criminal justice sanction was important to them. Many claimed they would continue to keep up the good habits, in particular getting up early:

Oh I'll be getting up going to the gym now to be honest with ya I'll be getting up early in the morning going to the gym three, four times a week at least just keep me in the routine of getting up early. [CSP P1]

For some, this new structure provided the motivation to improve their personal circumstances:

What will I do on a normal day? Well to be honest when I'm finished this community service I'm trying to do a course on social welfare for a back to work scheme basically as I said I'm back into working mode again and see what can happen like and take it from there, see what comes up. [CSO P9]

Developments to participants' daily routines resulted in self-reported improvements to their health. Interviewees were positive about maintaining an improved regime once their sanction was complete; although this was not as evident among STP recipients. As discussed in the next two subthemes, the impact sanctions had on offenders' motivations to desist, as well as on future employment prospects, were also associated with improvements to interviewees' routines provided by criminal justice sanctions.

5.3.4.2 Routine impacts on employment prospects. As discussed, sanction recipients from both groups identified that the structure and routine created by their respective criminal justice sanctions had positive outcomes. Within this context, a theme which emerged very strongly was the perceived impact this new found regime could have on recipients' future employment prospects. This was largely associated with those with experience of completing a CSO. Numerous CSO participants spoke of how community service had provided structure to their lives. Many described how the routine shaped by community service obligations helped them get 'back into work mode' and into 'the rhythm of working again'. Many were positive that it could lead to future employment:

Community service you go in, you do your bit of work as I said some people will come out with a positive look of it 'cause it might help them to get a bit of work and put them into a bit of structure again of getting a bit of work. [CSO P10]

A similar sentiment was articulated by those in the STP group. They believed that community service could help people get back into the routine of working.

'Cause it's back into the job thing, it's getting me back into the routine again, up early going. D'ya know what I mean, going painting the fences you're just getting back into 9-5, is it 9-5? I don't know how the [community service site] place runs. [STP P7]

One older STP participant was very positive about the impact community service could have on offenders' future employment prospects, relaying that he knew of someone who had a successful employment outcome upon completion of a CSO.

Now you do get a few people who finish it and they end up getting to know the people they work for and getting a job out of it, things like that you know. I know a bloke who got community service and they had to fit up a graveyard out in Tallaght and at the end of it he's a landscaper now 'cause of that. He's a landscape gardener, so there is good things that happen from it you know. [STP P9]

The majority of those in the CSO group claimed completing community service had improved their former routines. They were now more motivated to complete new tasks and maintain this new regime upon completion of their community order work. Members of the

STP group were also positive about how community service could provide skills and support people to find future employment. They did, however, not discuss in any detail how the prison routine had affected their employment prospects when released. The impact of the criminal justice system on employment in general, however, is discussed in the final theme.

5.3.4.3 Routine impacts offending behaviour. Linked with the perception that the routine provided by community service work may lead to positive outcomes in terms of future employment, an improved routine and structure was considered to influence the desistance process. This was evident across both the CSO and STP sample. Participants in both groups articulated how being engaged and having a daily structure, especially after release from prison, could help facilitate desistance. Structure and goals were perceived as enablers to a crime free future. A lack of structure was attributed by some as a cause of their offending in the first instance. Many interviewees attributed the recession and a lack of work or training opportunities to their offending:

As I said if I get myself onto a good course and all, keep myself occupied every day, I'd be able to keep myself out of trouble ya. When I was working an' all before I wasn't committing any crimes. It was only when I was out of work I started, I started picking up charges and taking drugs and all. I just need to keep myself occupied and I should be able to stop ya. [STP P8]

The issue of boredom, which emerged through discussion of sanctions and offender's ability to move away from a criminal life, was identified as an issue; being idle was identified as a risk factor for offending. A comparison between groups identified that

community service alleviated the boredom often associated with anti-social behaviour. It gave CSO participants ‘something to do’ which helped them to move away from offending peers and fight the temptation to return to past behaviours:

It’s [community service] kinda had a positive impact really in a sense that I’m out doing something for a change [laughs] I’m not hanging around the streets... I’m actually not hanging around with the people I used to hang around with anymore I’m just kinda sitting in my house, I don’t even associate with them anymore so it’s just positive. [CSO P3]

Through further discussion it became evident that many in the STP group found it difficult to break old routines when released back to their communities. As discussed previously a lack of self-belief and increasing doubts as they approached release from prison meant that those in the STP group were unsure of their ability to remain crime free. Motivations to desist from offending were hampered by a host of difficulties interviewees experienced in the community. Help and structure around housing, addiction and education were required if STP interviewees were to successfully desist from offending. The majority of STP participants had good intentions prior to their release, but as discussed previously were less confident than CSO participants in their ability to follow through with these plans and goals:

Having a job to go to, or something, or a course that I like doing or something, mechanics or something I’d be grand like, I wouldn’t come to prison then.

Something to keep me busy everyday instead of hanging around, which just leads ya to end up taking tablets and all. You know you end up back in the same crowd

and all, when you're busy every day and you see your kid on the weekend or something you'd be grand like. But ya don't be getting out to anything like that, you're getting out to no courses and then just back to square one like. [STP P5]

As mentioned previously, short-term prisoners believed they needed a high level of structured support in the community in order to remain crime free. This STP participant, who has a severe addiction problem explains how regular meetings and a structure each week would help him upon release:

I don't know. [Pause] somewhere you can come in like, once a week or something like a counsellor or community person. People to give ya a little bit of help, or support or something d'ya know what I mean. Anytime I've been let out it's just pack your stuff come on, you have to sign on in [NAME] police station, do this, do that. So if they say you've to do something once a week, with someone that can help ya to stay out of prison and stay off drugs and then you can say - well I've to meet the community officer on this day so I can't get stoned. [STP P4]

Short-term prisoners were unsure about maintaining a routine upon release from prison. Many did not have concrete plans prior to their release, often hesitating before answering questions about after they had completed their sanctions; indicating they had not considered it previously:

Ah [pause] am... well first of all I'll be travelling down to see my family first, ya? and then I'll continue on to see my kids and common law wife then and then stay

with them. That's basically my day out. Don't ask me what's going to happen the next day 'cause I don't know. [STP P10]

Notably, some STP interviews included reflections on past experiences of being released from prison. As identified previously, some interviewees found it challenging to differentiate between this short prison experience and the collective experience of previous incarcerations:

What will I do? That's a good question miss. What did I do the last time? [Pause] I don't know miss just go home, I don't know get a bit of dinner or something you know whatever, meet the family for the day d'ya know what I mean. That's it really, you know. [STP P2]

In contrast, the CSO group's ability to articulate future plans and aspirations was more advanced. Participants spoke at length about the effect their new routine had on their behaviour, its impact on their offending, as well as their future aspirations. One CSO recipient had acquired an interest in computers and was constructing his own. When discussing what he would do upon completion of his community service he was positive about going to college:

Oh ya I want to go to college and do computers ah ah making computer games so that's why I'm building the computer as well so it's one step towards that like.
[CSO P3]

When asked what impact community service had on his motivation to return to education, he was clear that completing a CSO had motivated him to look for work and college places.

Ah ya definitely ya 'cause back before I did my CSO I wasn't out looking for work I was just kicking around the streets like d'ya know what I mean so this time like I'm going to go out and I'm actually going to look to go back to college and all spend my time building a computer a PC so like I'm trying to find things to do and have my hobby and all [laughs] so. [CSO P3]

The complexity of interviewees' offending became clear as analysis progressed. Many interviewees had long criminal careers; many had served numerous criminal justice sanctions and were unsure about their futures. Interviewees acknowledged that the structure provided by imprisonment during their incarceration or community service work helped them to avoid past behaviours. Both groups were aware of the need for meaningful activity in order to keep themselves occupied.

According to participants, routine and structure are required in order to desist from further offending. As discussed above, it seemed that completing community service helped instil a new found routine into participants' lives. Many discussed their plans to maintain this structure upon completion of their community service hours. In contrast, while imprisonment provided a strict regime during a participant's incarceration, interviewees did not articulate that this would transfer into the community; rather they were anxious about not having this structure when released from prison.

CSO participants were more positive about their future prospects, were more assured of their goals, and seemed motivated to achieve these same goals in comparison to short-term prisoners. The theme of routine outlined and analysed above provides a nuanced understanding of interviewee's experience of completing these two alternative criminal justice sanctions. Although both sanctions provided structure and routine to recipients, the contrasting experience provides a glimpse into the operation and outcomes of the Irish criminal justice system.

5.3.5 'The System'

Discussion with participants in both groups included dialogue about the various aspects of the criminal justice system, as well as its outcomes. This theme consolidates talk of the varying parts of 'The System' and present concisely the comparative experience and outcomes for community service participants and short sentenced prisoners. Interviewees in both groups had experienced significant delays in court; some participants had cases which spanned a number of years while a minority experienced relatively little delay processing their cases. The theme 'The System' begins with an analysis of 'the court experience'. The court experience for participants in both groups was very significant. Comparatively, those in the STP group had much experience of courts, and the criminal justice system in general, whereas CSO participants, some of whom were first-time offenders, found the experience more daunting and traumatising. The second sub-theme, 'different strokes for different folks', outlines how interview participants considered 'The System' quite discretionary, in particular the sentencing regime. Responsibility for their crimes was acknowledged by offenders in both groups; and both groups agreed that change was an individualised process and that criminal justice sanctions had limited impact. This analysis is discussed in the

context of this theme. The theme of 'The System' concludes with a summary of 'outcomes' articulated by receipts of both sanctions.

5.3.5.1 The court experience. The experience of court was different for the majority of CSO recipients when compared to that of STP interviewees. Many in the CSO group described the recurrent fear of being 'locked' up approaching and during the court process. As outlined above, many had little experience of 'The System' and had never been in prison. For these participants in particular, the court process caused much stress, anxiety and worry:

I was just so scared like and I have never been in jail or anything since then and in my head I was thinking this must be real serious if it's been going on since 2010 and my solicitor has been telling me there's definitely going to be jail time involved so I was really really really really scared like... I'm not going to say I was depressed, but I was close to it like. When it was two weeks or a week close to the date we were meant to get sentenced I was just real scared I never left the house just always at home... didn't go to work, turned off my phone and it was just a bad time.
[CSO P2]

In contrast, those in the STP group described being relaxed during the process. Many knew what to expect, had prior dealings with solicitors and the judiciary, and were not as fearful of the court process. Some STP interviewees even spoke about interacting with solicitors and not wanting to take 'a chance' by pleading not guilty in court:

[The] court process was, I went in first day, met my solicitor, my solicitor, I explained to my solicitor what happen he explained to me you can go not guilty. I says is there a point, the max he's gonna give me is 12 months on it, you know what I mean, at the time I was am, on tablets so I really wanted to get off the tablets so I looked for the sentence you know what I mean, to try and get my head together. I was looking for the sentence at the time as well so I just pled guilty and got it over with you know. [STP P11]

Although only a few spoke about this type of encounter, their experience of the court process and familiarity with its internal workings were in stark contrast to many CSO interviewees who did not know what to expect and were extremely fearful of the process. Humour was used by many STP participants to describe their familiarity with court, as well as when speaking about being sentenced to another custodial term. This echoes the humour used by STP participants when describing their familiarity with being committed to prison. Although many attempted to dismiss their long criminal careers, a sense of regret and upset was evident in participant's facial expressions and body language:

How did I feel? Let down... that's how I felt ya. But I got over it, you know, got a snack box after it [laughs] you know. [STP P2].

[Laughs] any time I go there I just get sentenced, that's all I know about it.

[STP P5]

In contrast, CSO interviewees described a lack of understanding of the process, for example why court dates were adjourned so often, among other issues. The general lack of

awareness among CSO participants of the length of court proceedings was very different to the familiarity many STP interviewees had with courts and the criminal justice system in general.

5.3.5.2 ‘Different strokes for different folks’. In general, participants in both groups described the criminal justice system as arbitrary in terms of how offenders are treated, as well as how individuals choose to interact with ‘The System’ itself. In terms of sentencing, interviewees from both groups described how their destiny was in the hands of the judge and how he or she felt on that particular day. They felt that judgements were sometimes made haphazardly:

Oh ya, yes I was ya. I certainly was. The solicitor and the barrister obviously advised me and they said it’s very, very unlikely [prison] but it can happen. They said it’s very, very unlikely, it shouldn’t happen but they said it just depends on the judge on the day. If the judge is having a bad day and he decides he wants to lock ya up then that could be it. Luckily enough I think the guard that...he was alright, he knew I wasn’t a typical guy that would be in court. [CSO P7]

Familiarity with ‘The System’ for those in the STP group cemented this view of individualised treatment by the courts and the judiciary:

Ah, I understand what was involved in the courts, what’s happening, why I got the sentence and all that. I understand all that ya. But it is ah, the courts is, sometimes it depends on what judge you get as well, could be soft and the next one could be harder, so it all depends what judge you get. Some of the judges is easier than the

others, some of them look into your case a bit deeper and they ask the solicitor, ask them about your background, how did you grow up and this that and the other and sometimes they take that into consideration. Say like if ya came from, if he's background is bad growing up, like I did, I lost my mother and father, I lost my mother when I was 8, and then my father when I was 18. So I don't know if that was why I'm in prison today, I can't think so, but my family says they tried to pull me back from trouble, but I got out of hand and I ended up. The courts sometimes they'll look at your case and other times the judge won't even bother. [STP P10]

One STP participant attributes the differential treatment of offenders to the area where the court is sitting. According to this interviewee, treatment by the judiciary varies considerably between areas in the Dublin region:

[Pause] no, no they're not. Like they always say different blokes, different strokes that's it depends on your impression of prison as well you know. Like if you came from Swords or Foxrock you'd judge it a lot different. There's courts in those areas and the judges are put there, specially put there even in [court 1] the judge isn't as severe as the judge that is in bloody [court name], d'ya know what I mean. [STP P9]

Linked to the notion of what was viewed as an arbitrary court system were interviewee's perceptions that criminal justice sanctions cannot change an individual's behaviour, that such change is dependent on the individual themselves. The majority of interviewees accepted that their offending behaviour was within their control and accepted responsibility

for the crimes they had committed. Some interviewees accepted that their respective sanctions were deserved because of their behaviour:

Am well I think my mind was made up before the community service, the whole going through courts and putting the family under pressure and stuff so I wouldn't be doing that again, but the community service is sort of just a follow on to all that ah... like obviously I didn't mind the community service it has to be done you're paying for your crimes in a way and I was quite happy to do that. [CSO P7]

This feeling was evident across groups:

Well as I says like I've been coming to jail a long time so it didn't really make any difference to me like 'cause a sentence is a sentence, like d'ya know what I mean I've done the crime so d'ya know what I mean I have to do the time and that's what they gave me so I have to do it, as I says I can't do anything about it [sentence] you know. [STP P11]

However, the majority agreed that the criminal justice sanctions could have little impact on individual's conduct. Changing behaviours was up to the individual:

No, people will reoffend, but that's not community service's fault. It's not the system's fault or not prisons fault, it's just some people, that's what they're like. Some people do these things and they'll be in and out of prison and stuff like that and they'll just never be rehabilitated, it's all on the individual. [CSO P7]

Many in the STP group agreed that imprisonment had no impact on them. According to nearly all participants it was up to themselves to change their ways and move away from their criminal pasts.

[Pause] well I hope this is the last one, I'm just waiting to see what happens in court and well in my mind I hope that's it's finished, I hope that it's finished after this one. It's all down to myself. [STP P10]

Evident here again is a lack of conviction among STP participants. Interviewees accepted that their offending behaviour would have long-term impacts on their lives. Many reported being embarrassed by their crimes, but due to their circumstances were unable to stop offending at the time of their offence. Many were aware of the consequences before and after committing their respective crimes, however some reported being unable to resist. As discussed above, interviewees accepted that they were responsible for their actions, that only they could change their behaviours be that offending or drug taking, for which the majority of STP interviewees associated with their criminality.

As discussed throughout the themes above, those in the CSO group seemed more determined when setting goals in comparison to those in the STP group. STP interviewees were concerned with more short-term goals resulting in their future plans being less thought out and less definite when compared to CSO interviewees.

The final sub theme that emerged through discussion of the criminal justice system was the impact dealings with 'The System' had on participants' emotions. As discussed throughout, fear was an emotion experienced by many CSO interviewees, however interviewees in both

groups experienced a host of other emotions including stress and anger which often exacerbated other mental health difficulties.

5.3.5.3 Outcomes of contact with ‘The System’. Throughout interviews, participants spoken about their motivations to desist from future offending. Across groups, interviewees agreed that they did not want to commit more crimes, did not want to serve another prison sentence, or complete community service again. A range of reasons were provided. For many in the STP, group missing family occasions such as birthdays and first Holy Communions¹² caused them much upset. Many claimed they did not want to put their families in the same situation again. Those in the CSO group expressed similar motivations. For some, the thoughts of court and letting themselves down and disappointing others motivated them to stay away from crime. A range of emotions evoked by contact with the criminal justice system were discussed by participants from both groups, these are outlined as part of this sub-theme.

Although the majority of recipients were motivated to desist from offending in the future, barriers were identified that may inhibit progress. Previous criminal convictions were identified as a barrier by nearly all interviewees. A common thread, evident across many themes, was work, be that paid employment or a training or college place. The role of work was heavily associated with being able to lead a ‘normal’ honest life. Previous convictions were seen as the largest obstacle to achieving this goal for both CSO and STP participants.

Ya well it’s hard to get work and that with like previous convictions and all that and like I’ve previous for arson and all that and like not a lot of people will take ya on

¹²A Christian ceremony held to celebrate the first taking of the sacrament of the Holy Eucharist.

when you have a previous for arson and offences like that so, so when it comes to looking for work and all that it is hard like. [STP P6]

Contact with the criminal justice system evoked different, emotive, responses in interviewees. Many interviewees were angry at 'The System' for one reason or another. Many believed their treatment was unfair, compared to other offenders. Across groups interviewees were angry at their legal representatives for not standing up for them more, they believed the legal aid system had let them down. This anger was not isolated to interviewees' most recent encounter with 'The System'. For many STP participants the anger they felt towards 'The System' and the agencies working in it had a long history:

Don't know, I was always angry at the law giving them lip or whatever when I was a young fella you know you're going on charge they hit you with another one, they hit you with another one until you've a long criminal record and then they can put you to jail, d'ya know. [STP P2]

Anger was a primary emotion experienced across groups. This anger manifested itself in many different ways. Comparing the experience of each group found that some of those in prison turned to drugs because they felt angry and let down by 'The System':

Because you just get used to it [prison] and then you're after losing everything so you think then there's nothing out there for me so I might as well just have prison all the time. It's a stupid thing to say, but that's what it's like. You're getting out you're after losing everything so to block all that out you say oh ya I'll take a few tablets or something and before you know it you're back in prison again. The years

and the years just go by and before you know it your kid doesn't even want to know ya, you know that way. [STP P5]

Although not representative of the entire CSO group this participant's anger at 'The System' urged him to disassociate himself from it:

I don't know what way it is I have no faith in that criminal justice system or whatever it is. That's why I don't want to be part of it anyway. [CSO P1]

Others in the CSO group described how the stress 'The System' caused was a strong motivator to avoid any further involvement.

No and I know everyone says that [they won't re-offend] maybe on the motorbike or something, but I can't see myself. I get a horrible feeling when I think of prison or even just... no I certainly wouldn't want to be back anywhere to do with the law again. The stress of it is just... it does my head in. [CSO P6]

'The System' encompassed a wide variety of sub themes linked by the consensus that the criminal justice system should be avoided, if at all possible. Across both groups the stress, the fear and the difficulties encountered by being involved in criminal justice matters was clear. The court experience for many CSO interviewees was unpleasant enough to deter them from any further involvement with criminality. Participants in both groups discussed the individualised nature of the criminal justice system, in particular the discretion of judges when it came to their sentencing. In the same vein, offenders were described as the primary agents in exerting change in their own lives, irrespective of the criminal justice

sanction they received. As previously discussed, comparison of CSO and STP groups identified an undercurrent of doubt in one's own ability, especially as regards community service completion, among STP interviewees. The impact the criminal justice system had on them, from a young age, impacted their vision of a future completely crime free. In section 5.4.4, comparative re-arrest rates between CSO and STP cohorts test whether those sentenced to a short term of imprisonment did in fact fair worse than those in receipt of community service.

5.4 Re-arrest outcomes of community service orders and short prison sentences

Descriptive findings stratified by demographic characteristics, original offence categories, and original offence by subsequent re-offence categories for reference periods of six months, one and two years are presented below. Following this, analysis of CSO and STP cases are outlined separately, incorporating analyses of a number of sub groups within each data set. A two-year reference period, using only cases sanctioned in 2011 is used to compare CSO and STP cohorts, due to the possible presence of right censorship among STP cases (see section 4.3.2.7.3).

5.4.1 Descriptive findings

Complete re-arrest information for 11,655 cases comprising of 6,465 STP sentences and 5,190 CSOs imposed between 2011 and 2012 were available for analysis (see section 4.3.2.6). Re-arrest rates rose during the months following the imposition of a CSO and release from a STP sentence: 20% ($n = 1040$ CSO cases, $n = 1280$ STP cases) were re-arrested within six months; 32% ($n = 1681$ CSO cases, $n = 2081$ STP cases) were re-

arrested within one year; and 57% of CSO cases ($n = 1527$) and 59% ($n = 1989$) of STP cases were re-arrested within two years [2011 cases only].

A marginally different picture emerged when cases re-arrested for a road traffic offence were excluded: 18% ($n = 814$) of CSO cases and 19% ($n = 1139$) of STP cases were re-arrested within six months; 29% ($n = 1292$) of CSO cases and 31% ($n = 1839$) of STP cases were re-arrested within one year; and 50% ($n = 1179$) of CSO cases and 56% ($n = 1757$) of STP cases were re-arrested within two years [2011 cases only].

5.4.1.1 Analysis of demographic and offence characteristics on subsequent re-offence. As seen in Table 9, proportions of re-arrests were higher for males compared to females for CSO cases, across all reference periods. Across STP cases, a greater proportion of females compared to males had been re-arrested after one, and two years.

As expected, re-arrest rates were highest among those in younger age groups. Table 10 provides analysis of re-arrest rates by age group and gender. Across all reference periods, a higher proportion of CSO males aged less than 21 years were re-arrested when compared to their STP counterparts. Notably, fewer females from the 2011 CSO group were re-arrested after two years across all age categories when compared to their STP counterparts.

Examination of re-arrest rates of those in STP and CSO groups with or without previous convictions recorded since 2003 revealed that 27 percent of all CSO cases without recorded previous convictions or for whom no information was available were re-arrested within one year of the imposition of their CSO. This compares to 14 percent of cases without any

recorded previous convictions in the STP group. The proportion falls to 25 percent for cases who successfully completed their CSO.

Using matched data generated using propensity score techniques (as described in section 5.4.5.2) revealed comparable findings. Sixteen percent of STP cases without previous convictions were re-arrested within one year compared to 26 percent of matched CSO cases. Examining males from the matched data sets also revealed similar findings. Twenty seven percent of all CSO male cases without recorded previous convictions or for whom no information was available were re-arrested within one year, compared to 17 percent of male STP cases without any recorded previous convictions.

Analysis by original offence revealed that the highest re-arrest rate within one year was among those originally convicted of property offences and lowest among those originally convicted for a sexual offence; this was the case for CSO and STP respectively. As outlined in Table 11, proportions of re-arrests by original offence category were very similar between both groups, at all time intervals.

Table 9

Re-arrest rates by gender: CSO and STP cohorts

Gender	Re-arrested 6mts		Re-arrested 1 year		Re-arrested 2 years [2011 cases only]	
	<u>CSO</u> % (n)	<u>STP</u> % (n)	<u>CSO</u> % (n)	<u>STP</u> % (n)	<u>CSO</u> % (n)	<u>STP</u> % (n)
Male	21 (978)	20 (1165)	33 (1573)	32 (1891)	58 (1429)	58 (1813)
Female	15 (62)	20 (115)	25 (108)	34 (190)	46 (98)	63 (176)
Total	20 (1040)	20 (1280)	32 (1681)	32 (2081)	57 (1527)	59 (1989)

Table 10

Re-arrest rates by age group at beginning of sanction: CSO and STP cohorts

Age group at commencement of sanction	Re-arrested 6mts		Re-arrested 1 year		Re-arrested 2 years [2011 only]	
	<u>CSO</u> % (n)	<u>STP</u> % (n)	<u>CSO</u> % (n)	<u>STP</u> % (n)	<u>CSO</u> % (n)	<u>STP</u> % (n)
Males						
Less than 21 years	28 (169)	23 (204)	41 (246)	36 (315)	67 (209)	64 (320)
21 to 29 years	22 (533)	20 (521)	35 (846)	33 (844)	58 (752)	60 (825)
30 years and over	16 (275)	18 (440)	28 (479)	29 (729)	53 (468)	54 (668)
Females						
Less than 21 years	17 (8)	29 (10)	34 (16)	32 (11)	54 (14)	74 (14)
21 to 29 years	19 (39)	22 (60)	27 (55)	37 (103)	46 (47)	67 (97)
30 years and over	8 (15)	18 (45)	21 (37)	30 (76)	44 (37)	57 (65)
Total cohort						
Less than 21 years	28 (177)	24 (214)	41 (262)	36 (326)	66 (223)	64 (334)
21 to 29 years	21 (572)	21 (581)	34 (901)	34 (950)	58 (799)	61 (922)
30 years and over	15 (290)	18 (485)	27 (516)	30 (805)	52 (505)	54 (733)
Total	20(1039 ^a)	20 (1280)	32(1679 ^b)	32 (2081)	57 (1527)	59 (1989)

^aone and ^btwo cases in the CSO group who were re-arrested had missing age information.

Table 11

Re-arrest rates by original offence category: CSO and STP cohorts

Original offence category	Re-arrested 6mts		Re-arrested 1 year		Re-arrested 2 years [2011 cases only]	
	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)
Sexual offences	14 (*)	<5 (*)	29 (*)	10 (*)	40 (*)	30 (8)
Violent offences	19 (195)	19 (251)	31 (321)	31 (410)	56 (304)	57 (398)
Drug offences	21 (121)	17 (68)	33(194)	30 (120)	50 (151)	54 (116)
Property offences	21 (290)	22 (472)	35 (472)	36 (751)	62 (395)	67 (730)
Road traffic offences	17 (128)	16 (144)	28 (210)	26 (230)	52 (213)	51 (250)
Public Order offences	22 (243)	21 (220)	34 (376)	35 (361)	60 (368)	62 (335)
Other offences	19 (47)	18 (124)	31 (75)	30 (204)	50 (60)	47 (152)
Total	20(1026 ^a)	20(1280)	32(1652 ^b)	32(2081)	57(1495 ^c)	59(1989)

Note. Cell counts of less than 5 are denoted by *

^a14, ^b29 and ^c32 cases in the CSO group who were re-arrested had missing original offence information.

Examination of re-arrest offence categories revealed greater proportions of re-arrests for property offences among the STP compared to CSO cases. In contrast, a greater proportion of re-arrests for road traffic offences was identified among CSO, compared to STP cases. These trends were evident at all follow-up periods.

Analysis of re-arrests by original offence category and subsequent re-offence category outlined in Tables 12 and 13 showed that considerably more cases originally convicted of road traffic offences were subsequently re-arrested for the same offence category within six months in the STP group compared to the CSO group, 28 percent versus 22 percent respectively. This was also the case for cases originally convicted of a property offence. Higher proportions of property offenders were re-arrested after serving a short prison

sentence compared to a CSO, at all reference periods. Noteworthy, of those originally convicted of a property offence, considerably more STP than CSO cases were re-arrested for a drug offence, 35 percent compared to 22 percent. This trend was evident at all follow-up periods. See Appendix N for re-arrests classified by original offence and subsequent re-offence within two years.

Table 12

Re-arrests classified by original offence and subsequent re-offence within six months: CSO and STP cohorts

Subsequent re-offence														
Original offence category	Sexual offences		Violent offences		Drug offences		Property offences		Road Traffic offences		Public Order offences		Other offences	
	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)
Sexual offences	0 (0)	0 (0)	<5 (*)	<5 (*)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	<5 (*)	0 (0)	0 (0)	0 (0)
Violent offences	0 (0)	0 (0)	21 (28)	22 (33)	20 (24)	17 (24)	13 (22)	15 (49)	23 (52)	18 (25)	17 (55)	24(103)	23 (14)	18 (17)
Drug offences	0 (0)	0 (0)	8 (11)	<5 (6)	21 (25)	13 (18)	10 (17)	<5 (12)	15 (33)	7 (10)	9 (28)	<5(16)	12 (7)	6 (6)
Property offences	0 (0)	<5 (*)	29 (39)	29 (43)	22 (27)	35 (48)	45 (76)	52(170)	23 (51)	27 (38)	26 (83)	33(141)	23 (14)	31 (29)
Road traffic offences	0 (0)	0 (0)	16 (21)	18 (27)	15 (18)	14 (20)	8 (14)	6 (20)	18 (41)	28 (39)	8 (24)	5 (21)	15 (9)	18 (17)
Public Order offences	0 (0)	0 (0)	22 (29)	18 (27)	21 (25)	14 (20)	18 (30)	14 (46)	15 (34)	10 (14)	35(112)	25(104)	20 (12)	10 (9)
Other offences	0 (0)	0 (0)	<5 (*)	9 (13)	<5 (*)	7 (9)	6 (10)	10 (33)	5 (12)	11 (15)	<5 (13)	9 (38)	8 (*)	17 (16)
Total	0 (0)	<5 (*)	13(134)	12(150)	12(121)	11(139)	17(169)	26(330)	22(223)	11(141)	31(316)	33(423)	6 (61)	7 (94)

Note. Cell counts of less than 5 are denoted by *

Table 13

Re-arrests classified by original offence and subsequent re-offence within one year: CSO and STP cohorts

Original offence category	Subsequent re-offence													
	Sexual offences		Violent offences		Drug offences		Property offences		Road Traffic offences		Public Order offences		Other offences	
	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)
Sexual offences	0 (0)	0 (0)	<5 (*)	<5 (*)	<5 (8)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	<5 (*)	<5 (*)	0 (0)	0 (0)
Violent offences	0 (0)	0 (0)	27 (53)	21 (50)	21 (41)	18 (42)	11 (31)	15 (80)	21 (78)	21 (51)	19 (94)	24(156)	24 (23)	19 (31)
Drug offences	<5 (*)	<5 (*)	8 (15)	6 (15)	22 (43)	14 (32)	10 (26)	<5 (23)	16 (59)	7 (16)	9 (43)	<5 (22)	7 (7)	7 (11)
Property offences	0 (0)	<5 (*)	24 (47)	28 (66)	24 (48)	32 (75)	48(130)	51(269)	23 (88)	26 (62)	27(134)	33(221)	26 (25)	32 (54)
Road traffic offences	<5 (*)	0 (0)	16 (32)	18 (42)	14 (27)	15 (36)	9 (24)	7 (39)	18 (70)	22 (53)	8 (39)	5 (34)	17 (16)	16 (26)
Public Order offences	<5 (*)	0 (0)	21 (42)	18 (43)	18 (35)	14 (33)	17 (46)	13 (67)	17 (65)	13 (32)	34(169)	25(168)	18 (17)	11 (18)
Other offences	0 (0)	0 (0)	<5 (8)	8 (19)	<5 (*)	8 (18)	5 (14)	10 (51)	6 (21)	12 (28)	<5 (20)	9 (61)	8 (8)	16 (27)
Total	<5 (*)	<5 (*)	12(199)	11(238)	12(199)	11(236)	16(271)	25(529)	23(381)	12(242)	30(500)	32(664)	6 (96)	8 (167)

Note. Cell counts of less than 5 are denoted by *

5.4.2 Analysis of re-arrest outcomes for CSO cases

5.4.2.1 Community service order completion. As identified above, complete re-arrest information was available for 5,190 CSO cases imposed between 2011 and 2012. Of these, information concerning order completion was available for 5,139 cases, of which 81 percent ($n = 4,158$) were recorded as completed. CSO cases originally convicted of a drug offence were more likely to successfully complete their CSO, whereas those convicted of a property offence were less likely to complete their CSO. These effect sizes were very small. Examination of CSO completion by original offence category is presented in Table 14.

Table 14

Community service order completion by original offence category

Original offence category	Completed <i>n</i> (%)	Other <i>n</i> (%)	Chi-squared test	Stan. Res.	Effect Size
Sexual offences	11 (85)	* (15)	FET, $df = 1, p = .540$	.1	.005
Violent offences	860, (83)	177 (17)	$\chi^2 = 3.026, df = 1, p = .082$	.7	.024
Drug offences***	516 (88)	72 (12)	$\chi^2 = 19.507, df = 1, p = .000$	1.8	.062
Property offences***	1030 (77)	301 (23)	$\chi^2 = 15.734, df = 1, p = .000$	-1.5	-.056
Road traffic offences	604 (82)	134 (18)	$\chi^2 = .359, df = 1, p = .549$	.2	.008
Public Order offences	896 (81)	216 (19)	$\chi^2 = .203, df = 1, p = .652$	-.2	-.006
Other offences	183 (76)	57 (24)	$\chi^2 = 3.769, df = 1, p = .052$	-.8	-.027

Note. * denotes values of less than 5.

* $p < .05$. ** $p < .01$. *** $p < .001$.

Analysis of associations between CSO completion and subsequent re-offence was also completed. As shown in Table 15, those re-arrested for a property offence within one year were more likely to have not completed their CSO, whereas those re-arrested for a road traffic offence were less likely to not have completed their CSO.

Table 15

Community service order completion by subsequent re-offence within one year

Re-arrest offence category within 1 year	<u>Completed</u> <i>n</i> (%)	<u>Other</u> <i>n</i> (%)	Chi-squared test	Stan. Res.	Effect Size
Violent offences	158 (78)	44 (22)	$\chi^2 = 1.710$, $df = 1$, $p = .191$	.6	.03
Drug offences	153 (77)	47, 23	$\chi^2 = .499$, $df = 1$, $p = .480$	.3	.02
Property offences***	175 (64)	100, 36	$\chi^2 = 20.295$, $df = 1$, $p = .000$	-2.1	-.1
Road traffic offences***	314 (81)	72, 19	$\chi^2 = .12.552$, $df = 1$, $p = .000$	1.6	.01
Public Order offences	363 (73)	136 (27)	$\chi^2 = 1.100$, $df = 1$, $p = .294$	-.4	-.03
Other offences	70 (74)	25 (26)	$\chi^2 = .032$, $df = 1$, $p = .859$	-.1	-.004

Note. Sexual re-offences were omitted due to low cell counts.

* $p < .05$. ** $p < .01$. *** $p < .001$.

Examining associations between demographic characteristics and successful CSO

completion showed no significant association between gender and successful CSO

completion. However, CSO cases that were older were more likely to successfully complete

their CSO; cases aged 30 years or more were more likely to have a successful outcome [χ^2

(1, $n = 5136$) = 15.197, $p = .000$, $\phi = -.05$] where as those ages less than 21 years were

more likely to not complete their CSO [χ^2 (1, $n = 5136$) = 15.075, $p = .000$, $\phi = .05$].

5.4.2.2 Analysis of community service hours, alternative prison sentence length, days taken to complete sanction and their association with re-arrest. For the total set of CSO cases ($n = 5,139$), very similar proportions of offenders across all three CSO hour groupings were re-arrested across the three reference periods.

Table 16

Community service order hours by cumulative re-arrests at six months, one, and two years

	<u>community service order hours</u>			Total
	40 to <100 CSO hours	CSO hours 100 to <200	200 hours or more	
Re-arrested within 6 months	137 (13%)	534 (51%)	368 (35%)	1039 (100%)
Re-arrested within 1 year	226 (14%)	868 (52%)	583 (35%)	1677 (100%)
Re-arrested within 2 years	393 (14%)	1512 (52%)	1016 (35%)	2921 (100%)

Including only those who successfully completed their CSO (referred to from here as CSO completers), no significant associations were detected between CSO hours as categorised in Table 16 and being re-arrested.

There were, however, significant associations detected between being re-arrested and alternative prison sentence groupings. The alternative prison sentence attached to a CSO was categorised: less than three months, three to less than six months, six to less than 12 months, and finally, more than 12 months. For all CSO cases, across all three reference periods, significant associations between alternative prison sentences and being re-arrested

were detected. Notably, when analysis included only CSO completers a significant association after only a two-year follow-up was identified; those with alternative sentences of more than 12 months were less likely to be re-arrested, whereas those with alternative sentences of less than three months were more likely to reoffend after two years [$\chi^2 (3, n = 4157) = 18.071, p = .000, \text{phi} = .1$].

The days taken to complete a CSO were calculated using sanction start and end dates provided by the Probation Service. Analysis of CSO cases who successfully completed their orders showed that 71% (2894) of those who successfully completed their CSO did so within one year. Using data from cases recorded as successfully completing their CSO, chi-square analysis revealed no significant association between the days taken to complete an order (categorised as less than three months, three to less than six months, six to less than 12 months, and finally, more than 12 months) and being re-arrested within six months, or one year. There was significant association between being re-arrested within two years and these time categories [$\chi^2 (1, n = 4048) = 12.056, p = .007, \text{phi} = .06$]. Those who took less time to complete their order were less likely to be re-arrested.

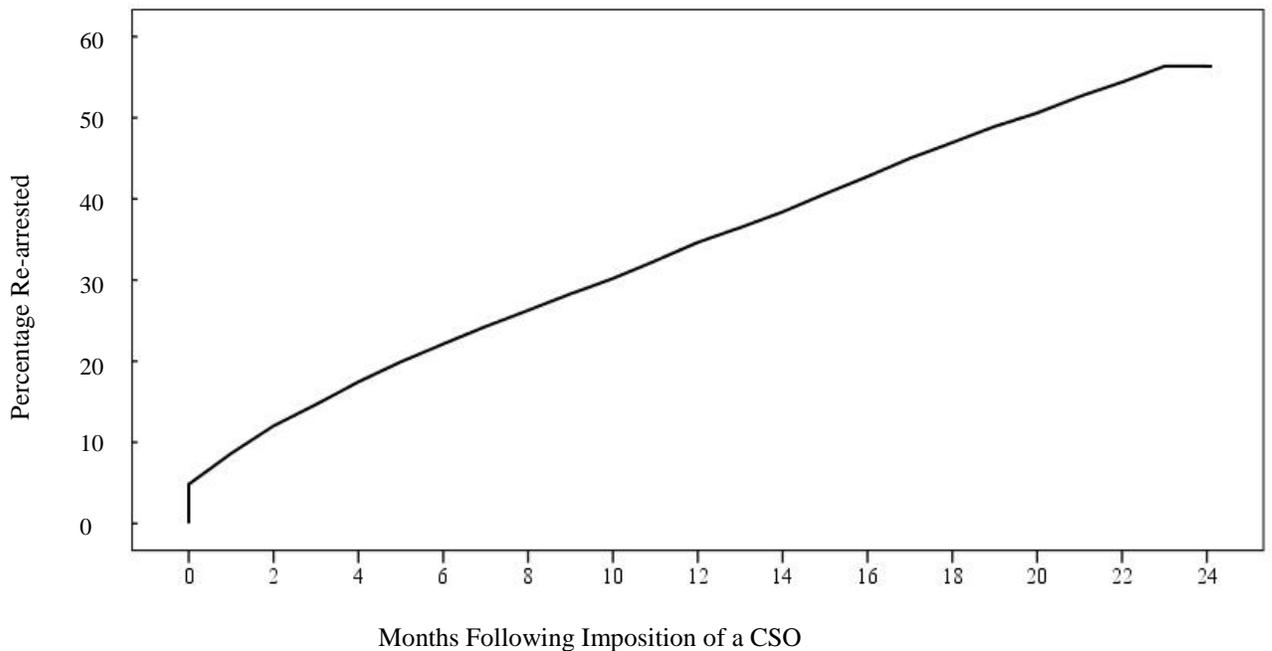
When these time categories were collapsed to less than one year versus more than one year, those who took longer than a year to complete their CSO were more likely to be arrested within six months [$\chi^2 (1, n = 4048) = 6.750, p = .009, \text{phi} = -.04$]. This was not the case when the follow-up period was extended to one year; however, it was significant when extended to a follow-up of two years [$\chi^2 (1, n = 4048) = 6.147, p = .013, \text{phi} = -.04$]; showing that those who took over a year to complete their CSO were more likely to be re-arrested within two years.

Examining CSO non-completers ($n = 981$) in isolation, showed that 28 percent of these cases were re-arrested within six months and 43 percent within a year. These are notably higher than the 20 percent and 32 percent re-arrest rates identified across all CSO cases.

5.4.2.3 Rates of re-arrest among community service order cases. The re-arrest rate for the total CSO cohort, with the percentage of re-arrests at intervals ranging from one to twenty four months, is shown in Figure Three. As noted in section 4.3.2.7 comparative analysis between groups using a reference period of two years was limited to 2011 cases only, due to the possible presence of right censorship among STP cases (see 4.3.2.7.3). This, however, was not a problem for CSO cases as the date of CSO imposition was used to calculate time to re-arrest. Results showed that those in receipt of a CSO between 2011 and 2012 had a median survival time to re-arrest of 20 months 95% CI, (19.32 to 20.69). Re-arrest rates rose during the months following the imposition of a CSO: 20% ($n = 1040$) were re-arrested within six months; 32% ($n = 1681$) were re-arrested within one year; and 56% ($n = 2925$) within two years [total 2011 and 2012 cohorts].

Figure 3

Re-arrest rates two years after the imposition of a CSO

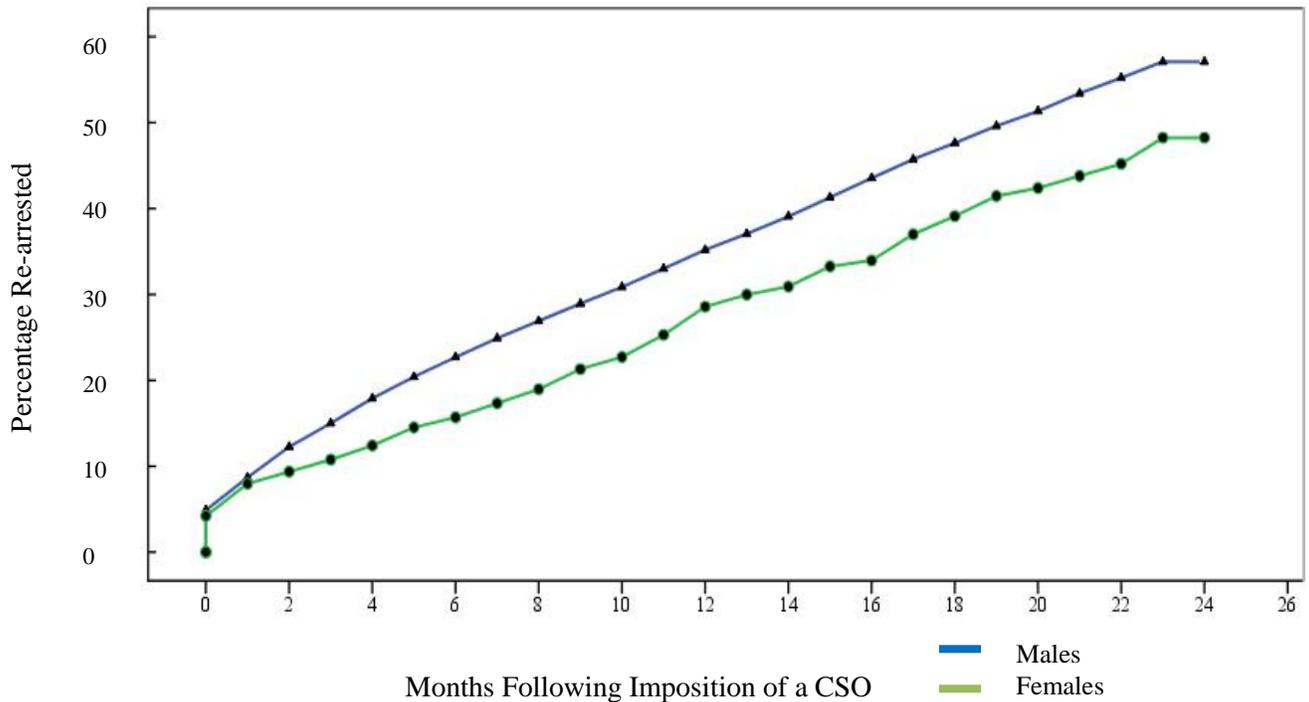


5.4.2.4 Rates of re-arrest among community service order cases by

demographic characteristics. Of the 2,925 CSO cases re-arrested within two years, 2,719 were male and 206 female, giving a 57.1% and a 48.2% re-arrest rate respectively. A log rank test was run to determine if there were differences in the survival distribution for males and females in the CSO group. The survival distribution for males and females were statistically different $\chi^2(1) = 13.441, p = .000$. Males had a median survival time to re-arrest of 20 months 95% CI, (19.3 to 20.7), compared to 24 months among females in receipt of a CSO. In short, males in receipt of a CSO re-offended more quickly than females in the CSO group. Figure Four reveals the percentage of CSO cases re-arrested at intervals ranging from one to twenty four months by gender.

Figure 4

Re-arrest rates two years after the imposition of a CSO, by gender



CSO cases were stratified by age group: less than 21 years ($n = 642$), 21 to 29 years ($n = 2652$) and 30 years and more ($n = 1893$). Kaplan-Meier survival analysis (Kaplan & Meier, 1958) was conducted to compare the impact of these age groupings on re-arrest. Cases aged under 21 years had a median time to re-arrest of 16 months, 95% CI (14.4 to 17.6). This was shorter than for the 21-29 years and the 30 years and more age groups, which were 19 months to re-arrest 95% CI (18.1 to 20) and 24 months to re-arrest, respectively. A log rank test was conducted to determine if there were differences in the survival distribution for the three age groupings. The survival distributions for the age groups were statistically significantly different, $\chi^2(2) = 75.678$, $p = .000$. Pairwise log rank comparisons were conducted to determine which groups had different survival distributions. A Bonferroni correction was made with statistical significance accepted at the $p < .0167$ level. There was

a statistically significant difference in survival distributions for those aged less than 21 years vs those aged 21-29 years, $\chi^2(1) = 17.572, p = .000$, and those aged less than 21 vs those aged 30 years and over group, $\chi^2(1) = 68.864, p = .000$. The survival distributions for the 21-29 age group vs the 30 years and over group was also statistically significantly different, $\chi^2(1) = 36.918, p = .000$. Those who were younger were re-arrested more quickly when compared to older age groups.

A log rank test was completed to determine if there were differences in the survival distribution for CSO cases from inside and outside the Dublin region. The survival distribution for those originating from inside and outside Dublin were statistically different $\chi^2(1) = 9.873, p = .002$. Those with a Dublin address had a median survival time to re-arrest of 19 months (95% CI, 18 to 20.1), compared to 21 months among those outside of Dublin in receipt of a CSO.

A log rank test was also run to determine if there were differences in the survival distribution for CSO cases sanctioned by District and Circuit Courts. The survival distribution for CSOs sanctioned by District compared to Circuit courts were statistically different $\chi^2(1) = 24.050, p = .000$. Those from the District Court had a median survival time to re-arrest of 20 months (95% CI, 19.3 to 20.7), compared to 24 months among those sanctioned by the Circuit Court.

Finally, analysis of CSO completers revealed a re-arrest rate of 53.3 percent within two years [2011 and 2012 cases]; 43.7 percent among female CSO completers and 54.3 percent among male CSO completers. CSO completer cases were stratified by the number of months it took to complete their orders: less than 3 months ($n = 314$), More than three

months, but less than six ($n = 978$), more than six months, but less than 12 ($n = 1602$), and finally more than 12 months. Kaplan-Meier survival analysis (Kaplan & Meier, 1958) was conducted to compare the impact of these groupings on re-arrest. Cases that took less than three months to complete their CSO had a median time to re-arrest of 24 months. This was longer than cases that took longer than three months but less than six months ($Md = 23$ months) and cases that took longer than six months but less than 12 months ($Md = 21$ months). Cases in the more than 12 months group had the shortest median time to re-arrest, at 20 months. A log rank test was conducted to determine if there were differences in the survival distribution for the four groups. A Bonferroni correction was made with statistical significance accepted at the $p < .0125$ level. There was a statistically significant difference in survival distributions for those who completed their order in less than three months and those who took longer than one year, $\chi^2(1) = 6.264$, $p = .012$; the survival distributions for the more than three months, but less than six group vs the longer than one year group was also statistically significantly different, $\chi^2(1) = 9.453$, $p = .002$.

5.4.2.5 Predictors of re-arrest among CSO cases. CSO cases differed on a number of key covariates. In order to examine the influence of case characteristics such as age, offence category and previous convictions, cox regression models were estimated to examine the effect of these characteristics on the likelihood of re-arrest within two years.

Table 17

Cox regression model for re-arrest within two years among CSO cases imposed between 2011 and 2012 (n = 5190)

Variable	B	S.E.	Wald	HR	95% C.I.
Gender (ref: Female)					
Male	.229	.083	7.586*	1.258	1.068, 1.481
Age at imposition of CSO	-.020	.003	54.984*	.980	.975, .985
Alternative prison sentence attached to CSO	-.003	.003	.586	.997	.991, 1.004
Number of CSO hours	.001	.000	7.907*	1.001	1.000, 1.002
Dublin address	.234	.043	30.080*	1.264	1.163, 1.374
Offence category (ref: Property offence)					
Sexual offence	-.684	.711	.925	.505	.125, 2.033
Violent offence	-.282	.062	20.433*	.755	.668, .853
Drug offence	-.204	.075	7.454*	.815	.704, .944
Road traffic offence	-.396	.068	33.968*	.673	.589, .769
Public order offence	-.101	.058	2.992	.904	.806, 1.014
Other Offence	-.226	.105	4.600*	.798	.649, .981
Previous conviction since 2003	.834	.058	203.798*	2.303	2.054, 2.583
District Court	.323	.095	11.537*	1.381	1.146, 1.663
Chi-Square	366.4***				

* $p < .05$. ** $p < .01$. *** $p < .001$.

As seen in Table 17, rates of re-arrest were significantly higher for males, younger cases, those with longer orders, those with a Dublin address, those with previous convictions since 2003, as well as those in receipt of orders from the District Court compared to the Circuit Court.

Property offenders were used as the reference category when comparing offence categories above. As outlined in Tables 12 and 13, the highest re-arrest rates were among cases originally convicted of a property offence with 62 percent ($n = 395$) being re-arrested; all other offence categories were less likely to be re-arrested when compared to property offenders, however comparisons with sex offenders and public order offenders did not reach statistical significance.

A unit increase in the number of community service hours received increased a CSO case's chance of being re-arrested, however the length of alternative prison sentence attached to a CSO did not impact on likelihood of being re-arrested when all other covariates were controlled.

Those with an address in Dublin were significantly more likely to be re-arrested compared to those from outside the Dublin region. Sixty percent of those with an address in Dublin had been re-arrested compared to 54 percent of those from outside the Dublin region.

Finally, those with previous convictions since 2003 (64% of whom were re-arrested within two years) compared to those without convictions or for whom information was not available (45% of whom were re-arrested within two years) were more likely to be re-arrested.

This was also the case for cases dealt with at District (58% re-arrested within two years) compared to Circuit Court (45% re-arrested within two years) level.

Days taken to complete a CSO was included in a cox regression model on the likelihood of re-arrest within two years including CSO completers only. Table 18 presents the results of these estimates. Results of analysis with only CSO completers were similar to that including all CSO cases. Males, those who were younger, and those with previous convictions since 2003 were all more likely to be re-arrested, as were those who received their sanction from District Court and those with a Dublin address. The number of CSO hours was not predictive of re-arrest in this model. Completing a CSO in less than three months was used as the reference category. Those who took longer than a year to complete their orders were significantly more likely to be re-arrested within two years; 57 percent were re-arrested within two years compared to 48 percent who took less than three months to finish their CSO.

Table 18

Cox regression model for re-arrest within two years among CSO completers (n = 4158)

Variable	B	S.E.	Wald	HR	95% C.I.
Gender (ref: Female)					
Male	.208	.099	4.380*	1.231	1.013, 1.495
Age at imposition of CSO	-.019	.003	36.274*	.981	.975, .987
Number of CSO hours	.001	.000	3.258	1.001	1.000, 1.002
Alternative prison sentence attached to CSO	-.003	.004	.515	.997	.989, 1.005
Previous conviction since 2003	.866	.068	162.491*	2.378	2.081, 2.716
Offence category (ref: Property offence)					
Sexual offence	-.899	1.003	.802	.407	.057, 2.909
Violent offence	-.291	.073	16.097*	.747	.648, .862
Drug offence	-.180	.084	4.616*	.835	.709, .984
Road traffic offence	-.382	.080	22.846*	.682	.583, .798
Public order offence	-.097	.068	2.029	.907	.793, 1.037
Other Offence	-.196	.128	2.333	.822	.639, 1.057
District Court	.328	.107	9.390*	1.389	1.126, 1.714
Dublin address	.235	.051	21.639*	1.265	1.146, 1.397
Time to complete sanction (ref: <3 months)					
Complete CSO 3 to <6 months	.100	.103	.952	1.106	.904, 1.353
Complete CSO 6 to <12 months	.166	.099	2.805	1.180	.972, 1.433
Complete CSO ≥ 12 months	.214	.102	4.387*	1.239	1.014, 1.513
Chi-Square	282.78***				

* $p < .05$. ** $p < .01$. *** $p < .001$.

5.4.3 Analysis of re-arrest outcomes for short-term prison cases

5.4.3.1 Rates of re-arrest among short-term prison cases. As identified above, complete re-arrest information for 6,465 STP sentences were available for analysis. Re-arrest rates rose during the months following release after a short prison sentence: 20% ($n = 1280$) were re-arrested within six months; 32% ($n = 2081$) were re-arrested within one year; and 59% ($n = 1989$) of STP cases were re-arrested within two years [2011 cases only] (due to the presence of right censorship, see section 4.3.2.7.3). The re-arrest rate for the total STP cohort with the percentage of re-arrests at intervals ranging from one to twelve months is shown in Figure Five. The re-arrest rate for 2011 STP cohort, with the percentage of re-arrests at intervals ranging from one to twenty four months, is shown in Figure Six.

Figure 5

Re-arrest rates one year after release from a short-term prison sentence

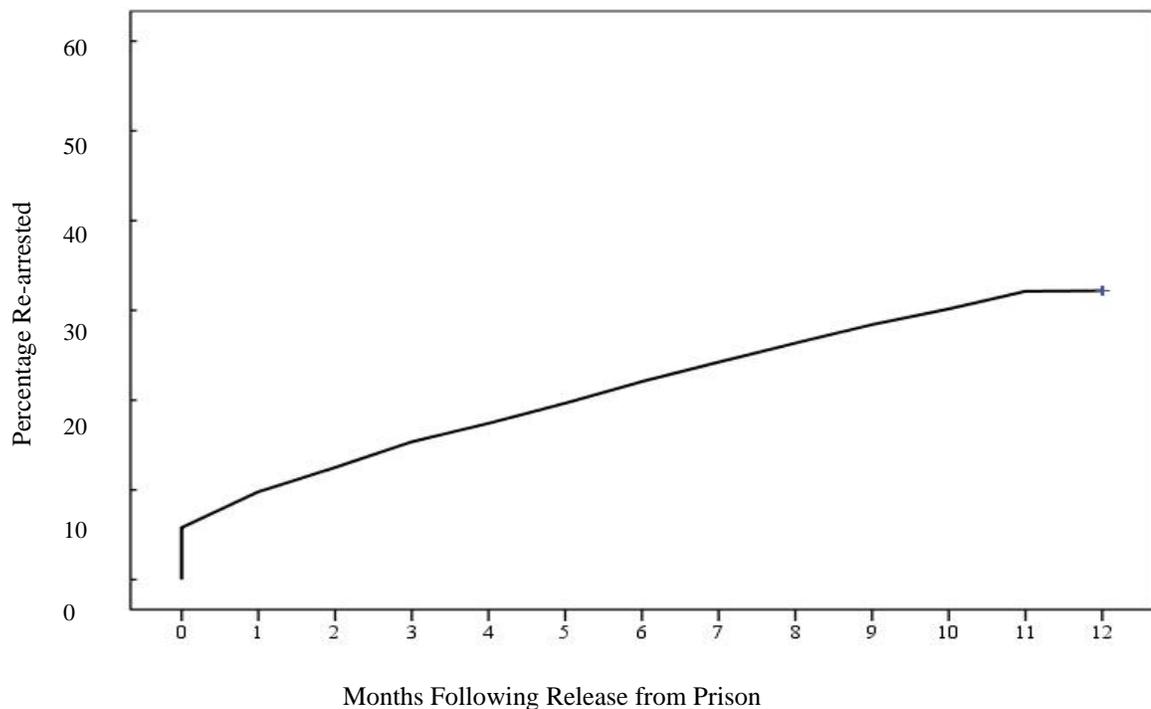
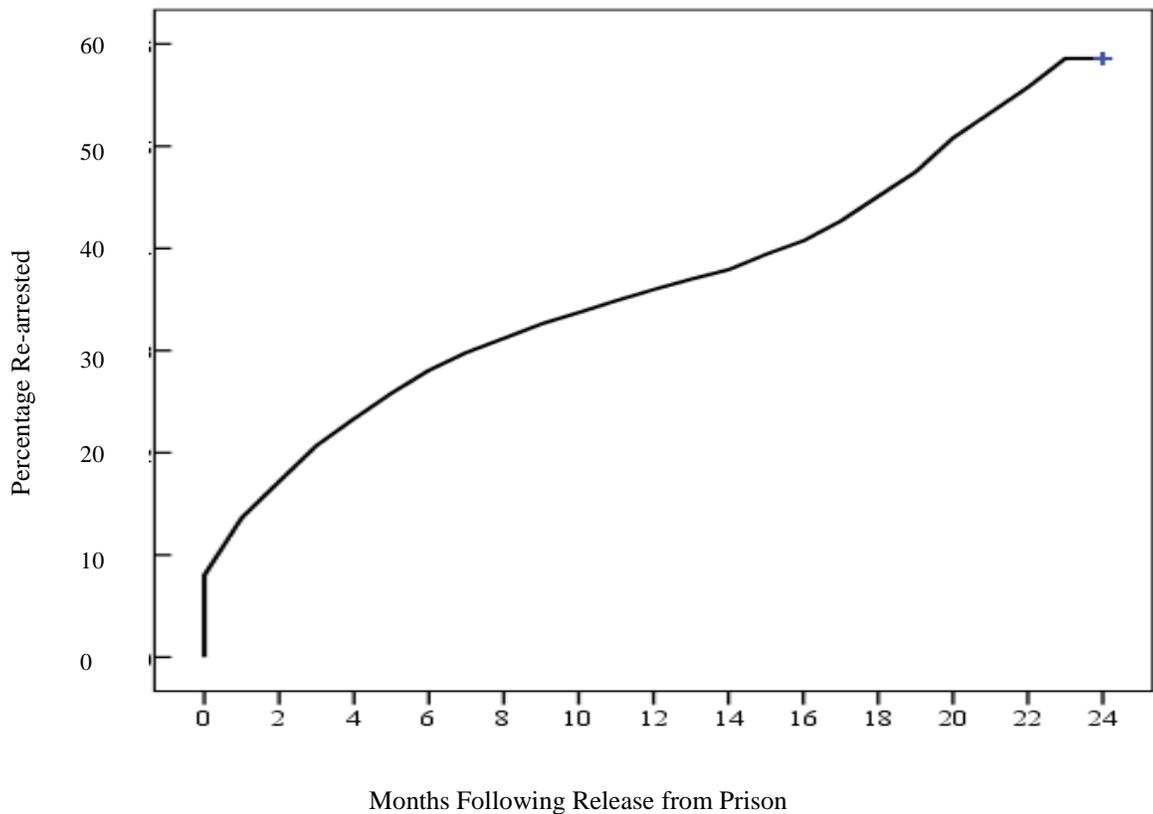


Figure 6

Re-arrest rates two years after release from a short-term prison sentence [2011 cases]



5.4.3.2 Examination of rates of re-arrest among short-term prison cases within one, and two years [2011 cases only] by demographic characteristics. Of the 2,081 STP cases re-arrested within a year after release from prison, 1,891 were male and 190 female giving a 32 and a 34 percent re-arrest rate respectively. For the 2011 cases re-arrested within two years (1,989), this rose to 58.2 percent and 63.3 percent respectively. A log rank test was run to determine if there were differences in the survival distribution for males and females in the STP group. The survival distribution for males and females were not statistically different at one year $\chi^2(1) = .843, p = .359$ or two years $\chi^2(1) = 2.258, p = .133$. Males had a median survival time to re-arrest of 20 months (95% CI, 19.3 to 20.7),

compared to 19 months (95% CI, 17.3 to 20.7) among females released after serving a short prison sentence.

Stratification by age group was completed as seen in Figure Seven. Log rank pairwise comparisons were run to determine which age groups had different survival distributions. A Bonferroni correction was made with statistical significance accepted at the $p < .0167$ level. There was a statistically significant difference in survival distributions for the less than 21 age group vs 30 years and more age group, $\chi^2(1) = 14.979, p = .000$ and the 21-29 age group vs the 30 years and more age group, $\chi^2(1) = 10.609, p = .001$ as regards re-arrest within a year of release from prison. However, the survival distributions for the less than 21 years and the 21-29 years age groups were not statistically significantly different, $\chi^2(1) = 2.316, p = .128$.

For the 2011 cases corresponding results were identified. Cases aged under 21 years and those aged between 21-29 years had a median time to re-arrest of 19 months, 95% CI (17.4 to 20.6), and 95% CI (18 to 20). The 30 years and more age groups had a median time to re-arrest of 22 months.

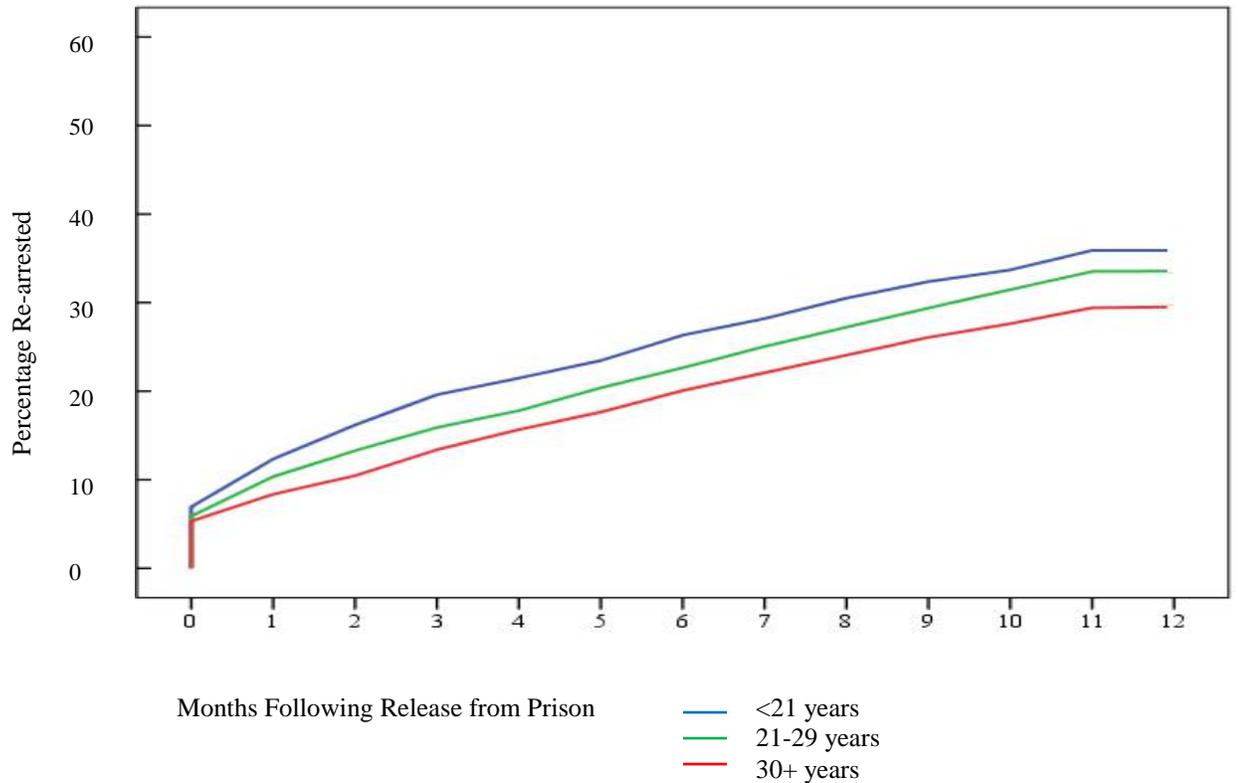
A log rank test was run to determine if there were differences in the survival distribution for STP cases with addresses on committal into prison of inside or outside the Dublin region. The survival distribution for these groups were not statistically different $\chi^2(1) = 1.801, p = .180$ for re-arrest within one year. For 2011 cases re-arrest within two years the survival distributions were statistically significantly different $\chi^2(1) = 14.799, p = .000$. Those within the Dublin region had a median time to re-arrest of 19 months, 95% CI (18 to 20.1)

whereas those outside the Dublin region had a median time to re-arrest of 21 months, 95% CI (20.2 to 21.8).

Finally, a log rank test was run to determine if there were differences in the survival distribution for STP cases with or without previous convictions recorded since 2003. Among those re-arrested within one year, the survival distribution for those with or without previous convictions recorded since 2003 was statistically different $\chi^2(1) = 134.901, p = .000$. For cases sentenced in 2011, the survival distributions of re-arrests within two years of release were also statistically significantly different $\chi^2(1) = 211.576, p = .000$. Those without previous convictions since 2003 had a median time to re-arrest of 24 months, whereas with previous recorded convictions had a median time to re-arrest of 19 months, 95% CI (20.2 to 21.8). Comparing those with and without previous convictions showed that of those without any previous convictions recorded since 2003, 14 percent were re-arrested within one year, compared to 36 percent with previous convictions. See section 5.2.1.4 for a comparison between CSO and STP cases.

Figure 7

Re-arrest rates one year after release from prison by age group



5.4.3.3 Rates of re-arrest within one, and two years [2011 cases only] by court

and other characteristics. Comparison of committals from Circuit and District Courts

showed the survival distribution was not statistically different ($\chi^2(1) = .832, p = .362$)

within a year of re-arrest or two years of re-arrest for 2011 cases ($\chi^2(1) = 1.497, p = .221$).

Similar to CSO completer cases, STP cases were stratified by the number of months served in prison: 6,284 cases were available for analysis made up of 2,079 re-arrests. Of those, 1,133 had served less than three months, 586 more than three months, but less than six, and 360 more than six months, but less than 12 months. A log rank test was run to determine if there were differences in the survival distribution. There was a statistically significant

difference in survival distributions for those released in less than three months vs those released after more than six, but less than 12 months, $\chi^2(1) = 9.038, p = .003$. Thirty one percent of those released within three months were re-arrested within a year compared to 37 percent of those who served more than six, but less than 12 months.

A similar trend was seen for the 2011 cases re-arrested within two years, however a statistically significant difference just inside the Bonferroni correction in survival distributions for those released after less than three months vs those released after more than three, but less than six months, $\chi^2(1) = 5.803, p = .01599$ was observed.

5.4.3.4 Predictors of re-arrest among short-term prison cases. Predictors of re-arrest among STP cases were also of interest. Cox regression models were estimated to examine the impact of several offender and offence related characteristic on the likelihood of being re-arrested within one year of release from prison see Table 19, and within two years [2011 cases only] see Table 20.

In contrast to analysis of CSO cases, re-arrest rates were not significantly higher among males, at either follow-up. However those who were younger and those with a greater number of previous convictions [entered as a continuous variable] had a greater likelihood of being re-arrested.

As was identified among CSO cases, rates of re-arrest were higher for those with a Dublin address (33% re-arrested within one year) when compared to those originating outside the Dublin region (32% re-arrested within one year), however the percentage difference was only minimal.

Examination of all STP cases re-arrested within one year of release from prison showed that 95 percent had a recorded previous conviction/convictions since 2003. Examining STP cases with no previous convictions since 2003, for whom re-arrest information was available, showed that 14 percent had been re-arrested within one year of release.

Property offences were used as a reference category. As discussed, the highest rates of re-arrest among STP cases after one and two years were by those originally convicted of a property offence; 36 percent ($n=751$) after one year and 67 percent ($n = 730$) after two years [2011 cases only]. After one year, those originally convicted of a sex, violent or road traffic offence were significantly less likely to be re-arrested compared to a property offender. After two years, all offence categories except public order offenders were less likely to be re-arrested compared to property offenders.

As regards time served in prison, those who served less than three months in prison were used as the reference category. After one-year follow-up, those who served more than six, but less than twelve months in prison (37% of whom had been re-arrested) were significantly more likely to be re-arrested compared to those who served less than three months (31% of whom had been re-arrested). Using 2011 cases with a follow-up for a period of two years to re-arrest, those who served three or more, but less than six (64% of whom had been re-arrested) were more likely to be re-arrested when compared to those who served less than three months (57% of whom had been re-arrested).

As discussed in section 4.3.2.5, the PRIS records contained more demographic information than data collated centrally by the Probation Service. As both Tables 19 and 20 show,

employment status did not significantly impact on the likelihood of re-arrest in both regression models.

Comparison of education level attained found that for rates of re-arrest one year after release those with a third level education were significantly less likely to be re-arrested (27% had been re-arrested) compared to cases with just a primary education (34% of whom had been re-arrested). Table 20 shows that two years after release from prison, those categorised as illiterate, 70 percent of whom were re-arrested, were more likely to be re-arrested compared to those with only a primary education, of whom 57 percent had been re-arrested.

Table 19

Cox regression model for re-arrest rates after one year among STP cases imposed between 2011 and 2012 (n = 6465)

Variable	B	S.E.	Wald	HR	95% C.I.
Gender (ref: Female)					
Male	-.026	.079	.112	.974	.834, 1.137
Age at prison committal	-.011	.003	18.390*	.989	.984, .994
Occupation (ref: Employed)					
Unemployed	.016	.065	.065	1.017	.895, 1.154
Dublin address	.105	.046	5.122*	1.111	1.014, 1.216
Offence category (ref: Property offence)					
Sexual offence	-1.028	.450	5.206*	.358	.148, .865
Violent offence	-.144	.064	5.128*	.866	.764, .981
Drug offence	-.161	.100	2.590	.851	.700, 1.036
Road traffic offence	-.363	.078	21.736*	.695	.597, .810
Public order offence	-.030	.067	.194	.971	.851, 1.108
Other Offence	-.092	.083	1.239	.912	.776, 1.072
Time to complete sanction (ref: <3 months)					
Served 3 to <6 months	.083	.053	2.481	1.087	.980, 1.205
Served 6 to <12 months	.139	.064	4.658*	1.149	1.013, 1.304
Number of previous convictions	.009	.002	14.164*	1.009	1.004, 1.014
Educational level (ref: Primary school education)					
Illiterate	.085	.116	.537	1.089	.867, 1.368
Secondary school education only	-.052	.059	.773	.950	.846, 1.066
Third level education	-.171	.073	5.398*	.843	.730, .974
District Court	.046	.083	.302	1.047	.889, 1.232
Chi-Square	94.29***				

*p <.05. **p <.01. ***p <.001.

Table 20

*Cox regression model for re-arrest after two years among STP cases imposed during 2011
(n = 3395)*

Variable	B	S.E.	Wald	HR	95% C.I.
Gender (ref: Female)					
Male	-.075	.084	.804	.928	.787, 1.093
Age at prison committal	-.011	.003	16.211*	.989	.984, .994
Occupation (ref: Employed)					
Unemployed	.111	.068	2.681	1.117	.978, 1.275
Dublin address	.204	.048	17.758*	1.226	1.115, 1.348
Offence category (ref: Property offence)					
Sexual offence	-.996	.382	6.809*	.369	.175, .780
Violent offence	-.216	.066	10.767*	.806	.709, .917
Drug offence	-.269	.103	6.792*	.764	.624, .935
Road traffic offence	-.393	.077	26.290*	.675	.581, .785
Public order offence	-.093	.070	1.752	.911	.794, 1.046
Other Offence	-.339	.095	12.644*	.713	.591, .859
Time to complete sanction (ref: <3 months)					
Prison time served 3 to <6 months	.123	.054	5.205*	1.131	1.018, 1.258
Prison time served 6 to <12 months	.080	.071	1.267	1.084	.942, 1.246
Number of previous convictions	.012	.002	23.767*	1.012	1.007, 1.017
Educational level (ref: Primary school education)					
Illiterate	.358	.122	8.591*	1.431	1.126, 1.818
Secondary school education only	.041	.062	.446	1.042	.923, 1.176
Third level education	-.109	.077	2.013	.897	.771, 1.043
District Court	-.148	.086	2.940	.863	.729, 1.021
Chi-Square	144.05***				

* $p < .05$. ** $p < .01$. *** $p < .001$.

5.4.4 Comparative analysis of community service order and short-term prison case re-arrest outcomes

As outlined above, in general, re-arrest rates were similar for both CSO and STP cases, at all follow-up periods. Notable were differences in age, gender and original offence type as regards re-arrest rates across both groups. Findings of comparative analysis comparing the re-arrest outcomes of these two alternative criminal justice groups are outlined below.

5.4.4.1 The comparable impact of a CSO and STP on subsequent re-arrest. Re-arrest rates for both CSO and STP cases have been outlined extensively throughout this chapter. In order to examine differences between groups a log rank test was run to determine if there were differences in the survival distribution in the different type of intervention ($n = 11655$) as regards rates of re-arrest within a year. The survival distribution was not statistically different $\chi^2(1) = .008, p = .928$. Using 2011 cases only ($n = 6067$), the survival distribution was also not statistically different $\chi^2(1) = .774, p = .379$, for rates of re-arrest within two years.

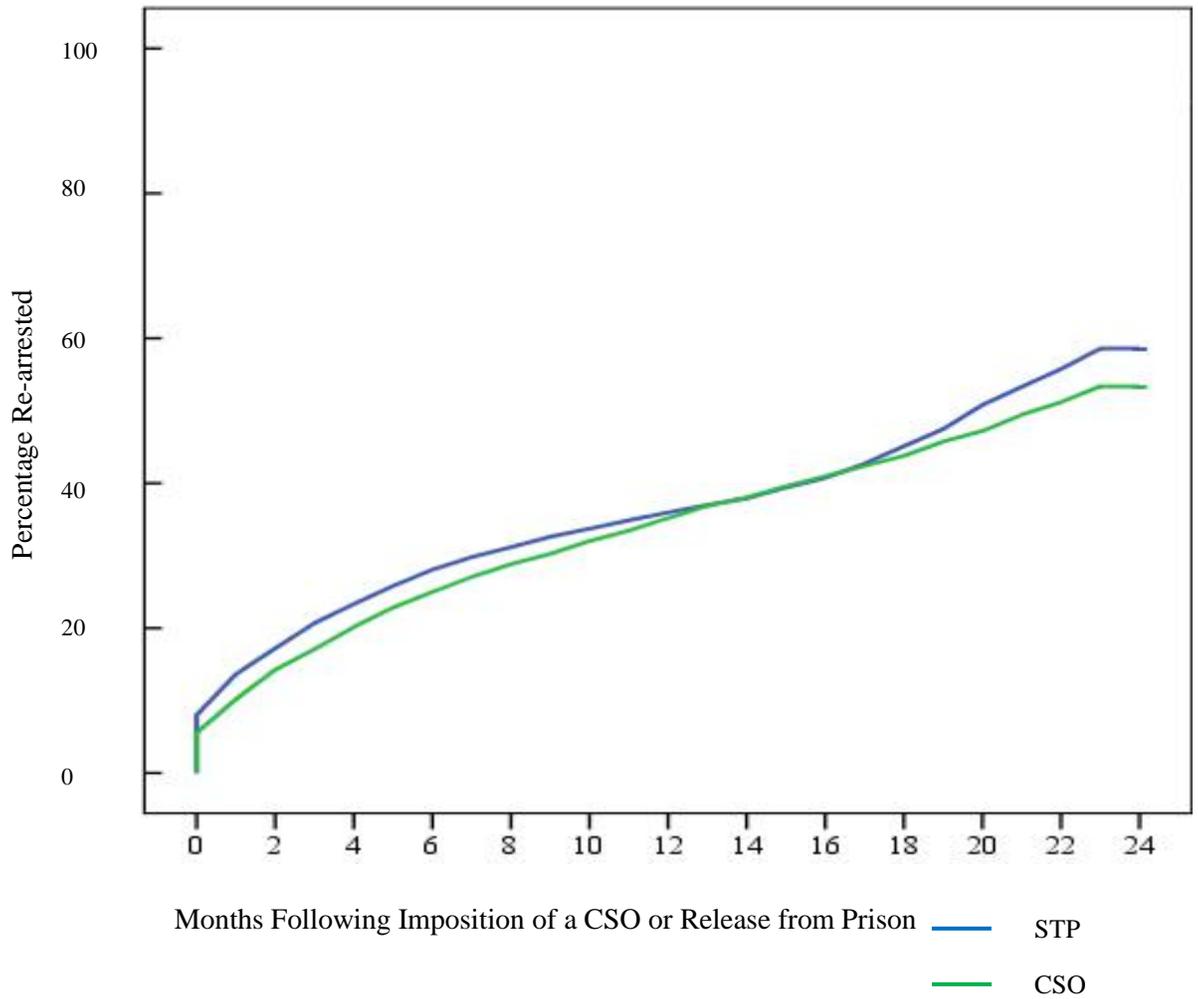
Excluding those who did not successfully complete their CSO ($n = 10623$), resulted in a significant survival distribution between CSO and STP cases $\chi^2(1) = 7.929, p = .005$ using a follow-up period of one year to re-arrest. This was also the case for 2011 cases ($n = 5583$) using a two-year follow-up period, $\chi^2(1) = 11.818, p = .001$.

For 2011 cases, CSOs had a median survival time to re-arrest of 22 months, compared to 20 months among STP cases 95% CI, (19.4 to 20.6). Figure Eight shows re-arrest rates two years after the imposition of a CSO or after release from a STP sentence [2011 cases only].

After two years, 59 percent of STP cases sentenced in 2011 had been re-arrested compared to 53 percent of CSO cases recorded as having successfully completed their orders.

Figure 8

Re-arrest rates two years after the imposition of a CSO or release after a STP sentence [2011 cases only]



The effect receiving a CSO, in comparison to a short prison sentence, had on subsequent re-arrest was a central question in this thesis. Sanction type was regressed onto re-arrest after six months, one year and two years [2011 cases only] using all cases. Analysis excluding CSO cases that did not successfully complete their orders was also completed for comparison purposes. See Table 21.

Table 21

Logistical regression models including all cases and models including CSO completers predicting re-arrest after six months, one, and two years [2011 cases only]

Variable	S.E.	Wald	df	p value	OR	95% C.I. for OR
Re-arrest after six months						
Sanction type (STP)	.05	.10	1	.747	.985	.9 to 1.1
Constant	.04	1592.6	1	.000	.251	
Re-arrest after six months minus CSO non-completers						
Sanction type (STP)*	.05	4.7	1	.03	1.1	1 to 1.2
Constant	.04	1404	1	.000	.221	
Re-arrest after one year						
Sanction type (STP)	.04	.05	1	.82	.991	.92 to 1.1
Constant	.03	615.6	1	.000	.479	
Re-arrest after one year minus CSO non-completers						
Sanction type (STP)**	.04	7.01	1	.008	1.12	1.03 to 1.2
Constant	.03	641.6	1	.000	.423	
Re-arrest after two years [2011 cases only]						
Sanction type (STP)	.05	2.14	1	.144	1.08	.97 to 1.2
Constant	.04	48.38	1	.000	1.31	
Re-arrest after two years [2011 cases only] minus CSO non-completers						
Sanction type (STP)***	.06	14.6	1	.000	1.24	1.12 to 1.38
Constant	.04	10	1	.002	1.15	

*p<.05; **p<.01; ***p<.000

As outlined in Table 21 above, logistic regression models estimating likelihood of re-arrest, including all cases, as well as models with only CSO cases who completed their order, showed that at all follow-up periods, once non-completers were excluded, those in receipt of a short prison sentence were more likely to be re-arrested.

However, logistic regression models predicting re-arrest after one and two years [2011 cases only] with only CSO completer cases including all other covariates were also generated; after controlling for available covariates, sanction type was not predictive of re-arrest at either follow-up period (see Appendix O).

5.4.4.2 Developing the propensity score and matching techniques. As discussed in section 4.3.2.7 propensity score matching was first introduced by Rosenbaum and Rubin (1983) and is designed to assist researchers to draw causal inferences in observational studies. In this study, the propensity score was developed using available demographic, court, offence and offence history variables. Logistic regression was conducted to determine if available demographic, court and offence variables could be combined to predict receiving a CSO. Results showed a poor fitting model. The Hosmer-Lemeshow Goodness of Fit test was significant [$p = .02$]. The model as a whole explained between 13.5 percent (Cox and Snell R Square) and 18.1 percent of the variance (Nagelkerke R Square). It correctly classified 67.5 percent of cases, an increase of 11 percent from the null model. The sensitivity of the model was, however, poor. Variables with significance values of less than .25 (Rosenbaum, 2002) were used for balancing CSO and STP groups. Although gender and rural court variables were greater than Rosenbaum's significant value, it was decided that matching on these key attributes should be completed. There was poor

balance improvement (28.14 distance improvement) using one to one matching. See Appendix D for results of 1:1 matching.

Results of nearest neighbour matching using a calliper of .2 are detailed in Table 22 and Table 23. Descriptive statistics and balance diagnostics were estimated from all cases with valid data. Listwise deletion was used to deal with cases with missing data. Means of binary variables should be multiplied by 100 to generate percentages and the post-matching standardized bias is based on single-nearest neighbour matching with a calliper of .2.

Results below indicate that data was well matched using a .2 calliper.

The same matching techniques were conducted excluding cases that had not successfully completed their CSO. See Table 24 for the characteristics of this unmatched and matched cohort and balance improvement after matching.

Table 22

Descriptive statistics, propensity score model, and balance diagnostics for total cohorts using nearest neighbour matching with a .2 calliper

Variable	Mean	Logistic regression model of CSO assignment b(S.E.)	Balance Diagnostics: standardized bias (SB)	
			Before matching	After matching
Gender (female)	.08	-.021 (.079)	-2.49	1.41
Age at prison imposition/committal	29.3	-.009 (.002)*	-8.71	0.87
Rural court	.44	.002 (.046)	10.55	-1.22
District Court	.92	.134 (.080)	1.87	-0.45
Leinster	.58	Reference category	0.52	-2.89
Munster	.27	-.133 (.050)*	-10.9	4.11
Connacht	.07	-.350 (.090)*	-9.4	1.65
Ulster	.07	1.137 (.093)*	30.95	-3.44
Previous convictions since 2003	.76	1.761 (.062)*	-62.17	-2.95
Property offence	.30	Reference category	-15.05	-5.15
Sexual offence	.01	-1.367 (.388)*	-6.95	1.79
Violent offence	.20	.214 (.062)*	1.16	3.12
Drug offence	.09	.810 (.084)*	18.02	1.01
Road traffic offence	.14	.430 (.068)*	3.61	3.29
Public order offence	.19	.540 (.063)*	14.22	-1.11
Other Offence	.08	-.610 (.095)*	-19.59	0.13

Table 23

Characteristics of unmatched (n = 10275) and matched (n = 6644) cohorts and balance improvement after matching using .2 calliper

Variable	Means before Matching			Means after matching			% Balance Improvement
	<u>CSO</u>	<u>STP</u>	<i>M</i> diff	<u>CSO</u>	<u>STP</u>	<i>M</i> diff	
Distance (propensity score)	.52	.37	.15	.43	.43	.002	98.7
Gender (female)	.08	.09	-.01	.09	.08	.004	43.4
Age at prison imposition/committal	28.96	29.74	-.05	29.2	29.1	.08	90.2
Rural court	.47	.42	.05	.42	.43	-.006	88.5
District Court	.92	.92	.01	.92	.93	-.001	76.5
Leinster	.58	.58	.003	.60	.61	-.01	-447.7
Munster	.24	.29	-.05	.28	.26	.02	61.9
Connacht	.06	.08	-.02	.06	.06	.004	83.3
Ulster	.12	.04	.08	.06	.06	-.008	90.2
Previous convictions since 2003	.69	.92	-.23	.87	.88	-.01	95.9
Property offence	.26	.32	-.07	.25	.28	-.024	64.2
Sexual offence	.002	.01	-.005	.003	.002	.001	80.7
Violent offence	.21	.20	.005	.21	.2	.012	-169.7
Drug offence	.11	.06	.05	.1	.1	.003	94.03
Road traffic offence	.15	.14	.013	.17	.15	.012	5.17
Public order offence	.22	.17	.056	.20	.21	-.005	92
Other Offence	.05	.10	-.05	.06	.06	.0003	99.4
Cohort size	4489	5786		3322	3322		

Note. CSO 1167 cases unmatched; STP 2464 cases unmatched.

Table 24

Characteristics of unmatched (n = 10275) and matched (n = 6644) cohorts and balance improvement after matching [excluding CSO non-completers]

Variable	Means before Matching			Means after matching			Balance Diagnostics: standardized bias (SB)		% Balance Improvement
	<u>CSO</u>	<u>STP</u>	<i>M</i> diff	<u>CSO</u>	<u>STP</u>	<i>M</i> diff	Before matching	After matching	
Distance (propensity score)	.48	.32	.16	.39	.39	.002			98.88
Gender (female)	.08	.09	-.009	.08	.08	-.003	-3.38	-1.21	64.85
Age at prison imposition/committal	29.2	29.7	-.53	29.18	29.52	-0.34	-5.94	-3.82	36.19
Rural court	.48	.42	.07	.46	.45	.014	13.67	2.77	79.67
District Court	.92	.92	-.001	.92	.91	.005	-.5	1.84	-268.1
Leinster	.56	.58	-.02	.60	.58	.02	-4.05	4.94	-21.18
Munster	.25	.29	-.04	.27	.29	-.02	-8.88	-3.64	58.65
Connacht	.06	.08	-.02	.07	.06	.004	-6.73	1.47	78.84
Ulster	.13	.04	.09	.06	.07	-.01	33.16	-4.6	87.15
Previous convictions since 2003	.68	.93	-.24	.85	.86	-.002	-65.3	-4.10	94.12
Property offence	.24	.32	-.08	.26	.26	.004	-17.98	-.91	95.1
Sexual offence	.002	.007	-.005	.003	.001	.002	-7.52	3.4	70.9
Violent offence	.21	.20	.001	.22	.21	.006	2.45	1.51	38
Drug offence	.12	.06	.06	.11	.11	-.003	21.1	-1.03	94.6
Road traffic offence	.15	.14	.013	.16	.15	.007	3.61	1.79	48.6
Public order offence	.22	.17	.06	.20	.21	-.01	14.36	-2.35	83.4
Other Offence	.05	.10	-.05	.06	.05	.003	-20.86	1.11	95.3
Cohort size	3637	5786		2755	2755				

Note. CSO completer cases 882 unmatched; STP cases 3031 unmatched.

5.4.4.3 Comparative rates of re-arrest between CSO and STP cases using a matched cohort. The comparison between CSO and STP groups when the propensity score was balanced by nearest neighbour matching using a .2 calliper showed a non-significant difference in re-arrest after six months $\chi^2(1) = 1.034, p = .309$ and after one year $\chi^2(1) = .080, p = .777$. After six months, 21.9 percent of CSO cases had been re-arrested compared to 20.9 percent of STP cases. After one year, 34.8 percent of CSO cases had been re-arrested compared to 38.4 percent of STP cases. A log rank test was run to determine if there were differences in the survival distribution between CSO and STP cases. Results at both reference periods were non-significant.

Examining sanction allocation, excluding CSO cases that did not successfully complete their CSO, when the propensity score was balanced by nearest neighbour matching using a .2 calliper showed a non-significant difference in re-arrest after six months $\chi^2(1) = 1.432, p = .232$ and after one year $\chi^2(1) = 1.382, p = .240$. After six months 21.4 percent of CSO cases had been re-arrested compared to 20.1 percent of STP cases. After one year, 32.2 percent of CSO cases had been re-arrested compared to 33.6 percent of STP cases. A log rank test was run to determine if there were differences in the survival distribution between CSO [excluding non-completers] and STP cases. Results at both reference periods were non-significant.

Comparative analysis using matching techniques indicated no statistically significant gain as regards subsequent re-arrest after being placed on community service as an alternative to a STP sentence. However, differences in proportions of re-arrest, although not significant, cannot be ignored. As outlined in Chapter Six, the outcomes from each sanction were experienced very differently by CSO compared to STP participants. Therefore the multidimensional examination of the use, experience and outcomes of

community service as an alternative short prison sentence in Ireland completed as part of this study is discussed in the next chapter.

5.5 Chapter summary

Initial descriptive analysis showed that differences between STP and CSO cases were not as pronounced as expected. The large number of CSO recipients without previous convictions since 2003¹³, tentatively suggests that a large proportion of cases may have been first-time offenders. This suggests that the sanction is not being used as a direct alternative or substitute for a custodial sanction in all cases. For those in the CSO group, community service was interpreted as their last chance before being committed to custody. In only eight District Court jurisdictions were more CSOs than short prison sentences imposed. This identifies diversity in sentencing practice regarding the use of community service in all cases where a custodial sentence is considered warranted. Whether the CSO, an alternative to custody in the Irish criminal justice context, is having the desired decarcerative effect is therefore disputable; implications for those on the cusp of a custodial sentence and a discussion of suspected up-tariffing of a large number of presumably low level offenders is discussed in subsequent chapters.

The variability of CSO use across offence category and court jurisdiction highlighted in this chapter identified unpredictability of CSO hours and equivalent custodial sentence allocation in Ireland. This was also identified as a major consideration for recipients in receipt of community service. Participants agreed that while community service was more preferable than serving a custodial term, the alternative prison sentence attached to an order and the length of time taken to complete community work were given consideration by interviewees. The reported appropriateness of community service for

¹³ Including those for whom information regarding previous criminal convictions was unavailable

certain types of offenders was also identified and consensus was not reached across groups. Many considered habitual offenders unworthy of community service, whereas those with much experience of imprisonment believed they had never been given an opportunity to complete community service, which may have changed the trajectory of their criminal careers. According to the majority of interviewees in the STP group, they were destined for prison. Questions arising about who community service is for and why certain offenders receive community service is further explored in the discussion chapter.

Although the physical barrier created by imprisonment impacted offenders and their families, many STP interviewees would not have chosen to complete community service if afforded the opportunity. Those in the STP group lacked a sense of self belief in their ability to successfully complete community service. Offenders' aspirations, long and short-term goal setting, and perceived outcomes of sanctions are therefore worthy of examination. The perceived outcomes of community service, in particular for young offenders contradicts the notion that maturity plays a large role in individuals' ability to successfully complete sanctions. This is supported by findings of higher re-arrest rates for those in younger age groups. The implications of such findings are discussed in subsequent analysis.

The theme routine identified the sense of stability and structure provided by these alternative criminal justice sanctions. Those in the STP group valued the structure provided by the prison environment. Those with addiction problems and chaotic lives in the community considered a short spell in prison a break from the outside. In contrast, those in the CSO group claimed community work had improved their routine and provided them with the incentive to re-join the working world. Notably, re-arrest findings were largely similar across sanction groups; after accounting for the available

selection variables results show no gain as regards subsequent re-arrest of being placed on community service compared to a short prison sentence Examination of outcomes of CSO and STP cases found that rates rose during the months following the imposition of a CSO and release from a short prison sentence. Re-arrest rates were higher for females released from prison when compared to their CSO counterparts and their male counterparts released from a short spell of imprisonment after one-and two-year follow-up periods. Outcomes of these alternative criminal justice sanctions are explored in forthcoming sections and implications for criminal justice policy makers outlined.

Qualitative analysis provided an outline of the differing outcomes of contact with the criminal justice system. The comparative experience of court was very different for STP and CSO participants. The fear of imprisonment hung over CSO participants whereas in comparison, STP interviewees had much experience of the court system. The emotive response evoked by contact with the criminal justice system was largely similar for interviewees from both groups. The consensus that the criminal justice system should be avoided if possible was shared by all interviewees. This contrasts with STP interviewees claiming they needed prison in order to provide some respite from their lives in the community; these contrasting views emerged when participants reflected on the long-term impact of their criminal activities. In the next chapter, perceived outcomes of 'The System' are discussed in the context of largely similar rates of re-arrest between groups.

As discussed in section 4.2, a mixed methodology was deemed most appropriate in order to provide a compressive analysis of the use, experience and outcomes of these important elements of the Irish criminal justice system. The qualitative element outlined in this chapter discussed the comparative experience of completing a CSO as an alternative sanction to a period of short-term imprisonment. The nuanced perspectives provided by analysis of qualitative data aimed to augment the observations made from

analysis of quantitative data. As outlined above, common themes and observations identified across data types are integrated and discussed in further detail in Chapters Six and Seven.

CHAPTER SIX

DISCUSSION

6.1 Chapter overview

An underlying principle for the introduction of the Criminal Justice (Community Service) Act 1983 was to ‘relieve’ Irish prisons of short-term committals (Riordan, 2009), by requiring that CSOs could be used as alternatives to imprisonment. In 2011, approximately thirty years later, an adjustment to this legislation specifically targeted the increased use of CSOs in cases where a prison sentence of less than one year was considered appropriate. According to the then Minister for Justice and Equality, the basic rationale for this amendment was “to support a recommendation to reduce prisoner numbers”. According to the Minister, non-custodial alternatives must be “cost effective, credible and command public confidence in managing both those who pose a general risk of re-offending and those presenting a real risk of harm and danger to the public” (Department of Justice and Equality, 2011a). The CSO was proposed as an all-encompassing solution to many of the deficits present in the Irish criminal justice system.

The promotion of non-custodial alternatives more broadly, considered less damaging and less expensive than imprisonment, has been attributed to the collapse of penal welfare ideals, due to disillusionment with the ineffectiveness of rehabilitation in the majority of Anglophone jurisdictions (Bottoms, Rex, & Robinson, 2004; McMahon, 1992). Although not as expansive when compared to other jurisdictions, in Ireland, penal reforms and policy amendments promoting non-custodial sanctions have also attempted to divert individuals away from prison into less expensive non-custodial

alternatives, such as community service (O'Donnell, 2011; Rogan, 2011). The official discourse around the introduction of community service in Ireland emphasised its cost-saving nature, rather than disappointment with the rehabilitative potential of other sanctions. The penal goals to be served by CSOs were therefore much less apparent.

As noted by Seymour, “any discussion on the development of alternatives to custody must be contextualised within the structural, social, administrative and judicial boundaries that exist in a jurisdiction” (2006, p. 5). In Ireland, as outlined in the Context Chapter, a tense political climate, as well as economic strain were evident when policy changes encouraging the greater use of community service were introduced. Changes in population demographics including a decrease in the number of young males (which is often correlated with crime rates (Parsons, 2016)), reductions in public service spending, and an absence of public sector recruitment were all significant. This background influenced modifications to the 1983 Act.

Criminal justice policies encouraging greater use of alternatives to custody have, for the most part, been under-examined empirically in Ireland, mainly due to the dearth of available criminological data (Rogan, 2012a). The impact of recent legislative changes to the Criminal Justice (Community Service) Act 1983 is under-analysed; how community service is used as non-custodial alternative is unknown, as are the comparative outcomes of these two alternative sanctions. This study examined the use of community service as an alternative to custody in Ireland, with particular emphasis on the use, experience, and outcomes of CSOs as substitutes for short prison sentences.

This chapter will examine whether community service is operating as a true custodial alternative and whether the purposes of community service as outlined by Irish penal policy are being met.

This discussion centres on the goals of Irish sentencing policy and whether the promotion of non-custodial alternatives have achieved the desired reduction in prison numbers by diverting those who would have otherwise received a custodial sentence into an alternative CSO. The chapter then addresses why certain offenders receive community service, drawing on existing literature examining judicial reasoning when imposing alternative non-custodial sanctions. The interchangeability of short-term imprisonment and community service is discussed from sanction participants' perspectives. Notable observations concerning official re-arrest rates and perceived outcomes of these alternative criminal justice sanctions for specific offender groups are outlined, before participants' aspirations and sense of hopefulness upon completion of sanctions are discussed. Finally, study limitations are defined. This chapter summaries what the qualitative and quantitative data collected as part of this study have revealed about the 'alternativeness' of these sanctions, an overarching motif for this study.

6.2 The rationale underlying alternatives to custody in the Irish criminal justice context

Over the past number of decades, there has been an expansion in the type and range of community penalties introduced across many Anglophone jurisdictions. This has been particularly notable in England and Wales, but also in Northern Ireland and Scotland, where 'a new generation' of community orders were introduced alongside a tough community punishment rhetoric, in an attempt to increase the credibility and use of non-custodial sanctions, while at the same time decreasing the prison populations of these jurisdictions (Bottoms, Rex, et al., 2004; Robinson & McNeill, 2015).

When compared to our neighbouring jurisdictions, the range of community penalties available to the Irish judiciary is much less expansive (Seymour, 2006). Ireland has not

undergone significant development as regards community sanction creation, nor witnessed major strategic legislative developments within the penal policy arena. (Rogan, 2011). The so called ‘menu’ of non-custodial options available across the UK is not as expansive in Ireland. The majority of penal policy initiatives introduced during the 1970s through to the early 2000s can be described as reactionary in nature (Rogan, 2012b).

More recently, new initiatives and innovative practices have been developed in an attempt to overcome specific problems faced by criminal justice agencies. These initiatives have focused on reducing the prison population by promoting non-custodial alternatives, with a strong emphasis on cost saving; other initiatives display a focus on reintegration and improved detention conditions. These include the community return programme (McNally & Brennan, 2015), introduced to aid re-integration of long-serving prisoners; an ‘unlocking community alternatives’ programme to address the high use of short-term imprisonment in the Cork region (Irish Prison Service, 2012b); and a joint Irish Prison Service and Probation Service strategy to contend with the rise in female imprisonment (Irish Prison Service & Probation Service, 2013). For the most part, these policies have been introduced in a piecemeal fashion, designed to address particular problems in local areas, and they have specifically focused on the prison system. It can be said that an increasing effort at strategic thinking across the criminal justice system has been evident in recent years, but an overarching statutory or evaluation framework is still lacking.

A recent policy development concerning the promotion of community service as an alternative to short-term custody in Ireland was the commencement of the Criminal Justice (Community Service) (Amendment) Act 2011. As discussed in Chapter Three, the CSO was designed as a direct alternative to imprisonment with each order having

the threat of custody attached in case conditions were breached. Official policy states that “[CSOs]... are intended to rehabilitate the offender and bring about meaningful reparation to the community for his/her crime” (Department of Justice and Equality, 2011b, p. 12).

Policy makers have long believed that the CSO could act as a cost-effective alternative to imprisonment, while at the same time offer some retribution and provide rehabilitation to offenders (Department of Justice, 1981; McCarthy, 2014; Riordan, 2009). CSOs aim to reduce prison numbers, be cost-effective, credible, and command confidence from the general public. The objectives of CSOs are therefore wide-reaching, varied and unclear; introduced, to the researcher’s knowledge, without any prior empirical analysis or ongoing evaluation of their projected impact on the prison population. This discussion section initially examines whether the stated policy aim of increasing the use of community service has been realised, before the decarcerative effect of the CSO as an alternative to short-term imprisonment is assessed.

6.2.1 The impact of the Criminal Justice (Community Service) (Amendment) Act 2011 on the underutilisation of community service.

A primary motive of the Criminal Justice (Community Service) (Amendment) Act 2011 was to increase the number of CSOs sanctioned by Irish courts. The perceived underutilisation of community service has been identified in a number of reports examining the operation of the Probation Service over the past number of years (Expert Group on the Probation and Welfare Service, 1999; Petrus Consulting, 2009), by scholars working in the area (Walsh & Sexton, 1999), as well as criminal justice policy makers themselves (Department of Justice and Equality, 2011a). An examination of

recent trends concerning the use of community service and short-term imprisonment is therefore warranted.

Between 1985 and 1993 the number of CSOs imposed in Ireland rose dramatically, however between 1993 and the early 2000s their use decreased, reaching a low of 756 CSOs sanctioned during 2001. During the early 2000s, the use of community service remained largely static, until a 39 percent increase between 2010 and 2011, ‘a historic peak’, was experienced. This can be attributed to ‘a new model’ of community service, introduced by the Probation Service in 2010, embedding into practice by 2011 (McCarthy, 2014 p.131). However, since the introduction of legislation promoting the increased use of community service in 2011, the number of CSOs imposed in Ireland has marginally decreased: from 2,738 in 2011 to 2,569 in 2012 to 1,935 in 2015. The number of female offenders in receipt of a CSO rose from 210 in 2011, to 229 in 2012, but similarly these figures have fallen each year since, to a low of 174 females in receipt of community service during 2015 (The Probation Service, 2011, 2012a, 2016).

Some scholars claim that resistance to political pressure encouraging an increase in the use of community service is being shown by the judiciary (Healy, 2015), and examining the imposition of CSOs by Irish courts in isolation, rather than as an alternative to short-term imprisonment, would support this hypothesis. Findings from this thesis, however, disagree with this sentiment, as such claims cannot be quantified so easily.

Analysis shows that since 2010, committals to prison for less than one year, excluding those committed for court-ordered fine default, have declined at a greater rate when compared to the number of CSOs imposed (O'Hara & Rogan, 2015). What is surprising, therefore, is the reduction in the use of both CSOs and short prison sentences since amendments to the Criminal Justice (Community Service) Act 1983 were made in 2011.

In fact, since 2010, according to Irish Prison Service figures, committals to prison for less than one year have decreased by nearly thirty percent, when those imprisoned for fine default are excluded (Irish Prison Service, 2015).

Committals to prison for the non-payment of fines are notably different from those considered for, or committed to, prison in the first instance; as a punishment for their original offence. Thus, such committals can be removed from discussion of the impact of the Criminal Justice (Community Service) (Amendment) Act 2011 on community service utilisation. The failure to commence the Fines (Payment and Recovery) Act 2014 until January 2016 is one reason that such large numbers of people were still committed to Irish prisons for the non-payment of a court-ordered fine over recent years.

The use of sanctions, including other non-custodial options, as a proportion of all District Court disposals is relevant to the discussion on the perceived underutilisation of community service. Comparing trends in the use of other non-custodial measures highlights how penal practice has changed in Ireland over recent years.

During 2010, fines accounted for 13 percent of all orders made across District Courts; this compares to 21 percent in 2012 and 24 percent in 2014 (Courts Service of Ireland, 2010, 2011, 2012, 2013, 2014). The proportion of fines as a percentage of all orders made at District Court level has therefore increased substantially in recent years. Since 2012, the use of probation sanctions (including community service) has remained relatively stable, accounting for approximately four percent of all District Court disposals each year (see Appendix P). Unfortunately figures for 2010 and 2011 are not available in official annual court reports.

Between 2010 and 2012 the use of imprisonment or detention at District Court level, as a proportion of all cases heard, increased, however a decrease of three percentage points is evident between 2013 and 2014 (figures for 2011 could not be generated from annual court reports) (Courts Service of Ireland, 2010, 2012, 2013, 2014). As mentioned, these figures were generated from annual Court Service reports and should not be directly compared with Irish Prison Service prison committal figures, as different data sources can provide apparently contradictory trends.

It seems that Ireland's perceived preference or orientation towards imprisonment as punishment (Kilcommins et al., 2004; Maguire, 2014; O'Donnell, 2004; O'Hara & Rogan, 2015) may be witnessing some change, at least at District Court level, but to what extent the promotion of community alternatives is influencing this constraint remains ambiguous.

Whether the decline in the use of short-term imprisonment can be attributed to the strengthening of existing community service legislation requires further investigation. This would require a much larger and more extensive longitudinal examination of the use of all custodial and non-custodial sanctions in the Irish criminal justice system. This study, nonetheless, questions the impact penal policy initiatives are having on the Irish judiciary and whether a shift away from the use of imprisonment is underway. As discussed in Chapter Seven, all subsequent legislative and policy initiatives encouraging the use of alternatives to custody should have review and evaluation processes built into their implementation, in order to assess changes brought about by legislative and policy initiatives.

Interpretation of statistics produced by a number of different criminal justice agencies does not produce a clear picture of the impact of the amendments to community service

legislation on community service utilisation. However, this thesis has examined whether those in receipt of community service were likely to have been diverted from a short prison sentence. As identified throughout, although data was limited, this thesis has for the first time compared on a large scale two offender populations in receipt of alternative criminal justice sanctions in Ireland. The discussion below examines whether these sanctions are operating as true alternatives in the Irish criminal justice system and whether community service is having the desired decarcerative impact.

6.2.2 The decarcerative impact of community service as an alternative to short-term imprisonment

In many jurisdictions, community service was originally introduced as an alternative to short prison sentences, but has since developed into a sanction in its own right. The explicit position that CSOs should be considered as a direct custodial alternative contrasts slightly with the manner in which the sanction was introduced in jurisdictions across the United Kingdom, where alternative prison sentence lengths did not have to be specified (McIvor, 1992). In Ireland, community service remains a direct alternative to imprisonment, and policy now seeks to encourage the greater use of community service for those who would otherwise have received a custodial sentence.

Analysis of community sanctions and measures across Europe concludes that, in many cases, an increase in the use of non-custodial sanctions has led to “widening the net of the European criminal justice system” (Aebi, Delgrande, & Marguet, 2015, p. 575). As stated previously, analysis of community service in jurisdictions within the United Kingdom are most relevant when examining the use of community service as an alternative to periods of short-term imprisonment in Ireland.

The advancement of community penalties in England, Wales and Scotland during the 1980s and 1990s aimed to combat growing prison populations (Bottoms, et al., 2004), as well as accomplish a wide variety of penal goals (Pease & McWilliams, 1980). Mair (2011), referring to England and Wales, has definitively concluded that neither the suspended sentence nor the CSO has achieved success in diverting substantial numbers of offenders away from imprisonment. Analysis by Pease (1975, 1981, 1985) concluded that after its introduction, community service was only used as an alternative to imprisonment in approximately 50 percent of cases. Similarly, in the Scottish context, McIvor (1997) contends that community sanctions were not used as direct alternatives to imprisonment and reductions in the use of short-term imprisonment were not realised. Research from Ireland also supports the notion that CSOs were not always used as a custodial alternative (O'Hara & Rogan, 2015; Walsh & Sexton, 1999). Findings from this thesis advance this understanding further.

As discussed in Chapter Three, community service attempts to achieve a variety of penal goals including decarceration, retribution, rehabilitation, and in some cases, even provide training (Bouffard & Muftic, 2006; Killias et al., 2010; McMahon, 1992; Wing Lo & Harris, 2004). Previously referred to as a 'Penal Chameleon' (Willis, 1977).

Research shows that when imposing sanctions on those considered on or close to the custody threshold, offence characteristics often influence sentencers to impose a custodial sanction, whereas offender characteristics are most influential when imposing community alternatives (Hough et al., 2003; Wasik, 2004).

In Ireland, community service legislation aimed to divert those who would have previously received a short prison sentence into an alternative less expensive CSO. This policy initiative was considered a 'cost-effective' measure twinned with the need to

alleviate prison over-crowding and the over-use of short prison sentences (McCarthy, 2014). In official terms, the CSO's success can be determined by its ability to divert cases away from imprisonment. In order to examine whether those who would have received imprisonment are now receiving community service, more nuanced examination of differences and similarities as regards number of previous convictions, and the age and gender profiles of CSO and short prison sentence recipients are outlined below; towards an assessment of the decarcerative impact of these legislative changes.

6.2.2.1 The influence of previous convictions on receiving community

service. Whether those in receipt of a CSO were more likely to be a first-time offender compared to those in receipt of a short prison sentence could not be ascertained definitively. However, the large number of CSO recipients without previous convictions since 2003 (39 percent had either no prior criminal history since 2003 as recorded on An Garda Síochána's PULSE system or for whom no information was available) suggests that a large proportion of CSO cases may have been first-time offenders. This finding implies that community service is not being used as a direct alternative or substitute for a custodial sanction, as it is unlikely that such a large number of offenders without previous convictions would have received a custodial penalty.

This is similar to experiences in other jurisdictions which have led to the up-tariffing of offenders in receipt of community penalties (Mair, 2011; Pease, 1975, 1985). Notable, however, is that for those who had previous convictions recorded since 2003, cases in the STP cohort had on average only slightly more previous convictions compared to those in the CSO cohort with previous convictions. This difference was not statistically significant, however it suggests that in some cases community service is being afforded to those with previous persistent criminal careers. The penal goals of community service

are therefore unclear; CSOs are imposed on a large number of first-time, as well as persistent offenders, highlighting some confusion in the use of the sanction.

6.2.2.2 An offender's age impacts on receiving community service. Cases committed to prison for less than a year were marginally older than those in receipt of a CSO, when all available confounding variables were controlled. This supports the general principle that younger offenders are more likely to receive a community punishment than older offenders (Flood-Page et al., 1998), and that age is significant in the decision to impose an alternative community sanction (Hough et al., 2003; Tombs, 2004). It also supports the idea that community service is considered a suitable custodial alternative for younger, rather than older offenders (Marinos, 2005).

The perception that young offenders should be diverted from prison into community service was strongly articulated by all interviewee participants. Community service was considered suitable because it would instil routine and a strong work ethic in younger participants. According to interviewees, a requirement to work was also considered more taxing for younger offenders.

Interviewee participants considered community service suitable for those at a turning point in their criminal justice journey. Community service was regarded as the last chance before imprisonment and the decision to imprison was considered very significant in the case of younger offenders. Only one CSO interviewee had experience of juvenile detention compared with nine of the 11 participants in the STP interviewee group, many of whom claimed this detention had contributed to their continuing criminal activity. Juvenile detention is consistently found to be a strong predictor of future imprisonment (Cottle et al., 2001; Farrington et al., 2013). It seems the Irish judiciary considers community service suitable for certain young offenders, a sentiment

strongly supported by offenders in receipt of both short-term imprisonment and community service.

6.2.2.3 Alternative criminal justice sanctions for female offenders.

Comparative analysis of the profile of offender in receipt of community service or a short prison sentence also included an analysis of gender. Between groups, gender distributions were largely comparable; whether offenders were male or female had no predictive impact on receiving community service when all available confounding variables were controlled. This contrasts with findings from Scotland where females were less likely than men to receive community sanctions (McIvor, 1998). Although gender did not appear to influence decisions, confounding variables not available or controlled for in analysis such as mental health, substance misuse or other offender characteristics may have influenced these sentencing decisions.

The questions of suitability of community sanction for female offenders (McIvor, 1998) and the 'differential access' to non-custodial sanctions for females in the criminal justice system (Kemshall, Canton, & Bailey, 2004) have been raised by a number of scholars. Over the past number of years, the total number of females committed to prison in Ireland (in particular those imprisoned for fine default) has risen at a disproportionate rate when compared to males, and the use of custodial remand for female compared to male cases is also higher (Department of Justice and Equality, 2014). The numbers subject to some form of community supervision have fluctuated, but remained relatively stable (The Probation Service, 2011, 2012a, 2013b, 2014).

In the case of community service and short-term imprisonment during 2011 and 2012, gender proportions across groups were largely similar. This contrasts with the rising proportions of female committals to prison over the past number of years, across all

sentence length groups. Based on analysis completed as part of this study, it seems the Irish judiciary considers community service a suitable sanction for some female offenders; however judges continue to use short-term imprisonment for a certain cohort of the female offender population. It seems this group are considered unsuitable for community service. As discussed later in this chapter, the outcomes for males and females in receipt of community service and short-term imprisonment in this study were especially different.

6.2.2.4 Is community service a suitable alternative for all offence groups?

It has been established that imprisonment and community service are not considered “equally interchangeable” for different offenders or offences, in particular those of a sexual or violent nature (Marinos, 2005, p. 446). In fact, different punishments are often associated with differing purposes for certain offences, therefore “single interchangeability matrices” (Doob & Marinos, 1995, p. 433) between CSOs and short prison sentences may not be applicable for all offence types.

In this study, those originally convicted of a public order or a drug offence were more likely to receive community service compared to a short prison sentence; these differences were not sizeable, but worthy of discussion. Qualitative analysis also raised questions regarding the suitability of community service for offenders with substance misuse difficulties.

Bouffard and Muftic (2006) found that a large proportion of their community service population in North Dakota had been sentenced for a drug or alcohol offence. This finding contrasts with that of Tombs (2004) in Scotland, where no notable patterns in the types of offences receiving custodial and non-custodial sanctions were detected, except those sentenced for drug offences; these offenders received proportionately more

custodial sentences. The apparent variance in the use of community service for those convicted of a drug offence in Ireland does not simply imply that community service is being used as an alternative to imprisonment for those with addiction problems. In contrast, findings from this thesis revealed that imprisonment was considered the only viable criminal justice solution for those with serious addiction problems.

Qualitative analysis revealed that the majority of interviewees from the short-term prison group suffered from substantial substance misuse difficulties, although none had received their current short prison sentence for committing a drug offence. Many were currently, or had been previously, incarcerated for acquisitive crimes, supporting the notion that offenders commit such crimes to feed their drug problem (McIvor, 2009).

Chaotic addiction was not as evident among CSO interviewees, however a number had received their CSOs for the possession of drugs for personal use. It is well established that the criminal justice system is one of the main treatment avenues for those with addiction problems (Rumgay, 2004) and this sentiment was shared by those in the short-term prison group, claiming they 'needed' prison in order to address their addiction. It was considered the only service available to them. Previous research in the area has concluded that the use of imprisonment for persistent offenders committing non-violent crimes may be a primary opportunity to access appropriate services for those with addiction issues (Armstrong & Weaver, 2013).

As has been already identified, substance misuse featured in much discussion of the use of community service as an alternative to short prison sentences; with some interviewees claiming that those with addiction problems were unsuitable for non-custodial sanctions. This supports previous research with Irish judges who did not consider a CSO suitable for those with substance misuse problems (Comptroller and

Auditor General, 2004; Riordan, 2009). An individual's belief in his or her capacity to implement behaviours has also been linked with perseverance in addiction treatment (Simoneau & Bergeron, 2003). Those in the STP interviewee group lacked personal belief in their ability to complete community service, and, when compared to CSO interviewees, were more unsure about their ability to desist from offending. Therefore the perception that community service is unsuitable for certain offenders in receipt of short prison sentences is held by both offenders and the judiciary alike.

In this study, those convicted of a drug offence were more likely to receive community service, but CSO interviewees were less likely to report addiction issues. Further data and analysis is required, but it may be deduced that some cases in receipt of community service for a drug offence had less serious, if any, substance misuse problems. The question then arises, would these low-level offenders have received a custodial sentence in the first instance? Is the use of community service for certain drug offences widening the criminal justice net? Do addictions linked with offending behaviour complicate cases to such an extent that it is felt that prison is a more holistic solution for offenders with such problems? These questions raise doubts regarding the use of community service as a direct custodial alternative for this category of offender in Ireland.

Pertinent to this discussion is the operation of a drug treatment court model in Ireland. Between 2001 and 2009 only 53 percent of the 374 referrals made to the court were considered suitable. Outcome analysis from the drug treatment court has shown that significantly fewer crimes were committed by participants both during, and after, their time in the programme (Department of Justice and Equality, 2010). As discussed in section 6.4, those originally convicted of a drug offence, in receipt of a CSO, had more success in terms of completion when compared to other original offence categories in receipt of CSOs. This again supports the notion that these cases were at the lower end of

the scale regarding addiction problems and perhaps lower on the scale of offence seriousness.

In conclusion, the decarcerative impact of CSOs as alternatives to custodial sentences can neither be refuted nor confirmed, as interpretation of statistics, produced by a number of different criminal justice agencies, do not produce a clear picture of penal trends in Ireland. However, through examining the demographic makeup of community service and short-term prison populations, it is clear that CSOs are not being used in all cases warranting a custodial sanction. The Irish experience is therefore very similar to that of its neighbouring jurisdictions even though our statutory framework is different.

Phelps (2013) has identified this trend across U.S. states, concluding that “probation paradoxically exerts both a prison alternative and net-widener effect, with the two forces often cancelling each other out” (Phelps, p. 70). In Ireland, this may be particularly relevant for those convicted of a low-level drug offence. It is important that CSOs do not replace the use of other low tariff sanctions in the Irish criminal justice context, rather than acting as alternatives to custody (McIvor et al., 2013; Seymour, 2006). Recommendations to ensure such consequences are minimised in the future, especially in light of the inclusion of community service in the Fines (Payment and Recovery) Act 2014 are discussed in Chapter Seven. Further research in the area and the monitoring of sentencing trends is urgently required.

6.3 ‘Alternativeness’ between community service and short-term imprisonment:

The sentencing process

It has been claimed that members of the judiciary do not consider the function of non-custodial sanctions equivalent to that of imprisonment, nor are they confident that alternatives can achieve the deterrent effect of imprisonment (Ashworth, 2010; Hough et al., 2003; Mair, 2011; Millie et al., 2007; Tombs, 2004). This seems to apply in Ireland (Riordan, 2009), as well as across neighbouring jurisdictions. Findings from this thesis show how community service and short-term imprisonment are not necessarily considered penal equivalents in the Irish criminal justice context.

As outlined at the beginning of this chapter, in neighbouring jurisdictions a ‘punitive narrative’ seems to have crept into policy rhetoric when discussing community penalties and alternatives to custody, in particular the use of community service, as a variety of specific requirements can now be attached to community orders (Bottoms, Rex, et al., 2004; Robinson & McNeill, 2015). Ireland, however, has not experienced an increase in use of community sanctions, referred to by Phelps (2013) as ‘mass supervision’, and has largely avoided a move by the legislature towards more punitive or demanding community penalties. According to Healy, “probation work continues to be legitimised primarily through a penal welfare narrative, although an austerity narrative tends to become salient during times of economic crisis” (2015, p. 152).

In this section an assessment of the equivalence and interchangeability between alternative criminal justice sanctions is discussed and the operation of these sanctions as true penal substitutes in Ireland assessed. An offender’s perceived suitability and the provision of a working routine were identified as primary motivations for the imposition

of community service. Finally, geographic variability in the use of these alternative sanctions and its consequence are outlined.

6.3.1 The operation of community service and short-term imprisonment as penal substitutes

It has been established that offenders who receive high-tariff community sanctions expend alternatives to prison more quickly and they attract prison sentences early in their criminal careers (Hine, 1993; Hough et al., 2003; Tombs, 2008). As stated by Walsh: “the CSO benefits from a degree of legislative and executive regulation that is unparalleled in any other criminal justice sanction in Ireland” (2005, p. 75) as it can only be used as an alternative to imprisonment. However, the judiciary’s aversion towards the restrictive nature of the Criminal Justice (Community Service) Act 1983 has been noted on a number of occasions (Petrus Consulting, 2009; Riordan, 2009; Walsh & Sexton, 1999).

In England and Wales, and Scotland, scholars claim the CSO’s far-reaching aims created confusion and inconsistency among sentences, as no specific guidelines were provided to the judiciary on how to use this non-custodial alternative (Bottoms, Rex, et al., 2004; McIvor, 1990; Riordan, 2009). This has also been found to be in the case in Canada (Marinos, 2005), as well as in Ireland (Riordan, 2009; Walsh & Sexton, 1999).

In many jurisdictions alternatives to imprisonment have not achieved success in diverting substantial number of offenders away from imprisonment, because the judiciary do not consider them credible non-custodial alternatives. In Ireland, the notion of penal equivalence between community service and short-term imprisonment has been

relatively under-conceptualised. This section addresses the credibility of community service and its ability to act as a legitimate custodial alternative in the Irish context.

6.3.1.1 CSOs operate in a punitive ‘safe space’. Findings from this study support that although community service is imposed as an alternative to imprisonment in some cases, Irish judges are operating in a punitive ‘safe space’ in the way they utilise CSOs. Analysis revealed that alternative prison sentences attached to CSOs, in case of breach, were higher for all offence categories, except crimes against property. The increased length was most pronounced for sexual offences and robbery and related offences; two of the most serious offence categories. Marinos (2005) notes from her study of public attitudes, that penal equivalency between sanctions was not based solely on offence seriousness. Rather, a more complex relationship exists between the purposes of sanctions and their applicability to certain offences. Therefore the “substitution of penalties must go beyond a focus and assessment of severity” (Marinos, 2005, p. 442).

Attaching very punitive alternative prison sentences to CSOs may be a method employed by the Irish judiciary of increasing the deterrent or punitive effect of community service. This may only be relevant when the sanction is used as a direct custodial alternative and further research in this area is required before definitive claims can be made. Research by Vaughan (2001) has, however, shown that District Court judges in Ireland believe prison does not reform offenders; but a smaller majority (65%) believed that the use of custody (and perhaps the threat of custody in the case of non-custodial alternatives) influenced deterrence. It should be noted that these findings are drawn from a relatively small sample ($n = 17$).

As outlined by Riordan (2009), the judiciary are more likely to impose a non-custodial sanction when risk is low. Attaching a long alternative prison sentence may be a method of avoiding or minimising risk by the judiciary, as well as increasing the punitive bite of community sanctions, in the absence of political dialogue or policy development regarding the legitimacy of community punishments. Notably, outcome analysis does not support the hypothesis that CSOs are only imposed in cases where re-offending risk is low. However, cases with longer alternative prison sentences attached to their CSOs did have lower rates of re-arrest. This is discussed further in section 6.4.

6.3.1.2 Community service is a last chance at redemption. Analysis revealed that interviewee participants situate the CSO just before imprisonment in the ‘league table’ of sanction severity. It is perceived as neither an equal nor an acceptable alternative, but rather a last chance before redemption is no longer possible. According to participants, cases considered at the end of the road when criminal justice sanctions were being considered or those with long criminal careers, were automatically sent to prison for a short time. Such sentences were imposed on these cases without any consideration of community service suitability.

A number of STP interviewees believed they lacked the ability to complete community service and in fact, would have preferred not to have received it. A short spell in prison, according to them, provided a well-needed ‘break from the outside’. This finding is congruent with research in this area (Armstrong & Weaver, 2010; Doob & Marinos, 1995; Laub & Sampson, 2003). The lack of confidence in STP cases’ ability to successfully complete community service perpetuated into a sense of unworthiness. It may be inferred that the judiciary also lack confidence in some offenders’ ability to complete community service, or in fact, the CSO’s ability to deal with such cases when they appear in court.

This perceived predictability or familiarity of imprisonment for some offenders may mean that some offenders are not open or willing to engage with services in the community, thus making the transition from custody to a non-custodial sanction impossible for some cases. Participants considered imprisonment to be the end of their criminal justice journey and, according to them, prior imprisonment negatively impacted on being assessed or considered suitable for alternative sanctions. The idea of a perpetual prison career is also supported by the much greater use of multiple sanctions among STP compared to CSO cases during 2011 and 2012.

The question then arises, is there no turning back from imprisonment? Is the CSO imposed as a final chance before offenders fall over the custody threshold forever? As outlined in Chapter Five, this sentiment was shared by some participants in the CSO interviewee group. This has implications for policy promoting the interchangeability of sanctions, if the aim is to divert those in receipt of short prison sentences, many of who may be seasoned offenders, into community alternatives.

6.3.2 Imposing community service: An offender's perspective

Many interviewees claimed short prison sentences were not suitable for certain types of offenders and agreed that community service was not a viable non-custodial alternative in some cases. According to interviewee participants, community service is most suitable for young offenders (as discussed in sections 5.3.3.1 and 6.2.2), first-time offenders, and those unable to cope with the pains of imprisonment.

As outlined above, community service was considered an offender's last chance before an inevitable custodial sentence. The idea that community service could benefit

offenders was shared by participants in both groups, in particular the CSO's ability to help offenders return to work.

Work as a penal measure has a long history in the criminal justice arena (Kilcommins, 1999; Kilcommins, 2002; Zedner, 2004). In Ireland, some of the stated functions of the CSO was to provide retribution to communities for the harm caused by offending, rehabilitate offenders, as well as act as an alternative to imprisonment (Department of Justice, 1981). McIvor (2007) writing on this issue, claims that in England and Wales there has been a shift away from an understanding that community service benefited offenders, as well as, communities; recently, the community is seen as the only 'intended beneficiary' of community service work. The perception that imposing community service benefited offenders as it helped them return to a working routine is discussed below.

6.3.2.1 Community service provides a work routine. Research examining the judiciary's perceptions of community service found that many believed a CSO provided a work routine for offenders who were unemployed (Riordan, 2009). Research into desistance from non-sexual offending has consistently pointed to the importance of work in the initial stages of desistance (Farrington et al., 1986; May, 1999; Sampson and Laub, 1993). Work is said to help provide meaning to individual lives and give individuals 'something to lose' by getting in trouble with the law again. Employment also involves new forms of new routine activities, informal social controls, social supports, and the possibility of meeting role models who are not involved in crime.

Interviewees spoke at length about routine and future work or training prospects.

Consensus that community service could instil a daily structure was reported by all CSO interviewees and perceived to be the case by those in the short-term prison group.

Routine featured in much discussion of the role, experience and outcomes of community service; interviewees' perceptions apparently support those held by the Irish judiciary as regards the CSO's ability to instil a work routine for some cases.

6.3.3 Variability across court jurisdictions: The implications

Hamilton's (2005) empirical study found that sentencing practices in Ireland are largely discretionary and inconsistent, particularly at District Court level. District Courts are organised on a regional basis, in 23 jurisdictions, as well as the Dublin Metropolitan District¹⁴. Analysis showed that only in eight District Court jurisdictions were more CSOs made compared to short prison sentences imposed during 2011 and 2012. In one District Court jurisdiction, 14 short prison sentences were imposed for every one CSO; in another jurisdiction, three CSOs were imposed for every short prison sentence during these two years. This seems to suggest that a preference for the use of community service is strong among some members of the judiciary, while the use of imprisonment is even stronger in some areas. These findings support those of Walsh and Sexton (1999) which found a lack of consistency in the imposition of CSOs across courts. This variation did not go unnoticed by interviewee participants. There was a strong perception of disparity by interviewees; court outcomes were considered to be arbitrary and largely determined by the personality of the judge. This supports findings that some solicitors 'judge shop' due to the sentencing disparity between judges at District Court level (Hunter & Hamilton, 2005).

Analysis of the use of community service at Circuit Court level revealed fewer CSOs than expected were sanctioned in the majority of Circuit Court areas. The number of orders made at this court level are much fewer than those at District Court level,

¹⁴ District Court (Districts) Order, 2013.

therefore discussion centres around the use of these alternative sanctions at lower court level.

In court jurisdictions close to the border with Northern Ireland, courts seemed to have a stronger preference for the use of community service as opposed to short-term imprisonment when compared to other jurisdictions. Analysis taking population size differences into consideration shows a much higher use of community sanctions across Northern Ireland when compared to the Republic (Carr, 2016). Carr (2016) also notes a greater use of pre-sentence reports, probation orders, as well as CSOs in Northern Ireland. She attributes these differences to the strong legislative basis underpinning community punishment in the North, as well as the under resourcing of probation services in the Republic. The 'border effect' and the transfer of practice across jurisdictions cannot be discounted. Another reason for this trend may be the similarities and close working relationship between services north and south of the border and the informal agreement that community orders could be transferred between jurisdictions in operation since 2007 (McNally & Burke, 2012). This finding has interesting implications concerning policy transfer from other jurisdictions.

There are currently no guidelines regarding the appropriate number of community service hours per one month of alternative imprisonment to be set by the judiciary. Walsh and Sexton (1999) found that on average, one month of alternative imprisonment equalled twenty seven hours of community service, but substantial variations were detected when courts were examined individually. In this study, across all District Courts, the average number of community service hours per month of imprisonment was thirty four, however this varied considerably when examined by District Court jurisdiction. In District 18 the average equivalence was 70.5 hours, in comparison to 23 hours in District 15. Examination by specific offence showed that community service

hours per month of alternative prison sentence also fluctuated across District Court jurisdictions (O'Hara & Rogan, 2015).

On average, during 2006, thirty community service hours equalled one month alternative imprisonment (Petrus Consulting, 2009). During 2011 and 2012, the average was just under 28 community service hours per one month's alternative imprisonment. The average equivalence rate was highest for dangerous and negligent acts and lowest for robbery and related offences and sexual offences. The highest alternative prison sentences were attached to crimes in offence categories located at the higher end of the severity scale, giving the lowest ratios of community service hours to alternative prison months. These findings suggest that some members of the judiciary use community service in cases which may be considered quite serious, but attach high alternative prison sentences, attempting perhaps to increase the legitimacy of the sanction. This notion is corroborated by the recent imposition of community service for homicide offences including dangerous driving causing death (The Irish Times, 2015) and unlawful killing through neglect (Roche, 2013).

As noted by Carr et al. "there is no format prescribed by legislation for a pre-sanction report(s)" made by the Probation Service (2013, p. 64). Studies have found that style of community service report drafted by probation staff can differ considerably between courts (Maguire, 2010) and direction received from individual judges on what to include in reports can vary (Walsh & Sexton, 1999). Previous research has shown that judges may impose community service on the basis of such reports (*ibid*). The variability may therefore be explained in part by the differences in such practices across the country. This may have implications for the use of community service by some members of the judiciary and recommendations on this point are outlined in Chapter Seven.

The accessibility of community service nationally is now routinely examined by the Probation Service. Up to date figures received from the Service, detailing the accessibility and utilisation of community service, show that across all counties the number of community service places exceed that which are currently in use (A. Gormley, personal communication, January 13, 2016). Accessibility, therefore, is unlikely to be a reason for variability.

As outlined, some interviewees believed imprisonment was the only option used by some courts. The perception that alternatives to imprisonment are not used by the courts, even though accessibility of alternatives is not an issue, raises questions regarding the use of non-custodial sanctions in some parts of Ireland. As outlined by Doob and Marinos (1995), the uneven use of alternative sanctions has a detrimental impact on their perceived interchangeability, impacting on the credibility of non-custodial sanctions ability to achieve specific purposes at sentencing. The credibility of the CSO as an appropriate substitute for a short prison sentence is lacking among some member of the Irish judiciary.

6.4 Alternative criminal justice sanctions: The aftermath

The effect of sanctions on subsequent criminal activity is of central theoretical importance in criminology (Loughran et al., 2009, p. 699).

Evaluating criminal justice sanctions based on narrow criteria, such as recidivism, is “deeply and irrevocably flawed” (McNeill et al., 2012, p. 7). The purpose of community service in Ireland, its ‘alternativeness’ to a custodial sentence, the perceived reasons for its use, and how it is experienced has exposed how this multifaceted and multidimensional sanction is used by the Irish judiciary. This final section discusses the

outcomes of CSOs as alternatives to short prison sentences regarding rates of recidivism, as well as other perceived outcomes as articulated by interviewees completing both sanctions.

A lack of clear ideology underlying the purpose of the CSO has been outlined throughout this thesis. As Astbury notes, criminal justice programmes are themselves theories as “all social programmes contain an assumption (or more likely a set of assumptions) about how and why programme resources and activities will bring about change in the reasoning and behaviour of participants” (Astbury, 2012, p. 16). These assumptions can be held by the judiciary, programme participants (in this case short-term prisoners or community service participants), as well as the wider public. Therefore, evaluating the outcomes of criminal justice sanctions contributes to knowledge about how and why programmes work or fail. The following sections discuss the comparable outcomes of these two alternative criminal justice sanctions.

6.4.1 Comparative rates of re-arrest: What do they reveal?

It has been acknowledged throughout this thesis, and elsewhere, that recidivism is a crude measure of offending behaviour or criminal justice sanction success (Maltz, 1984). Measuring official recidivism evaluates the effectiveness of criminal justice detection, rather than how sanctions affect offending behaviour (The Scottish Centre for Crime and Justice, 2012). However, evaluations of recidivism are of much interest to policy makers and those working in the criminal justice area. In general, systematic review and meta-analytic findings detect a null or slight criminogenic effect for custodial as opposed to non-custodial sanctions (Gendreau et al., 1999; Marsh et al., 2009; Nagin et al., 2009; Smith et al., 2002; Villettaz et al., 2006). This study identified a null effect when re-arrest outcomes for CSOs and short terms of imprisonment were

compared. This contrasts with findings from the Netherlands (Wermink et al., 2010), as well as studies in England and Wales employing similar matching techniques used in this study (Ministry of Justice, 2011, 2013), but supports findings from a RCT comparing community service and short-term imprisonment in Switzerland (Killias et al., 2000; 2010).

Research examining rates of recidivism after completing community service in Scotland and Northern Ireland found lower recidivism rates among community service compared to custodial populations (McIvor, 1992; Ruddy & McMullan, 2007; The Scottish Government, 2008, 2011). There are, however, a number of limitations with these studies' findings, as discussed in section 3.5.3. Therefore these results should be interpreted with caution.

Analysis completed as part of this study, utilising matching techniques, found that proportions of re-arrests between groups were very similar, but when longer follow-up times were used, differences in proportions of cases re-arrested became more pronounced. These findings were, however, not statistically significant.

When cases that did not successfully complete their CSO were excluded, it was found that STP cases were re-arrested more quickly when compared to CSO cases that successfully completed their orders. Regression analysis excluding those who did not successfully complete their CSO found that STP cases were more likely to be re-arrested at all follow-up periods. When all other covariates were controlled, however, this result was not significant. When matching techniques were utilised, differences were marginally smaller, but not statistically significant. Limitations of this analysis, as discussed in section 6.5, include the relatively short follow-up period and the limited variables available when employing matching techniques.

Overall, findings from this thesis support the hypothesis that periods of short-term imprisonment have a null or slightly detrimental impact as regards subsequent re-arrest when compared to those required to complete an alternative CSO. Findings in the Irish jurisdiction are similar to studies comparing community service and imprisonment in the UK and further afield. Null findings are, however, worth mentioning. It seems that community service as an alternative to short terms of imprisonment made no notable difference, but this can only be said when impact is restricted to the appraisal of rates of re-arrest.

As mentioned, although not statistically significant, differences in proportions of re-arrests between CSO and STO cohorts cannot be overlooked. Successful completion of a CSO led to better outcomes regarding subsequent recidivism, compared to cases released after a short prison sentence in certain instances. More detailed analysis of specific offender groups revealed findings worthy of further discussion.

6.4.2 Examining outcomes for specific offender groups

Age, gender, previous criminal history and their association with re-offending are some of the most widely discussed topics within the recidivism research literature (Andrews & Bonta, 2010; Cottle et al., 2001; Gendreau et al., 1996), therefore their role and impact in this comparative study will be discussed below. Analysis by offence category revealed notable comparisons between cohorts. Particular sanctions impact categories of offenders differently, and this therefore warrants further investigation.

6.4.2.1 Re-arrest outcomes of female cases in receipt of CSOs and short prison sentences. When discussing sanction outcomes, gender has previously been identified as a weak predictor of recidivism (Gendreau et al., 1996) in particular when

age and previous criminal history are controlled for (Lloyd et al., 1994). A comparison of outcomes of female cases in receipt of CSOs and short prison sentences in this study did, however, expose some interesting observations.

Proportions of re-arrests were higher for males compared to females in the CSO cohort, however analysis revealed higher proportions of re-arrests among females released after a short prison sentence compared to their male counterparts, as well as their female community service counterparts, after both one- and two-year follow-up periods.

Further analysis found that being male predicted re-arrest among CSO cases, however this was not the case in the STP cohort. These results contrast with previous findings which have consistently shown lower recidivism rates for female compared to male offenders among both prison and probation cohorts in Ireland (Central Statistics Office, 2015a, 2015b; O'Donnell et al., 2008). It does, however, support findings from England and Wales which found higher re-offending rates among female offenders released from prison than their counterparts in a community order group (Ministry of Justice, 2011).

The use of community service for those at the end of the 'road', as discussed in section 6.3.2, points to the idea that community service may be only used in cases where redemption is considered likely or risk of re-offending is very low. According to interviewee participants, imprisonment was considered the end of the 'road' when considering the ladder of criminal justice sanctions, with many interviewees reporting the difficulties associated with coming back from a prison sentence and describing the impact previous imprisonment had on being considered for community alternatives.

This may be even more applicable to female cases sentenced to imprisonment for short periods of time, as those in receipt of short prison sentences had the worst outcomes when compared to both their prison male and female community service counterparts.

It is well established that females sentenced to a term of imprisonment are those with high levels of need in the areas of accommodation, substance misuse and emotional or familial problems; needs often associated with their offending behaviour (Hollin & Palmer, 2006); particularly when compared to the needs of male offenders (Palmer & Hollin, 2007). Scholars also claim that females are less likely than men to receive community sanctions (McIvor, 1998) and those who do receive community service are more likely to be first-time offenders (Hine, 1993).

In the Irish context, research has shown that prisoners (Seymour & Costello, 2005) and offenders in contact with probation and prison services often present with accommodation problems (Seymour, 2004; Seymour & Costello, 2005). Kelly and Bogue (2014) found that females in contact with probation services have high levels of criminogenic need, in particular accommodation need. Findings from this thesis question the role short-term imprisonment plays in addressing the needs of female offenders, as well as their risk of re-offending; outcomes were considerably worse for females released after a short prison sentence when compared to all other offender groups. The question of whether suitable alternatives in the community are available for female offenders and whether they are being accessed by the judiciary should be examined in further detail in future research.

6.4.2.2 The role age plays in comparing outcomes of community service and short-term imprisonment. It is widely accepted that offending decreases with age (Cottle et al., 2001; Farrington et al., 2013). As discussed in the desistance literature, moving to a crime free state is a process, rather than a fixed state (Bottoms, Shapland, Costello, Holmes, & Muir, 2004; Bushway et al., 2003; LeBel et al., 2008; Maruna, 2001) and age plays a large role in an offender's criminal career (Maruna, 2001). Official prison and probation recidivism studies in Ireland have identified the most

significant decrease in reconviction amongst those aged 40 years and over (Central Statistics Office, 2015a, 2015b). Results from this study support this finding as recidivism rates were lower for older cases, and rates of re-arrest were highest among those in younger age groups for both CSO and STP groups. Regression analysis also found that age was predictive of re-arrest in both cohorts.

The role of age and the idea of maturity, when comparing sanctions outcomes, conveyed by interviewees warrants further discussion. Across both groups, interviewees were concerned about sending young offenders to prison, claiming community service would be more beneficial; as it would instil a sense of routine in young people and the negative influences of imprisonment could be avoided (as discussed in section 6.3.2). This perception was particularly strong among short-term prisoners who claimed imprisonment in juvenile detention had contributed to their repeated offending and imprisonment. Prison had become an institution for many, with older short-term prison interviewees stating they had 'aged out' of prison, feeling considerably older than the majority of other prisoners. This is similar to previous findings among Irish probationers (Healy, 2006).

The impact of age in completing non-custodial sanctions is also pertinent to this comparative study. Findings showed that CSO cases who were older were more likely to successfully complete their orders, however this is not supported within the literature (Bouffard & Muftic, 2006). This sentiment was also echoed by interviewees. Those from the STP group who had failed to successfully complete non-custodial sanctions in the past believed maturity played a strong role in one's ability to engage with probation services.

Interviewees from both groups perceived community service to be a better option for younger cases, however findings showed that younger CSO cases had poorer re-arrest outcomes compared to older CSO cases. The perception and the reality of the use of community service for younger cases therefore does not match. This has implications for how community work may be structured for younger offenders and how it may be presented to prospective participants during the court process. This links with Maruna's (2001) emphasis on the need for messages of positive reintegration for successful desistance and the idea that self-efficacy plays a role when completing non-custodial sanctions.

6.4.2.3 Comparative outcomes for cases convicted of a drug offence. The suspected use of CSOs for low level drug offenders by some members of the judiciary is a notable finding of this thesis. A comparison of outcomes by original offence category showed that CSO cases originally convicted of a drug offence was the only offence category more likely to successfully complete their CSO, when compared to cases convicted of other offence categories. This further supports the aforementioned theory, as high levels of success would not be predicted among cases in which substance misuse was a substantial problem, in particular when compared to cases in other offence categories.

Examining sanction outcomes showed a large proportion of cases were re-arrested for a drug offence after a short prison sentence, compared to a CSO. Notably, of those originally convicted of a property offence, considerably more STP than CSO cases were re-arrested for a subsequent drug offence. Substance misuse is a substantial problem among Irish prisoners (McInerney et al., 2013) and the impact of imprisonment on subsequent drug use has been established in the Irish context (O'Mahony, 2008). This study found that short-term imprisonment was used by some offenders to access

appropriate addiction treatment or provide respite. This has implications for how imprisonment is used to address social problems in the Irish context.

6.4.2.4 Comparative re-arrest rates for case without recorded previous

convictions. Finally, a sub-group worthy of further discussion are cases committed for a short spell of imprisonment or a CSO without any known previous convictions prior to 2003. Using matched data, 27 percent of male CSO cases, without recorded previous convictions (or for whom no information was available, see section 6.5.1), were re-arrested within one year, compared to 17 percent of male STP cases without any recorded previous convictions. These findings indicate that community service had a more adverse effect on 'first-time' offenders compared to their counterparts committed to prison. This contradicts findings by Gendreau et al. (1999), but supports findings from Scotland, as well as England and Wales which found that males with no previous convictions in receipt of community service had higher re-conviction rates compared to those released from prison (The Scottish Government, 2008; Ministry of Justice, 2011, 2013).

It may be that first-time offenders convicted of crimes warranting a custodial sentence benefit from the deterrent effect of imprisonment, however more investigation is needed, as the consequences of the use of imprisonment for such cases are wide-reaching, both economically and socially. Interviewee analysis revealed the deterrent effect of imprisonment was much greater among CSO compared to STP interviewees, many of whom were first-time offenders. It could be claimed the fear of imprisonment was deterrent enough among many CSO interviewees who had no previous experience of imprisonment; this is supported by lower rates of re-arrest among those with longer alternative prison sentences attached to their orders, as discussed in the next section.

6.4.3 The impact of time on criminal justice sanction outcomes

‘Time’ was a crucial consideration for many interviewees. Issues such as the physical time spent in court, the delay waiting for court cases to be heard, the unpredictability of time spent serving a short prison sentence because of the reported randomness of temporary release, or the weeks or months taken to complete community service were all raised by interviewees when comparing sanctions.

The time taken to complete sanctions, and the consideration given to time in general, had a notable impact on case outcomes. This will be discussed in the following section. As mentioned throughout, restricting the evaluation of criminal justice interventions to crude outcome measures such as proportions of cases re-arrested is flawed. This section presents more intricate and nuanced examination of factors affecting outcomes of these alternative criminal justice sanctions.

6.4.3.1 How time completing sanctions impacts on case outcomes. The length of time sanctions took to complete emerged as a theme in this thesis. On average, community service took longer to complete than serving a short prison sentence, across all offence categories. Notably, the perception that a CSO takes longer to complete than serving a prison sentence was held by nearly all interviewees. Although CSOs are required under section 7 of the Criminal Justice (Community Service) Act 1983 to be completed within one year, findings revealed that nearly thirty percent of this study’s cohort took more than a year to successfully complete their orders.

Examination of CSO cases showed that those who took less time to complete their order were less likely to be re-arrested, similar to findings of Bouffard & Muftic’s study (2006). STP cases incarcerated for longer periods had higher rates of re-arrest; this

supports meta analytic results of Smith, Goggin, & Gendreau's large scale study (2002). An interesting finding was that those who took longer to complete their CSOs were re-arrested more quickly than those who had completed their community service hours in less than three months. Examining cases that successfully completed their CSO showed that the number of CSO hours per order was not predictive of re-arrest. The time it takes to complete sanctions is therefore worthy of consideration when imposing CSOs as an alternative to short prison sentences.

The time taken to complete sanctions also impacted on perceived outcomes. Many short-term prisoners reported not having appropriate arrangements made in the community regarding housing or training. This was attributed to the ad hoc nature of the release process, in particular the temporary release process. Those serving short prison sentences reported an inability to access education or training services because of the nature of their short sentences. As discussed in section 6.5, offenders in receipt of a short prison sentence, who do not receive temporary release, are often those considered at highest risk of re-offending or those with social problems including homelessness and drug or alcohol problems. According to CSO participants the time requirement of their order impacted on family and work commitments, although this was reported much less frequently when compared to short-term prisoners. This is a notable outcome of this alternative sanction and a potentially negative one which needs consideration by policy makers.

6.4.3.2 'Alternativeness' and time: Impact on case outcomes. As discussed, the number of community service hours sanctioned by the court, as well as the alternative prison sentence attached to a CSO, were given much consideration by participants from both groups. Some could not justify community service as a more

appealing option due to the length of time an order would take to complete, as well as the alternative prison sentence hanging over participants in case of breach.

Many of those in the STP group considered themselves unsuitable for community service, many lacking the self-belief that they could successfully complete the entire order. The length of alternative prison sentence attached to a CSO impacted on interviewees' desire to complete alternative criminal justice sanctions. The risk of custody has been identified by McIvor (1992) as a disadvantage, because of its potential to draw offenders into a prison sentence earlier in their criminal careers. This is also a concern in the Irish context, especially in light of its inclusion as a sanction for the non-payment of a court ordered fine.

The impact of the length of alternative prison sentence on subsequent re-arrest revealed some notable findings. CSO cases with longer alternative prison sentences were less likely to reoffend. This may indicate a deterrent effect in some cases, when long alternative prison sentence are attached to CSOs, supporting findings from Vaughan's (2001) study that deterrence is associated with imprisonment, or in this case, the proposed threat of imprisonment according to a sample of Irish judges.

The punitive bite attached to CSOs was also considered by STP and CSO interviewees, as was the time taken to complete sanctions. Hard calculations were completed when discussing whether they would have chosen community service if given the opportunity. This 'exchange rate' calculation has been found in similar studies examining offender's perceptions of alternative sanction severity (May & Wood, 2010). The idea that rational decisions are made by rational offenders involved in the criminal justice system is not new (Cornish & Clarke, 1986), and findings from this thesis support the notion that the

decision to complete alternative sanctions, such as the CSO are sometimes not made lightly, in particular by those with previous experience of imprisonment.

6.4.4 Comparative ‘outlooks’ among offenders

As outlined above, the CSO attempts to achieve a wide variety of penal goals. During its inception it was hoped that by completing community service work an offender’s outlook would change as they would not reflect on the experience negatively (Advisory Council On The Penal System, 1970). Throughout interviews, offenders made reference to life aspirations and goals once their criminal justice sanctions were complete. The sense of normality associated with completing a short prison sentence contrasted with the increased sense of ordinariness associated with completing unpaid work, reported by the majority of community service participants. Comparisons of hopefulness and descriptions of self-worth between interviewee groups, which are associated with Sampson and Laub’s claims that offenders are “active players in their own destiny” (2003, p. 55), are discussed in this section.

Maruna (2001) claims that some offenders construct “a coherent pro-social identity” (p. 7) that, along with societal support, self-determination, and involvement in pro-social activities, maintains and supports desistance. This was evident among participants in the CSO group when describing their community work. Many believed community service was beneficial to communities and, according to some, had provided them with a different ‘outlook on life’. Camaraderie with those in regular employment was a common description when community service work was discussed.

A strong sense of self-worth was associated with completing a work task and the idea that a similar working routine could be maintained upon completion of their community

service was reported by many interviewees. LeBel et al. (2008) contends that “with an adequate sense of hope” offenders may make the most of opportunities available to them (p.154). This contrasts with a more short lived structure described during a spell of short-term imprisonment, as well as a lack of engagement with services. Armstrong and Weaver (2010) identified similar findings in their comparative work.

Although imprisonment provided many STP interviewee with the respite they desired, many in the STP group were unsure of their chances of successfully desisting from crime or illicit substances upon release from prison. Many externalised their chances of success to conditions such as having a training place set up or having access to treatment for their substance misuse. In comparison, CSO participants were more positive about their own ability to change their previous routines and live crime free.

Limited social resources have been associated with failure when it comes to re-offending (Laub & Sampson, 2003) and it has been established that these deficits exist among those subject to probation supervision in Ireland (Healy, 2012). Examining demographic information provided by interviewee participants showed that the majority of CSO interviewees had achieved leaving certificate qualifications or higher. On average, the STP cohort reported leaving full time education aged just fifteen; unfortunately educational attainment for the quantitative CSO cohort was not available. Education, access to courses, and training was identified as difficult for those serving short-term prison sentences, however, in comparison, many CSO interviewees spoke at length about the training and experience they were receiving by completing their CSOs. Community service may be a means of increasing ties with communities, aiding desistance from future offending more so than short-term imprisonment. Notably, all CSO interviewees were close to completion of their orders; the sample did not include anyone who had failed to complete their assigned work. Whether the routine and

structure provided by community service is similar for all offenders therefore cannot be generalised.

As identified in other comparative studies, those in receipt of community sanctions had more positive attitudes compared to prisoners serving short sentences (Armstrong & Weaver, 2010; Killias et al., 2000; Killias et al., 2010). Within the Irish context this has been found among probationers and community service participants generally (Healy, 2006; Walsh & Sexton, 1999). These findings are supported by this thesis. Positive attitudes among CSO participants included a more positive outlook on life, increased aspirations for the future, and better relationships with family and friends as a result of completing community service. The impact of short-term imprisonment had more negative consequences on ties to communities, as well as significant relationships. When comparing sanctions community service had a more positive impact on participants' ability to set goals, a skill often associated with desistance (King, 2013).

The simple comparison of recidivism outcomes for community service as an alternative to short-term imprisonment is perhaps a crude one, as it ignores multiple over-lapping issues such as offenders' perceived identity and suitability for particular sanctions. Issues which require consideration going forward.

6.5 Limitations of the study

A number of study limitations and data deficits have been identified throughout this thesis. This section elaborates on these limitations in more detail, to provide a comprehensive and balanced overview of the merits of the methodologies used during this work. These limitations are notable and worthy of consideration, however a particular strength of the study was the use of large samples which captured the whole

of the relevant cohort in receipt of these two alternative criminal justice sanctions over a two-year period. Limitations of the quantitative and qualitative elements of the study are outlined in sub-sections below.

6.5.1 Limitations of the quantitative element of the study

A major limitation of the quantitative element of this work was the nature of administrative data made available by the Irish Prison and Probation Services, in particular the Probation Service. Although the data available was for the most part, quite complete, a lack of demographic variables collected centrally by the Probation Service resulted in data being matched on only a limited number of variables. Poor data is a problem often encountered in criminological research studies that utilise data collected for administrative purposes rather than data that are collected for the sole purpose of research (Carrington, 2010).

Data concerning previous convictions were accessed from An Garda Síochána's PULSE system, however only recorded convictions since 2003 were available as the computerisation of criminal justice data in Ireland, (as described in section 4.3.2.1) developed very slowly. Therefore, age at first offence was unavailable.

For a significant portion of CSO cases, whether they had no prior criminal history since 2003 as recorded on the PULSE data system, or information was just unavailable, could not be delineated. This was due to the structure of Probation Service data (T. Lenihan, personal communication, June, 2015). Therefore, definitive inferences about the number of first-time offenders in the CSO group could not be made. This is a significant limitation.

Data concerning alcohol or drug abuse problems, socioeconomic status or family relationships were unavailable to the researcher. These pre-existing differences between groups may influence sentencing in borderline cases, as well as later re-offending. They would have been very useful when completing PSM techniques.

Similarly, prior prison committal data, although promised at the outset of the work, could not be generated within the timeframe of the study. This was due to the limited resources available, at the time of the study, at the Crime Section of the Central Statistics Office. This is a significant limitation, as prior experience of imprisonment is a key factor when assessing the impact of criminal justice sanctions (Nieuwbeerta et al., 2009). In a similar vein, prior experience of community sanctions were also not available. As outlined in Chapter Seven, an overarching strategy for the collection and generation of criminal justice data, in order to assess the impact of criminal justice policies in Ireland, is required.

Data concerning the travelling community, who are considered to be over-represented in the Irish criminal justice system (Irish Penal Reform Trust, 2014; Linehan, Duffy, O'Neill, O'Neill, & Kennedy, 2002) was not available for analysis because a specific identifier was not in use during 2011 and 2012. The Irish Prison Service, have, however, recently introduced methods of ethnic monitoring of the travelling community committed to prison (Irish Penal Reform Trust, 2014). The author is unaware of any similar developments or commitments made by the Probation Service.

A notable limitation is that details of additional penalties imposed alongside a CSO for the same offence could not be accessed; therefore some cases in the CSO group will have received another criminal justice sanction alongside their CSO which may have impacted on the deterrent effect of the sanction. Similarly, details of whether a plea of

guilty had been entered by cases was unavailable. Qualitative data identified that some interviewees considered pleading not guilty too much of a risk. Further examination of the impact of entering a pleas in borderline cases is required, as it is a key consideration at sentencing.

6.5.1.1 The limitations of using re-arrest as a recidivism measure. Re-arrest is among one of the most commonly used recidivism measures in evaluative research, with re-conviction being the most used measure of official re-offending (Armstrong & McNeill, 2012; Fazel & Wolf, 2015). As outlined in Chapter Three, re-arrest was used as the measure of recidivism because of the short reference period available during this study, the availability of conviction data (which is recorded by the Courts Service of Ireland) and the extensive delays experienced as lower court level (Helay, 2010).

The use of re-arrest as a measure of recidivism brings with it a number of strengths and weaknesses. It is well know that not all crime is discovered, therefore any official measure will underestimate the occurrence of crime. Assessing rates of re-arrest alone, does not mean a case has committed a new offense, however it does assess how fast a case comes back into contact with the criminal justice system upon release from prison or completion of a community sanction (Maltz, 1984). According to Blumstein and Larson (1971), across recidivism research, type I error which “involves the erroneous counting as recidivists those who are improperly charged with recidivism” (p. 125) is most associated with the use of re-arrest, however exclusion of those who have re-offended, type II error, is most reduced by the use of re-arrest compared to re-conviction or re-imprisonment. The use of re-arrest will result in the highest number of re-offenders being detected (Andersen & Skardhamar, 2014). As discussed in Chapter Seven, retrospectively updating court decisions for this cohort of offenders would be most useful in comparing the outcomes of these alternative criminal justice sanctions.

As mentioned previously, resources at the Crime Section of the Central Statistics Office and delays receiving data from criminal justice agencies meant that the researcher spent a considerable amount of time waiting for data to be made available to her, limiting the time available to analyse data.

6.5.2 Limitations of the qualitative element of the study

The qualitative element of this study sought to compare how alternative sanctions are experienced by those sentenced to complete them. Only one committal prison was used to recruit prisoners committed under a short-term sentence, this may limit the generalisability of the findings to other prisons. Three community service sites were used to recruit CSO participants, however they were all located within the Dublin region limiting the generalisability of findings to other parts of the country.

As outlined in the inclusion criteria, all interviewee participants were approaching release from prison or completion of their community service work. Identifying short-term prisoners who had completed at least 50 percent of their sentence was challenging. Notably, the majority of those committed to the prison used in this study for a short time receive temporary release before completing half of their sentence (S. Higgins, personal communication, September 22, 2014). The wide use of temporary release for those committed to prison for a short period meant that the sample available for interview may have been considered unsuitable for temporary release or unwilling to partake, perhaps biasing the results. All CSO interview participants had completed at least half of their community service hours, therefore those at a higher risk of breach were not included in this sample.

The overall impact of these two alternative criminal justice sanctions is a wide topic. It is hoped this work acts as a springboard for future work in the area. This study has begun to sketch the landscape of the use of alternative criminal justice sanctions in Ireland. Findings from this thesis have uncovered the many different aspects of comparing criminal justice sanctions and analysis has put forward many more hypotheses worthy of future testing.

6.6 Chapter summary

Reforms attempting to divert individuals away from custody through the development of sentencing guidelines, the expansion of community alternatives, and a 'shift in the politics of punishment' (Phelps, 2013, p. 51) are currently being pursued in many jurisdictions, including Ireland. There has been a move from the provision of alternative punishments to delivering punishment in the community, with continual focus on the credibility and legitimacy of community sanctions. In Ireland, whether CSOs are achieving this desired effect is uncertain, as its ability to divert those who would have otherwise received a short prison sentence into a non-custodial alternative is questionable.

Over the past number of years, the numbers of short-term committals to prison have decreased, when those committed for defaulting on a court ordered fine are excluded. The number of CSOs made have lessened, however the use of fines at District Court level has increased. This suggests the judiciary may be moving offenders down the tariff ladder using their own strategy, rather than that proposed by criminal justice policy. That is not to say that the CSO is not diverting some offenders away from a short prison sentence.

Quantitative investigation revealed that gender distributions between groups were largely comparable. Differences in the age profile of recipients were present, but in line with trends observed elsewhere. More CSOs than expected were received by those convicted of a drug offence, however whether all of these cases would have received a custodial sentence in the first instance is debateable and requires further investigation. The strong variation in the use of CSOs and short prison sentences across court jurisdictions highlights the continued preference for the use of imprisonment as punishment in some areas.

Attaching very punitive equivalent prison sentences to CSOs may be a method employed by the Irish judiciary of increasing the deterrent effect of community service. CSO cases with longer alternative prison sentences were less likely to be re-arrested supporting further the impact of the punitive bite imposed by the judiciary when sanctioning offenders to complete community service.

Overall, a null effect was observed when outcomes for community service and short-term imprisonment were compared, consistent with prior research. Re-arrest rates for males and females in receipt of community service and short-term imprisonment were notably different, females committed to prison for short periods of time had the worst outcomes when compared to other groups. Unsurprisingly, re-arrest outcomes were worse for younger offenders. Those who spent a longer time incarcerated, as well as those who took longer to complete the community service hours had worse outcomes than those who completed their sanction more swiftly. Cases who received their CSO for a drug offence were more likely to successfully complete their CSOs when compared to other offence groups.

Qualitative interviews with offenders in receipt of a short prison sentence or an alternative CSO revealed the impact sanctions had on offenders' aspirations and life goals. Those serving short prison sentences were more apprehensive about the future and their ability to desist from further offending, whereas those completing community work were more optimistic about their chances of finding work and their ability to maintain a working routine upon completion of their orders. Those committed to prison were unsure of their ability to complete successfully an alternative sanction, claiming they were destined for imprisonment because of their prior criminal histories or substance misuse difficulties. The majority of interviewee participants had weighed up the time taken to complete community service instead of imprisonment, as well as the alternative prison sentence attached in case of breach.

The limitations of this work included problems with quantitative data availability, resourcing, and the limited ability to generalise from qualitative analysis. As this was the first time in Ireland such large volumes of data from three criminal justice agencies were made available to an academic researcher, it is hoped that the findings demonstrate good validity, thus making future research in this area a priority.

This thesis has proven once again that penal ideology is incoherent in Ireland. The CSO attempts to achieve a variety of penal aims, however it is unclear whether amendments to community service legislation are having the desired impact. The lack of evaluative efforts by legislators is notable, and requires addressing, if alternatives to custody are to be promoted. Notable difference in re-arrest rates, evidence of judicial innovation, as well as geographical variation regarding the use of alternatives to custody all require further examination in order to shed more light on the potential of non-custodial alternatives in the Irish context.

CHAPTER SEVEN

RECOMMENDATIONS AND CONCLUSIONS

Alternative to prison, then, is not a static concept, and there is scope for innovation and creativity as we look towards the future (Bottoms, Rex, et al., 2004, p. 19).

7.1 Chapter overview

There are several policy implications arising from this thesis's findings. Over recent decades the development and promotion of alternatives to custody in Ireland have been recommended by many working and researching in the criminal justice area. The recommendations outlined in this chapter support many repeated calls to increase the use of non-custodial alternatives in the Irish context (Department of Justice and Equality, 2014; Seymour, 2006; Walsh & Sexton, 1999). Implications for the administration of criminal justice sentences are considered, as are the broader implications of using criminal justice data in policy development and evaluation. Recommendations concerning the operation of community service schemes are made, before suggestions for future research in the area outlined.

This chapter concludes by outlining how the aims of this research (see section 1.1.1) have been addressed. Final considerations of the concept of 'alternativeness' of CSOs and short prison sentences are presented, before the contribution this thesis has made to understanding penal ideology in Ireland outlined. A reflection on executing this type of research, the first of its kind in the Irish context, is offered, before a synopsis of the main conclusions and recommendations are made.

7.2 Policy implications arising from this work

The policy recommendations are divided as follows. How consistency in sentencing, and the promotion of transparency and credibility when imposing non-custodial alternatives can be endorsed; the targeting of community service at specific offender groups; and finally, how criminal justice data can be enhanced in the Irish context.

This study detected a great deal of variation in imposing CSOs and short prison sentences by Irish courts. The odds of receiving a CSO in some court jurisdictions were much greater than in others. The Strategic Review Group for Penal Policy (SRGPP) acknowledged the promotion of consistency in sentencing as a priority in their 2014 report. Prior to this, The Law Reform Commission determined that a coherent sentencing policy is required to promote consistency (Law Reform Commission, 1993). Increased consultation with the judiciary is therefore required. As has been suggested previously, “a programme of reassurance” for the judiciary may be needed, if the use of the non-custodial alternatives are to be enhanced (Riordan, 2009, p. 399). In the specific case of community service, it is recommended that written briefings, including details of how community service operates in each court jurisdiction should be provided to the judiciary regularly, as a means of information sharing and promotion of the sanction.

The recommendation that sentencing decisions should be set out in writing, before the imposition of a prison sentence has been proposed previously (Hamilton, 2005; Law Reform Commission, 2003), most recently by the SRGPP (Department of Justice and Equality, 2014). Findings from this thesis uncovered the high use of community service for offenders with no known convictions before 2003, and the over-representation of first-time offenders within the CSO interviewee sample supports this idea. This indicates that the custody threshold is not well defined in the Irish criminal justice

context. As Riordan claims, the Irish judiciary may impose CSOs without much thought for the pre-custodial requirement (Riordan, 2009). It is therefore recommended that reasons should be provided at sentencing when imposing a short prison sentence. This will help safeguard against community service being used in cases where the offender would not otherwise have received a sentence of imprisonment. It may also help prevent the use of CSOs in place of other low sentence tariffs, resulting in significant 'net-widening', as judges would be required to document their thought process when imposing sanctions.

Based on the results of this thesis, ensuring continuity between community service hours and length of alternative imprisonment is also recommended. Findings show that much consideration is given to the length of time it takes to complete community service and the alternative prison sentence to be served if found in breach of an order, by recipients of both CSOs and short prison sentences. Guidance on the number of community service hours that correspond to a month of alternative imprisonment should be provided, and should be decided through consultation with the judiciary themselves. A similar policy was adopted in Finland so as to ensure that the time required to complete community service is approximately the same as the alternative sentence of imprisonment (Lappi-Seppälä, 2009). Not only would this promote consistency nationally, it would also increase transparency and improve credibility among those required to complete unpaid community service work.

Findings showed that re-arrest outcomes were considerably worse for those who took longer to complete a community service order. The Wootton Committee in England and Wales proposed the introduction of shorter more intense CSOs (Advisory Council On The Penal System, 1970). Whether it is feasible to mandate CSOs to be completed in a

specified amount of time, however, requires some consideration, as well as an examination of resources within the Probation Service before being recommended.

The use of alternatives to custody for those presenting with substance misuse problems also requires some consideration. A specific request for treatment cannot currently be attached to a CSO and may deter the judiciary from using it for those with serious substance misuse problems (Riordan, 2009). The SRGPP have recommended an examination of “integrated community service”, where conditions such as addiction treatment could be attached to a CSO on a pilot basis (Department of Justice and Equality, 2014, p. 49).

The suitability of offenders with addiction problems for community service emerged as a theme in this thesis, and a consensus on whether diverting such cases from prison into the community was appropriate was not reached among interviewees. Many of those in the short-term prison group claimed prison was the only place they could avail of treatment for their substance misuse problems. Whether community service in its current form in Ireland is suitable for offenders with significant drug problems requires more investigation, before significant policy changes are made: Such alterations may lead to up-tariffing of cases as those with addiction problems are more likely to breach a CSO (Bottoms, Rex, et al., 2004). Balancing proportionality and therapeutic gain is important when recommending cases to mandatory treatment (Rumgay, 2004). As discussed previously, findings from this thesis suggest that CSOs may be imposed on offenders convicted of low severity drug offences, who may not have received a custodial sentence in the first instance. In such circumstances it will be very important to monitor any such initiatives so as not to expand the net of punishment.

7.2.1 Improving data in the Irish criminal justice arena

The building blocks of evidence-informed policy are data and research. Accurate up-to-date and comprehensive data is essential to the policy-making process. In the United Kingdom, section 95 of the Criminal Justice Act 1991 provides a statutory obligation to produce relevant statistics to assist the operation of criminal justice agencies, including the collection of data to assess the effectiveness of sentences. The majority of manual and paper-based methods of data recording in the Irish criminal justice system have now been replaced with sophisticated computerised systems. Agencies, however, collect and store data to meet operational needs, while data collection for research, evaluation, or policy development purposes is deeply neglected. It is recommended that legislative amendments to criminal justice policies should include a requirement to evaluate the impact of policy changes so as to assess their efficacy.

As discussed throughout this thesis, improved levels of consistency between sources of information in the criminal justice area is urgently required, if robust and reliable research is to be completed. Consistency and coordination is required when developing information technology systems to collect and collate the criminal justice data required to evaluate such policy changes. A coordinated overarching strategy for the collection and dissemination of criminal justice data should be approved by all agencies and subsequently published.

Most notably, a common unique individual identifier is not used by all criminal justice agencies. This inhibits agencies from following offenders through the criminal justice system, as well as any longitudinal study of these individuals. It also made the completion of this study significantly more difficult. There is little detail on the number of people that flow through the Irish criminal justice system, how long they stay, and at

what cost. It is recommended that policy drafted by the Department of Justice outlining the use of a unique criminal justice identifier be adopted by all agencies, as well as a strategy outlining what purpose should be made of the administrative data already being collected by agencies in order to facilitate evaluative criminal justice research.

This thesis identified the greater use of repeated short-term imprisonment compared to the repeated sanctioning of community service; qualitative findings raised questions in respect of the ability of short-term imprisonment to address repeat offending, as social problems such as addiction were identified as the main reasons for offending among interviewees. Persistent offenders are a problem in many jurisdictions and empirical analysis of the effectiveness of habitual offender legislation is limited (Vollaard, 2012). According to Bottoms et al. there is a “crucial link between the gravity of the offence and severity of the sentence” (2004, p. 389). It is recommended that this link should be central in policy development concerning the use of alternatives to custody, as policy makers and practitioners can become blinded by new programmes designed to deal with repeat offenders leading to the further down-tariffing of non-custodial sanctions (Bottoms, Rex, et al., 2004). There is a need for innovative solutions if the full potential of non-custodial alternatives are to be achieved in Ireland.

7.3 Implications for practice and the operation of community service schemes

The previous section outlined policy recommendations arising from analysis completed as part of this thesis. This section is designed to offer suggestions on how practice in the area of non-custodial alternatives can be enhanced.

As mentioned above, information sharing and consultation with the judiciary is of paramount importance if non-custodial alternatives are to be utilised to their fullest

potential. Training for criminal justice professionals is recommended; the role solicitors, barristers, probation officers, and others play in the court process is very significant. Communicating how community service operates at a local level may entice more professionals to discuss its operation with their clients and suggest the use of CSOs as alternatives to short-term prison sentences at sentencing. Findings of this thesis revealed how offenders often heeded the advice provided by their legal representatives.

A standardised format for community service suitability reports should be implemented across all court jurisdictions and the information presented to members of the judiciary should be comparable across courts areas. A recommended template for all pre-sanction reports has previously been called for (Carr et al., 2013) and this researcher agrees with this suggestion.

As discussed, recommending that cases should be mandated to participate in treatment alongside their CSO requires much further consideration before a policy is implemented. In the interim, a full audit of services currently available at community service sites should be completed. This thesis identified that different models of community service are currently operating in the Dublin region. Some principally focused on the completion of unpaid work, while others offer more therapeutic and education based activities. It may be that specific orders to access services, such as drug treatment, are not required, but rather a more strategic assignment of individuals to suitable community service placements. As previously identified, probation officers, with their social work qualifications, are very suitable to assist offenders with their substance misuse difficulties (Healy, 2012).

This thesis has shown that females as well as young offenders may require more specialised community service placements, if outcomes are to be enhanced among these

offender populations. Identifying where such needs can be met will instil confidence in the CSO's viability as an alternative to short-term imprisonment both by sentencers and offenders themselves.

Importantly, a national audit of how community service is currently operating is required. Monitoring and publication of the average time taken by cases to complete community service in each court jurisdiction will help ensure orders are completed in a timely fashion, or within the prescribed one-year period. This is important if the credibility of the sanction as a true alternative to custody is to be enhanced.

7.4 Recommendations for future research examining alternatives to custody

As the first large scale comparative study of the use and outcomes of alternative criminal justice sanctions in this jurisdiction, further research should be completed in order to examine further the use of alternatives to imprisonment in Ireland. The data available from the majority of criminal justice agencies, however, are not adequately robust to analyse and compare all disposals received from Irish courts; recommendations to remedy this problem have been outlined throughout this chapter. Steps should now be taken to improve the quality and quantity of data required to examine further the use of all sanctions within the Irish criminal justice system, previously recommended by Seymour (2006). The section below identifies potential avenues of research arising from the findings of this thesis.

In general, our understanding of how the Irish criminal justice system operates is quite poor, with the most notable deficits in relation to sentencing (O'Donnell, 2011). For example, there is a dearth of criminological research on the use of fines and a significant lack of data on fine-defaulters, however it is the most commonly used disposal in Irish

courts. The inclusion of CSOs as a possible disposal for the non-payment of fines seems like a contradictory policy, with many potential negative effects (Guilfoyle, E. 2016, April 15). No published empirical investigation of fine defaulters was, to the author's knowledge, published prior to the commencement of the Fines (Payment and Recovery) Act 2014, therefore what particular sanctions or policies are required to deal appropriately with fine default and for whom they are most applicable remains under researched.

Examination of the use of all criminal justice sanctions, at all court levels, is urgently required. Where criminal justice data is collected, adequate detail is often not provided. For example, data pertaining to non-custodial disposals in District and Circuit Courts when presented publically are grouped together; as mentioned, this greatly inhibits interpretation of non-custodial sanctions between offence categories. As recommended above, an agreement outlining how data is to be collected, managed and published by all criminal justice agencies, as well as improved levels of consistency between sources of information in the criminal justice area, would improve this situation.

The findings presented in this thesis can act as a starting point for longitudinal examination of recidivism outcomes using re-arrest, as well as re-conviction, measures for CSO and short-term prison groups. Notably, many of the most influential longitudinal studies of criminal careers have neglected to consider the desistance process in any meaningful way (Laub & Sampson, 2003; Maruna, 2001). The question of whether desistance is the "final termination of a criminal career or a significant crime free gap" (McNeill & Weaver, 2007, p. 90) requires further research, using a variety of methodologies. Of course, desistance is not simply the opposite of recidivism and should not be considered as such (Healy, 2016), these two strands of research could be integrated more effectively.

Similarly, examining whether factors associated with the onset of offending are also associated with the escalation, de-escalation and desistance from crime has largely been ignored (Loeber & Stouthamer-Loeber, 1996; Piquero, 2004). With slight improvements in data and adequate resourcing, these research questions could be incorporated into further studies of criminal careers in the Irish context.

When sanction outcomes were examined in this thesis, females receiving short prison sentences fared much worse than those receiving alternative CSOs. This finding raises serious concerns about the position of females in the Irish prison system. Larger scale, detailed analysis of female offenders in contact with the Irish criminal justice system, including further interrogation of data analysed during this study, will help to quantify the problem of rising numbers of females being incarcerated in Ireland. Qualitative examination of their experiences will supplement detailed quantitative analysis and identify the needs of this small, but as identified in this study, potentially high risk and vulnerable group. Such research has been called for by the SRGPP (Department of Justice and Equality, 2014).

Comparative recidivism outcomes for younger offenders, in receipt of both community service and short-term imprisonment, were poorer than for other groups. This finding is supported by previous recidivism research in Ireland (Central Statistics Office, 2015a, 2015b; O'Donnell et al., 2008). It has been established that younger offenders are disproportionately represented in the Irish system, therefore this thesis's findings support repeated recommendations for research into the most effective non-custodial alternatives for this offender group (Department of Justice and Equality, 2014; Irish Penal Reform Trust, 2015).

The majority of CSO group interviewees had little prior experience of imprisonment, nor could the quantitative data available identify cases of persons who had served a prison sentence previously. Examination of community service outcomes, for those previously incarcerated, will ameliorate the comparative nature of CSOs as alternatives to prison sentences of less than one year. This information will also enhance PSM techniques greatly.

Finally, ongoing evaluation and impartial research have a role to play in the development and implementation of criminal justice policies and procedures; results of which are useful to policy-makers and practitioners alike. A greater emphasis on evaluation and research is required in Ireland if policies are to be implemented to their full potential.

7.5 Final conclusions

The measure of punishment is not its objective appearance but its subjective impact. Our goal is to achieve a system of interchangeable punishments that the state and the offender would regard as comparable in their punitive effects on him (Morris & Tonry, 1990, p. 93).

The CSO plays a multifaceted role within the Irish criminal justice system. The introduction and subsequent legislative amendments to the Criminal Justice (Community Service) Act 1983 have attempted to fulfil a number of sentencing aims, resulting in variation in use, without clear purpose. Although the penal goal of decarceration underlies the CSO in Ireland, the sanction is considered beneficial to the exchequer, to the offender, as well as the wider community.

Notably, the concepts of reparation and reintegration have not been afforded as much attention as the fiscal benefits of diverting offenders away from imprisonment. The primary focus in Ireland has been on increasing the numbers of CSOs made, while a more overarching and intricate examination of the impact of this penal policy has been neglected.

It is clear that the CSO attempts to be all things to all people, but it has not achieved the hoped for success in diverting those who would have received imprisonment into an alternative criminal justice sanction in the Irish context. Section 7.5 summarises the ‘alternativeness’ of CSOs and prison sentences of less than one year as regards use, experience and outcome. Contributions this thesis has made to understanding penal ideology in Ireland are also presented.

7.5.1 The true ‘alternativeness’ of community service and short-term imprisonment

Doob and Marinos maintain that “the failure of intermediate punishments... relates to the nature of the punishments themselves, not solely to their severity” (1995, p. 414). The challenge when attempting to decrease the use of imprisonment by advocating for the substitution of custodial for non-custodial sanctions is understanding the multidimensional nature of punishment (Garland, 2001). As stated by Marinos “a multidimensional conception of punishment applies in the context of penal equivalents” and “it is critical to conceptualise punishment, interchangeability and equivalency with an appreciation of relationships among various components of sentencing” (2005, p. 442). Therefore the ideology underlying sanctions, their purpose as a means of punishment, as well as offence and offender characteristics are all important considerations when developing credible non-custodial alternatives.

The introduction and use of non-custodial alternatives which are truly interchangeable, that divert cases who would have received a custodial punishment into community service, is likely to result in a higher numbers of cases breaching their community punishment (Bottoms, Rex, et al., 2004). This is likely to cause disquiet among policy makers, the judiciary, as well as the general public. The perception that community service is the penultimate stop on an offender's criminal justice journey raises questions regarding the use of community service as a direct alternative to short-term imprisonment. So too, an offender's desire to complete an alternative sanction can be obstructed by the perception they have of themselves and whether they belong on the 'inside' or on the 'outside'. Safeguards and guidance are required so as to ensure the appropriate use of intermediate sanctions (Doob, 1990) if reforms aimed at decreasing the use of imprisonment are to be successfully introduced and community service considered an acceptable substitute to imprisonment.

7.5.2 Penal ideology in Ireland and the use of the CSO

When discussing alternatives to custody, the legitimacy and credibility of such non-custodial sanctions plays a central role. In Ireland, punitive developments such as those described by Garland (2001) are largely absent (Hamilton, 2016) as regards the use and development of community sanctions. A punishment in the community rhetoric is also missing from the Irish context (Healy, 2015), therefore this strive for legitimacy across community penalties is not readily apparent.

This thesis, however, contends that the Irish judiciary have taken it upon themselves to increase the legitimacy of the CSO by attaching long alternative prison sentences to orders, to deter breach; an exercise that has some success when one examines

differences in re-arrest outcomes. Operating in this 'safe space' allows them to be retributive while still utilising non-custodial penalties.

This thesis has outlined how CSOs were introduced to Ireland with little or no guidance about how they should be used, or for whom they are most appropriate. Monitoring of their use or outcomes as non-custodial alternatives was never completed. An incoherent ideology has therefore been maintained, with a disproportionate number of cases in receipt of CSOs for suspected low level drug offences and public order offences. This incoherent ideology has emerged in practice also; variation in use geographically was a strong feature of this thesis and supports the idea that a lottery type sentencing system is in operation. A large number of suspected first-time offenders were in receipt of CSOs, and perhaps soon, large numbers of cases found in breach of a court ordered fine. This thesis has shown that contradictory penal policy, lacking a clear ideology, continues to be a feature of the Irish criminal justice system.

Sentencing cases on the cusp of a custodial or non-custodial sanction involves consideration of a number of factors. Many of those making these decisions find it hard to articulate their reasoning, while those trying to study them find it hard to employ robust methods in order to answer definitive research questions. Instead, researchers grapple with a variety of data sources in an attempt to understand the motivations behind such choices. This thesis has shown that some cases in receipt of community service would not have received a prison sentence in the first instance. A consensus that CSOs should be used as alternatives to short periods of imprisonment has therefore clearly not been reached among the Irish judiciary. A final consideration of the alternative nature, as well as the alternate outcomes of CSOs and short prison sentences, is offered in section 7.6.

7.5.3 Reflecting on the research process

The decision to undertake doctoral research is a daunting one. The large scale nature of such a project requires a long-term commitment and enduring determination. So too, embarking on research that had not been completed or even attempted in a jurisdiction previously was overwhelming, but at the same time, exciting.

As has been outlined numerous times, criminological data and research in the Irish criminal justice system is limited. In particular, large scale quantitative examination of sanctions and their outcomes are extremely rare, because of the barriers faced by those seeking to undertake such research. Interest in, and commitment to, improving the situation are, however, in abundance. This section presents a brief reflection by the author on the research process. It is important that researchers interested in this area are aware of the challenges, as well as the rewards of undertaking large scale quantitative work in the Irish context. A short reflection on doing research in prison is also offered.

Prior to commencing this project, the author was aware of the underdevelopment of criminological data in Ireland, however the extent of the deficits were not known until after the research project had commenced. Due to these deficits, and a lack of precedent accessing large amounts of quantitative data, it was necessary to relocate to Cork to complete the work necessary to address the aims of the study. This requirement emerged after the research project had commenced and although financial support was provided by the employment partner involved in this study (see section 4.3.1), the process was burdensome and demanding. Permissions to access administrative were granted efficiently, however delays accessing data from agencies were experienced at all stages of the project.

As outlined in Chapter Four, meetings and numerous communications with several stakeholders were required, both prior to, and as the research study progressed. It was necessary for these stakeholders to agree to the research, but also believe in its value in order to avoid pitfalls during the process. In addition, the research project was part funded by an organisation working in the area of penal reform. Involving this number of people in a research project has its benefits, as well as its drawbacks. As little similar work exists in the Irish context, managing expectations and pressure from agencies was challenging. Protocols and arrangements were all agreed in advance of any data being collected or analysed making the research process easier to navigate, and a wealth of feedback was received from all those involved in the research project.

Importantly, completing primary research in prisons requires a researcher to be aware of their underlying assumptions of the criminal justice system, as they will shape the way data is collected and analysed, as well as how their decisions may impact on research findings (Lumsden & Winter, 2014). Awareness was given to this at various points during data collection and analysis. Prior to embarking on this work, the researcher had gained experience of conducting research within prison settings as a research assistant at the University of Manchester. This prior experience enhanced her ability to remain neutral during data collection and analysis. This is important to the integrity of the research being conducted, as well as the participants involved.

Finally, time was an essential consideration during this project. The Employment Based Postgraduate Programme was awarded to the researcher for a three year period, from March 2013. As a significant amount of data was required, applications for the required permissions and approvals were made at the very start of the study. This was of utmost importance due to the lack of precedent in this area of criminological research in Ireland.

7.6 Closing remarks

Referring to the CSO in Ireland, Riordan concludes that “a clear disconnection may be observed between the stated purpose of the individual sanction and the actual use made of it by the individual sentencers” (2009, p. 395).

This thesis has advanced the state of knowledge on the role of the CSO as an alternative to short-term imprisonment in the Irish context, by providing a macro view of its use and outcomes and a micro view of how these alternatives are experienced. It has furthered our knowledge by revealing, on a national scale, the extent of the division between purpose and use of this ‘alternative’ criminal justice sanction.

In Ireland, there is a dearth of knowledge on the impact of criminal justice policies, however policies continue to be introduced and amended without extensive examination. Most recently the inclusion of CSOs as potential sanctions for the non-payment of a court ordered fine, as outlined in section 2.2, has the means to significantly influence how the sanction will be used in the future.

The CSO is not having the decarcerative impact policy makers had hoped for, even when decreasing crime rates are accounted for. Reflection on the experience of completing alternative sanctions revealed that the CSO is not considered a true alternative to imprisonment, rather used as a sanction for those considered in some way redeemable. Imprisonment erodes participant’s sense of hope, whereas community service fosters ambition and raises future aspirations. Finally, recidivism outcomes between groups were not significantly different; therefore the rehabilitative or deterrent impact of the CSO and the short prison sentence as penal sanctions is not as expected.

Disillusionment with imprisonment, in particular short-term imprisonment, has been a feature of criminal justice rhetoric in Ireland (Committee of Inquiry into the Penal System, 1985; Seymour, 2006; Walsh & Sexton, 1999) and also in neighbouring jurisdictions (Home Office, 1957; Kilcommins, 2002; Young, 1979), as well as further afield (Killias et al., 2000; Killias et al., 2010; Wermink et al., 2010). It is certain that debate will continue over the ability and appropriateness of CSOs to divert offenders away from imprisonment. Without monitoring and in-depth examination, powered by improvements in data and research, the operation and outcomes of community and custodial punishments in the Irish context can only continue to be speculated upon. It is “only with a capricious approach to data collection, methodology, and objects of inquiry will we develop a robust, complex picture of contemporary punishment” (Phelps, 2015, p. 29). This is imperative if knowledge on the use and diversionary impact of alternatives to custody proffered in this thesis is to be enhanced.

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APPENDICES

Appendix A: Consultative Council terms of reference

1. Employment Based Postgraduate Programme

As part of the Irish Research Council's employment based postgraduate scheme, Kate O'Hara is undertaking a PhD degree under the supervision of Dr Mary Rogan. Funding for this project is provided by the Irish Research Council and the Irish Penal Reform Trust. The project commenced in March 2013 and will continue until February 2016.

2. Project Background

The introduction of the Criminal Justice (Community Service) (Amendment) (No. 2) Act 2011 in Ireland requires courts to give greater consideration to community service orders (CSOs) in cases where custodial sentences of less than 12 months are deemed appropriate. Under statute, CSOs are direct alternatives to imprisonment, and must only be imposed if a custodial sentence has first been considered. During 2011, there were 11,214 committals under sentence of less than twelve months across the Irish prison estate; in 2012, this rose to 11,844. Notably, a high proportion of committals of less than 12 months are for fine default. In 2011 there were 7,514 committals for fine default. Excluding those committed for fine default, there were 3,540 committals under sentence of less than 12 months in 2012. In comparison, there were 2,738 and 2,569 CSOs ordered by the courts and processed by the Probation Service in 2011 and 2012 respectively. These figures represent an increase on the 1,972 CSOs sanctioned in 2010.

As well as this important policy change, literature exists indicating that short prison sentences have been deemed ineffective in terms of rehabilitation or reducing recidivism (Ministry of Justice, 2010; Lowithan, 2010; Howard League, 2011). Investigation is needed to examine the impact of community service orders in comparison to short prison sentences, the factors which influence the decision to impose either sanction and to identify which is most effective and for whom.

The primary aims and objectives of the project are:

- To examine the range and efficacy of alternatives to short-term prison sentences available in Ireland and internationally.
- To examine the profile of offenders receiving short-term prison sentences, and those receiving community service orders.
- To investigate qualitatively influences on re-offending among custodial and community participants.
- To investigate re-offending rates of those receiving short-term prison sentences compared to those receiving CSOs, using a matched sample approach.

3. Function of the Consultative Council

The project has already benefited from contributions from several agencies, and this collaboration will be beneficial throughout the duration of the research. The Council will act as the forum where agencies can have an opportunity to be updated on progress and outcomes, make suggestions, and provide assistance where necessary in advancing this research. The proposed functions of the council are:

- To foster collaboration between criminal justice agencies involved in this research project, particularly as regard data access and quality.
- To address any issue that has major implications for the research project.
- To review the progress of the project when required.
- Where appropriate, to help to disseminate project information and findings within criminal justice organisations.
- To provide an opportunity for agencies to be aware of possible hurdles, or ethical matters related to the project and suggest mechanisms of resolution.
- To provide guidance and advice to Kate O'Hara and her supervisory team when requested.

4. Remit of the Consultative Council

The Consultative Council will act in an advisory capacity. It should be noted that decisions concerning overall project design, the presentation of results and/or the inclusion of particular results, and the dissemination or publication of results will ultimately lie with Kate O'Hara and her postgraduate supervisors subject to approval from the CSO.

5. Consultative Council Membership

- Ms Kate O'Hara, Postgraduate Scholar, Irish Penal Reform Trust
- Dr Mary Rogan, Lecturer and Postgraduate Supervisor, Dublin Institute of Technology
- Ms Deirdre Malone, Executive Director, Irish Penal Reform Trust
- Mr Michael Donnellan, Director General, Irish Prison Service
- Mr Vivian Geiran, Director, Probation Service
- Dr Gurchand Singh, Head of Analysis Service, An Garda Síochána
- Mr Timothy Linehan, Statistician, Central Statistics Office
- His Honour Judge David Riordan, Cork Circuit Court
- Mr Ray O'Keeffe, Irish Prison Service
- Mr Gerry McNally, Probation Service

6. Consultative Council Meetings

The Council shall meet when required, approximately 2-3 times during the course of the project (some business may be dealt with by correspondence, by telephone communication, or by other means). Meetings will last no longer than 90 minutes. Mary Rogan or a representative of the IPRT will chair Consultative Council meetings. Meeting agendas and supporting papers will be provided by Kate O'Hara at least ten working days prior to the next scheduled meeting. Meeting minutes will be prepared by Kate O'Hara and circulated after each meeting.

7. Amendment, Modification or Variation of Terms of Reference

This Terms of Reference may be amended, varied or modified in writing after consultation and agreement by Consultative Council members.

Appendix B: Matching algorithm used by the crime division of the Central Statistics Office

Process flow for Matching Prisons, Courts and Pulse data

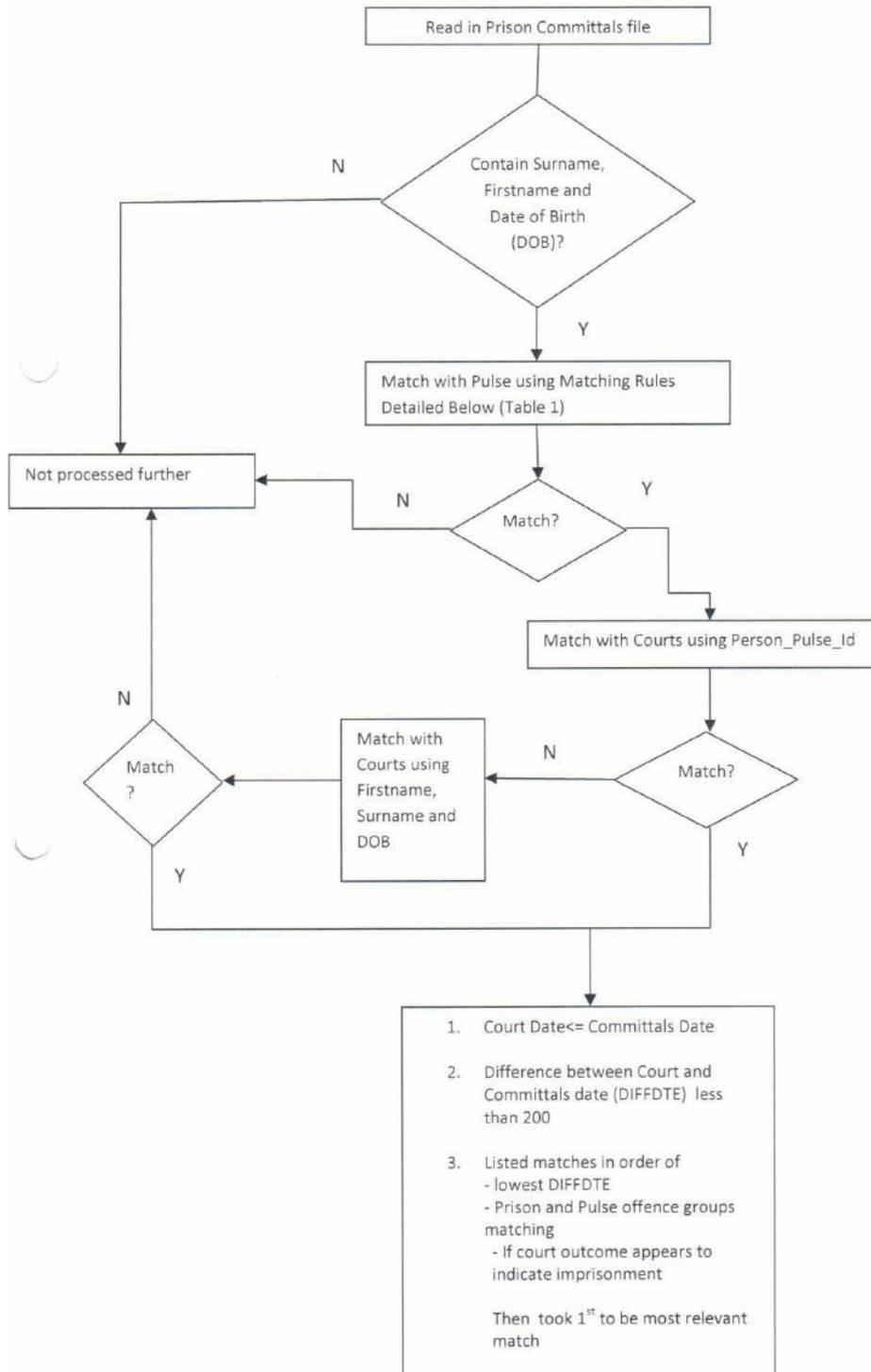


TABLE 1 - Matching Rules

NOTE: Stress testing (using 5 – 10% of matches) needs to be done on each of the following matching steps.

Matching Sequence	Fields Used	Rules of Match
1.	Firstname Surname Date of Birth	Exact Match Exact Match Exact Match
2.	Firstname Surname Date of Birth (DD / MM / YY)	Exact Match Exact Match If up to 30 days difference
3.	Firstname Surname Date of Birth (DD / MM / YY)	Exact Match Exact Match DD and YY match exactly
4.	Firstname Surname Date of Birth (DD / MM / YY)	Exact Match Exact Match DD and MM match exactly and YY differ by up to 5 years max.
5.	Firstname Surname Date of Birth (DD / MM / YY)	Exact Match Exact Match YY exact match, DD and MM reversed.
6.	Firstname Surname Date of Birth	Exact Match One surname is shortened version of the other (e.g. Walsh / Walshe or O xxxx and xxxx etc.) Exact Match
7.	Firstname Surname Date of Birth	Exact Match First 3 letters of surname Exact Match
8.	Firstname Surname Date of Birth	Exact Match First 2 letters of surname Exact Match (Did check on all these matches and all were valid so no need to include address detail)
9.	Firstname Surname Date of Birth Address	Exact Match First letter of surname Exact Match 1 st 6 letters of PRIS_County = 1 st 6 letters of Address_Line4
10.	Firstname Surname	Variations of firstname (listed in Table 2 below) Exact match

	Date of Birth	Exact Match
11.	Firstname Surname Date of Birth	One firstname is shortened version of the other (e.g. James / Michael James) Exact match Exact match
12.	Firstname Surname Date of Birth	First 3 letters of firstname Exact match Exact Match
13.	Firstname Surname Date of Birth	First 2 letters of firstname Exact match Exact Match
14.	Firstname Surname Date of Birth Address	First letter of firstname Exact match Exact Match 1 st 6 letters of PRIS_County = 1 st 6 letters of Address_Line4
15.	Address line 1 Firstname Surname Date of Birth	Match on 1 st 8 chars Exact match Exact match Less than 10 years apart
16.	Date of Birth Remainder of fields	Exact Match Matched Manually

TABLE 2 – Variations of Firstname deemed as matching

Length Taken	Taken as match	Notes
1 st 4 chars	John Sean Jona	
1 st 4 chars	Eoin Owen Eogh	
1 st 6 chars	Kieran Ciaran	
1 st 4 chars	Bill Will Liam	
1 st 4 chars	Tony Anth	
1 st 7 chars	Geoffre Jeffery	
1 st 3 chars	Agu Gus	Agustin
1 st 4 chars	Karl Carl	

1 st 5 chars	Gerry Jerry	
1 st 6 chars	Theresa Teresa	
1 st 4 chars	JJ Jj John	
1 st 6 chars	Diarm Dermo	Diarmaid Diarmuid Dermot
1 st 4 chars	Bobi Babi	
1 st 5 chars	Seraj Siraj	
1 st 3 chars	Jim Jam	Jim James
1 st 6 chars	Rikard Rrikar	Rikard Rrikard

Appendix C: R code used for completing propensity score matching techniques

```
# CHECKING BALANCE

> library(MatchIt)

> file.choose()

> PSM.v5.211015 <- read.csv("C:\\")

> View(PSM.v5.211015)

> treated <- PSM.v5.211015$TREAT==1

> cov <- PSM.v5.211015[,2:17]

> std.diff <- apply(cov,2,function(x) 100*(mean(x[treated]) -
mean(x[!treated]))/(sqrt(.5*(var(x[treated])+var(x[!treated])))))

> std.diff

# CALCULATING PROPENSITY SCORE

> library(Zelig)

> m.out <- matchit(TREAT ~ GENDER + AGE + PROVINCE_MUNSTER +
PROVINCE_LEINSTER + PROVINCE_CONNACHT + PROVINCE_ULSTER +
PREVIOUS_CONVICTIONS_SINCE_2003 + SexualOffence + ViolentOffence +
DrugOffence + PropertyOffence + MotoringOffence + PublicOrderOffence +
OtherOffence + COURT_TYPE + URBAN_OR_RURAL_COURT, data=
PSM.v5.211015, method="nearest")

> summary(m.out)

> match.data <- match.data(m.out)

> treated1 <- match.data$TREAT==1

> coV3 <- match.data[,2:17]
```

```

> std.diff1 <- apply(coV3,2,function(x) 100*(mean(x[treated1]) -
mean(x[!treated1]))/(sqrt(.5*(var(x[treated1])+var(x[!treated1])))))

> std.diff1

# CALCULATING PROPENSITY SCORE - USING callipers

> m.out.test <- matchit(TREAT ~ GENDER + AGE + PROVINCE_MUNSTER +
PROVINCE_LEINSTER + PROVINCE_CONNACHT + PROVINCE_ULSTER +
PREVIOUS_CONVICTIONS_SINCE_2003 + SexualOffence + ViolentOffence +
DrugOffence + PropertyOffence + MotoringOffence + PublicOrderOffence +
OtherOffence + COURT_TYPE + URBAN_OR_RURAL_COURT, data=
PSM.v5.211015, method="nearest")

> test_data = match.data(m.out.test)

> ps.sd = sd(test_data$distance)

> m.out <- matchit(TREAT ~ GENDER + AGE + PROVINCE_MUNSTER +
PROVINCE_LEINSTER + PROVINCE_CONNACHT + PROVINCE_ULSTER +
PREVIOUS_CONVICTIONS_SINCE_2003 + SexualOffence + ViolentOffence +
DrugOffence + PropertyOffence + MotoringOffence + PublicOrderOffence +
OtherOffence + COURT_TYPE + URBAN_OR_RURAL_COURT, data=
PSM.v5.211015, method="nearest", caliper = 0.2*ps.sd)

> summary(m.out)

> match.data <- match.data(m.out)

> treated1 <- match.data$TREAT==1

> coV3 <- match.data[,2:17]

> std.diff1 <- apply(coV3,2,function(x) 100*(mean(x[treated1]) -
mean(x[!treated1]))/(sqrt(.5*(var(x[treated1])+var(x[!treated1])))))

> std.diff1

```

```
# POST MATCHING MULTIVARIATE ANALYSIS
```

```
> z.out <-lm(REARREST_6MONTHS ~ TREAT + GENDER + AGE +  
PROVINCE_MUNSTER + PROVINCE_CONNACHT + PROVINCE_ULSTER +  
PREVIOUS_CONVICTIONS_SINCE_2003 + SexualOffence + ViolentOffence +  
DrugOffence + MotoringOffence + PublicOrderOffence + OtherOffence +  
COURT_TYPE + URBAN_OR_RURAL_COURT,data=match.data)
```

```
> summary(z.out)
```

```
> z.out <-lm(REARREST_1YEAR ~ TREAT + GENDER + AGE +  
PROVINCE_MUNSTER + PROVINCE_LEINSTER + PROVINCE_CONNACHT +  
PROVINCE_ULSTER + PREVIOUS_CONVICTIONS_SINCE_2003 + SexualOffence  
+ ViolentOffence + DrugOffence + PropertyOffence + MotoringOffence +  
PublicOrderOffence + OtherOffence + COURT_TYPE +  
URBAN_OR_RURAL_COURT,data=match.data)
```

```
> summary(z.out)
```

```
# STANDARDISED REGRESSION WEIGHTS
```

```
> library(QuantPsyc)
```

```
> lm.beta(z.out)
```

Appendix D: Propensity score model and balance diagnostics using one to one

optimal matching

Variable	Mean	Logistic regression model of CSO assignment b(S.E.)	Balance Diagnostics: standardized bias (SB)	
			Before matching	After matching
Gender (female)	.08	-.021 (.079)	-2.49	1.08
Age at prison imposition/committal	29.3	-.009 (.002)*	-8.71	-.60
Rural court	.44	.002 (.046)	10.55	8.16
District court	.92	.134 (.080)	1.87	-3.06
Leinster	.58	Reference category	0.52	-9.34
Munster	.27	-.133 (.050)*	-10.9	-5.37
Connacht	.07	-.350 (.090)*	-9.4	-1.44
Ulster	.07	1.137 (.093)*	30.95	26.24
Previous convictions since 2003	.76	1.761 (.062)*	-62.17	-57.29
Property offence	.30	Reference category	-15.05	-0.25
Sexual offence	.01	-1.367 (.388)*	-6.95	-.46
Violent offence	.20	.214 (.062)*	1.16	-5.56
Drug offence	.09	.810 (.084)*	18.02	11.34
Road traffic offence	.14	.430 (.068)*	3.61	-6.33
Public order offence	.19	.540 (.063)*	14.22	2.42
Other Offence	.08	-.610 (.095)*	-19.59	2.11

Appendix E: Demographic questionnaire for interview participants

Demographic Information

Research ID _____

Gender: Male Female

County where the offender lives _____

Age _____

Current offence (If happy to tell me) _____

Sentence/CSO length _____

Prosecuting court: District Circuit Other Unknown

Stage of sentence/CSO _____

Have you ever been in prison before: Yes No Don't know

Number of times _____

When was your most recent time in prison? _____

Have you ever been in juvenile detention? Yes No Don't know

Have you served a community sanction before? Yes No

Type of community sanction served _____

Number of times _____

When was your most recent community sanction? _____

How would you describe your marital/family status?

Married Living with partner Single Divorced Widowed

Other _____

Number of children _____ Expected _____

What is the highest level of education/training which you have completed to date _____

What was your working situation before coming into prison?

Full time employment

Part-time employment Casual

Training schemes

Unemployed / on benefits, e.g. incapacity etc

Full time education

Other

How would you describe your ethnicity?

White Irish Irish

Irish Traveller

Any other White background

Black or Black Irish

African

Any other Black background

Asian or Asian Irish

Chinese

Any other Asian background Other

Accommodation status prior to imprisonment/imposition of a CSO _____

Appendix F: Qualitative interview schedule

Opening

How long have you been in prison/completing your current CSO?

Have you been in this prison/community placement for that entire time?
Did you adjust easily, Could you describe how you felt starting this sentence/CSO

Could you describe the events that led to you receiving a prison sentence/CSO
Tell me about what happened, were there others involved? how did you feel at the time?

Could you describe the court process to me?
Understood what it involved? How did you feel at the time?

How do you feel now about the events that led you to here?

Experience of current criminal justice sanction

How have you spent your time in prison/completing your CSO?
What has been useful? What has been challenging?

How have you found your time in prison/doing community service?
Is it what you expected? Were you prepared?

What do you think the purpose of this prison sentence/CSO was?
Punishment, deterrence, rehabilitation?

How did you feel when you got it?

How do you feel about it now?

Have you found anything difficult about this CSO/STP?
Boredom? Activity? Family contact? Work?

Has this sanction been different to other times you spent in prison/supervised in the community? [Dependant on answer to previous experience of imprisonment/community orders]
How? What made it different?
If not, is your experience always the same?

What positive changes have occurred, if any, since coming into prison/starting this CSO?

What negative changes, if any, have occurred since coming into prison/starting this CSO?

Would you describe yourself differently now, compared to before you started the STP or CSO?
In what way? behaviour? outlook on life?

Views of CSO and SPT

Were you aware that a judge is required to consider CSO before imposing a short prison sentence of less than 12 months?

If so, how did you find out about this? Solicitor? Relative? Judge?

Was anything mentioned when you were in court? What was said? Did you understand?

What do you think about judges having to consider CSOs before they give someone to a short prison sentence?

How do you think CSOs and STP compare?

Equivalent? Equal severity? Why?

What makes them equal or unequal?

Time, Effort, Commitment? etc.

Do you think some people would rather complete a CSO than spend any time in prison?

Why would someone make that choice?

Do you think some people would rather serve a short prison sentence than complete a CSO?

Why would someone make that choice?

If you had the choice, what sanction would you have picked?

Why?

Do you think you were suitable for CSO (if they received a prison sentence)

Why?

Do you think a short prison sentence or a CSO is more demanding?

Why is that?

What are the difficulties associated with completing a STP/CSO?

Compliance? Work? Travel? Family?

Motivations to reoffend

Could you describe a typical day when you get released/finish your CSO?

What would you like to do/achieve when you are release/finished your CSO?

Do you think you'll commit crimes when you're released/finished your CSO?

Why is that?

What might tempt you to reoffend?

Risk factors? Social circumstances? Drugs and alcohol?

Do all people being released/who finish a CSO have these temptations?

What effect, if any, has this CSO/STP had on your motivation/impulse to reoffend?

Why was that? What could have been done differently?

Barriers to desistance

What motivates/entices you to stop offending?

Family, Work, Age?

What are the barriers people face that stop them becoming crime free?

Are there any particular barriers you will face when released/finish your CSO?

How has this CSO/STP helped/or not helped you to stop offending?

What could be done during your STP/CSO to help you (or others, if not applicable) to stop offending?

Have these things been done? Why?

What kind of things would help you (or others) to stop offending when you're released/finish this CSO?

What kind of things would help you maintain a crime free life?

Closing

I've come to the end of my questions now, is there anything else you would like to discuss?

Is there anything you would like to ask me?

How have you found this interview?

Has it been difficult to discuss these issues with me?

Why?

If you have any worries or questions about this interview you can contact X who will answer any questions or contact me if they can't help you. Thank you for taking part today.

Appendix G: Interview participant information sheet



Community service orders versus short custodial sentences: Examining risk, recidivism and need

Participant Information Sheet

Introduction

My name is Kate O'Hara, I am a researcher working at Dublin Institute of Technology and the Irish Penal Reform Trust. I would like to invite you to take part in a research study about community service orders and short prison sentences. Before you decide whether to take part, please read the following information carefully and discuss it with others if you wish.

What is the purpose of the study?

To investigate experiences of short prison sentences and community service orders, and explore what barriers people face when attempting to stop offending.

Why have you been contacted?

As you have nearly finished a short prison sentence/Community Service Order you have been contacted to take part in this study.

What will I have to do if I take part?

If you decide to take part, I will approach you again and you will need to sign a consent form. This means you agree to take part in an interview that will be recorded. I will ask you questions about your experience of prison and ask you about offending. What you find difficult, and what would help you.

What happens if I don't want to take part?

Taking part in this study is voluntary. If you would prefer not to take part you do not have to give a reason and no pressure will be put on you to try and change your mind. You can change your mind about taking part at any time. If you decide not to take part, or withdraw at any stage, your rights will not be affected.

Will my taking part in this study be kept confidential?

Yes. All the information you give us will be kept confidential within the research team, and used for the purposes of this study only. The information will be used in a way that will not allow you to be identified individually. The only exception to this is if, after interview, we feel your health or safety, or that of others around you is at immediate risk because of something you have told me about how you are feeling. In that case, we will have to pass that information on to the prison staff, so that they can help you further. We would like to record the interview using a dictaphone, and in this case you will be asked for your permission. The recording will be kept confidential, and will not have your name on it. If you decide that you do not want the interview recorded, you can still take part.

What happens with my information?

This will be kept on a locked computer. Only the researcher will have access to these. The researcher hopes in addition to her final PhD thesis to publish the results in academic journals and present findings to interested parties, such as at conferences. This may include anonymous quotes from the interviews, with any identifying information removed.



What are the possible drawbacks to taking part?

We are interested in hearing about your experience. The study does not involve any treatment or counselling. You may find talking about parts of your experience stressful or upsetting. If this happens, you can choose not to talk about these parts of your experience or stop the interview at any time without giving a reason.

What are the possible benefits to taking part?

Your views and opinions will allow us to develop recommendations to improve services for short term prisoners. This may not benefit you personally, but may help other adults entering and leaving prison in the future.

What do I do now?

Think about the information on this sheet and ask me about anything that you are not sure about. If you agree to take part, I will approach you in the next few days about the interview.

If I need to see someone about the research after I have taken part who can I contact?

If, after taking part in the research, you want further information or have any more questions about the study, tell X who will then contact me and I will come back to see you.

But if after taking part, you become upset and need help immediately to deal with your feelings without hurting yourself, it is very important that you talk to someone straight away. Any member of staff in the prison will be able to help you, all you need to do is speak to someone. Please do this as soon as you start feeling upset, it will help.

THANK YOU FOR READING THIS

Appendix H: Institutional ethical approval



Institiúid Teicneolaíochta Átha Cliath, 143 Bóthar Ráth Maoinis, Baile Átha Cliath 6, Éire
Dublin Institute of Technology, 143 Rathmines Road, Dublin 6, Ireland
www.dit.ie/graduateresearchschool

SCOIL TAIGHDE IARCHÉIME / GRADUATE RESEARCH SCHOOL
Professor Mary McNamara

10th January 2014

Ms. Kate O'Hara
Irish Penal Reform Trust
Macro Community Resource Centre,
1 Green St (off North King St),
Dublin 7

Re: Ethical Clearance Ref 13-18

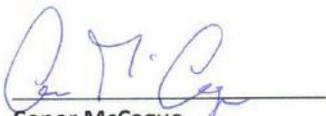
Dear Kate

I am pleased to inform you that the following project:

'Community service orders versus short custodial sentences: Examining risk, recidivism and need'

Which you submitted to the Research Ethical Committee has been approved. The committee would like to wish you very best of luck with the rest of research project. If you have any further queries, please do not hesitate to contact me on (01) 402 7515 or at conor.mccague@dit.ie.

Yours sincerely


Conor McCague
Research Graduate School

Appendix I: Permission and approval from criminal justice agencies

Irish Prison Service College
Brian Stack House
Dublin Road
Portlaoise
County Laois



**Coláiste Seirbhís Phríosúin
na hÉireann**
Teach Bhrían De Staic
Bóthar Baile Átha Cliath
Port Laoise
Co. an Laoise

Website/Láithreán gréasáin: www.irishprisons.ie
Email/Ríomhphoist: ipstdc@live.ie

Telephone/Teileafón: (057) 863 4800
Fax/Facs: (057) 862 0946

**Research Project: Community service orders versus short custodial sentences:
Examining risk, recidivism, and need**

Dear Kate

I am writing to confirm that the Irish Prison Service grants approval for your research project "**Community service orders versus short custodial sentences: Examining risk, recidivism, and need**". The Irish Prison Service will endeavour to support the project but access to prisons is contingent upon the availability of operational resources.

I would be obliged if a copy of the completed research paper could be lodged in the Open Learning Centre, Irish Prison Service College.

If you have any queries regarding the grant of approval, please don't hesitate to contact the Research Officer, Irish Prison Service College.

Finally, I wish you the best of luck in your research endeavours.

Yours sincerely


Raphael O'Keeffe
25 June 2013



Mr.Liam Herrick
Executive Director,
Irish Penal Reform Trust,
4th Floor,
Equity House,
16-17 Upper Ormond Quay,
Dublin 7

16th October 2013

Dear Liam,

Re: Research Project on Short Prison Sentences versus CSO's

I want to confirm that the Probation Service is fully supportive of the above research project, being undertaken by Ms.Kate O'Hara. I also confirm agreement for Ms.O'Hara to access and use Probation Service data held by the Central Statistics Office – under the terms as agreed for the research study.

Please do not hesitate to let me know if I can be of any further assistance.

Yours Sincerely,

Vivian Geiran
Director

An Garda Síochána

Coimisinéir Cúnta
Forbartha Agraíochta agus
Pleanáil Straitéiseach
Ceanncheathrú An Gharda Síochána
Páirc an Fhionnuisce
Baile Átha Cliath 8

Teileafón/Tel: (01) 666 1901
Facs/Fax: (01) 666 1905



Assistant Commissioner
Organisation Development &
Strategic Planning
Garda Headquarters
Phoenix Park
Dublin 8

Láithreán Gréasáin/Web Site:
www.garda.ie
Ríomhphost:/Email:
Commissioner_ST@garda.ie

*Luaigh an uimhir thagartha seo a leanas:
Please quote the following ref. number:*

AC1.40/13

*Liam Herrick
Executive Director
Irish Penal Reform Trust
4th Floor, Equity House
16-17 Upper Ormond Quay
Dublin 7*

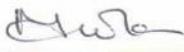
Re: Request for Access to Data. Research by Kate O'Hara on Community Service Orders versus Short Custodial Sentences

Dear Liam,

I refer to your email correspondence dated 13/06/13.

The Head of the Garda Síochána Analysis Service has examined the detailed proposal from Ms Kate O'Hara, and following some clarifications, has no objections to the use of the Garda data. He has further identified some weaknesses in the research proposal which he has highlighted to Ms O'Hara.

The research is approved by An Garda Síochána subject to complete anonymity of all data subjects.



Assistant Commissioner
A.J. Nolan

H October 2013

Ag obair le Pobail chun iad a chosaint agus chun freastal orthu / Working with Communities to Protect and Serve

Appendix J: Office of statistics appointment

E.24/95/OS/4411



An Phríomh-Oifig Staidrimh
Central Statistics Office

STATISTICS ACT 1993

Certificate of Appointment as an Officer of Statistics in the Central Statistics Office

Kate O'Hara, Dublin Institute of Technology and Irish Penal Reform Trust, is hereby appointed an Officer of Statistics in the Central Statistics Office under the terms of the Statistics Act, 1993 to the following Research Microdata Files: Probation Dataset and prison datasets 2011 – 2012 (end of year 2012) and anonymised pulse datasets **for the purpose of examining the range and efficacy of alternatives to short-term prison sentences available in Ireland and internationally. Access to Irish Prison Service data, Probation service data and Garda PULSE data have been approved by the relevant agencies, subject to specified conditions** and subject to signing of the Declaration of Secrecy below.

Section 33 of the Statistics Act, 1993 prohibits the disclosure of information obtained under the Act which can be related to an identifiable person or undertaking. Section 7 provides that all information provided to the Central Statistics Office before the commencement of the Statistics Act, 1993 either voluntarily or in compliance with orders made under the previous legislation are subject to the same protection and provisions as if such information was collected under the Statistics Act, 1993.

This appointment shall terminate on 29/02/2016.

Pádraig Dalton
Director General

Date: 29/2/14

Declaration of Secrecy (Section 21 of Statistics Act, 1993)

I, Kate O'Hara, solemnly declare that I will fully and honestly fulfil my duties as an Officer of Statistics in conformity with the requirements of the Statistics Act, 1993, and of all orders thereunder, and that I will not, except in the performance of my duties under that Act and such orders, disclose or make known during my service as an officer of statistics or at any time thereafter, any matter which comes to my knowledge relating to any person, family, household or undertaking by reason of my service as an officer of statistics.

Signed:

Date: 17/02/14



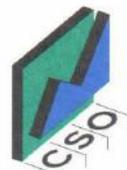
An Phríomh-Oifig Staidrimh
Bóthar na Sceiche Airde
Corcaigh
Éire
Oifig i mBaile Átha Cliath
+353 1 498 4000

Central Statistics Office
Skehard Road
Cork
Ireland
Dublin Office
+353 1 498 4000



LoCall 1890 313 414 (ROI)
0870 876 0256 (UK/NL)
+353 21 453 5000
+353 21 453 5555
information@cso.ie
www.cso.ie





An Phríomh-Oifig Staidrimh
Central Statistics Office

E.24/95/OS/4412

STATISTICS ACT 1993

Certificate of Appointment as an Officer of Statistics in the Central Statistics Office

Dr. Mary Rogan, Dublin Institute of Technology and Irish Penal Reform Trust, is hereby appointed an Officer of Statistics in the Central Statistics Office under the terms of the Statistics Act, 1993 to the following Research Microdata Files: Probation Dataset and prison datasets 2011 – 2012 (end of year 2012) and anonymised PULSE datasets **for the purpose of examining the range and efficacy of alternatives to short-term prison sentences available in Ireland and internationally. Access to Irish Prison Service data, Probation service data and Garda PULSE data have been approved by the relevant agencies, subject to specified conditions** and subject to signing of the Declaration of Secrecy below.

Section 33 of the Statistics Act, 1993 prohibits the disclosure of information obtained under the Act which can be related to an identifiable person or undertaking. Section 7 provides that all information provided to the Central Statistics Office before the commencement of the Statistics Act, 1993 either voluntarily or in compliance with orders made under the previous legislation are subject to the same protection and provisions as if such information was collected under the Statistics Act, 1993.

This appointment shall terminate on 29/02/2016.

Pádraig Dalton
Director General

Date: 24/2/14

Declaration of Secrecy
(Section 21 of Statistics Act, 1993)

I, Mary Rogan, solemnly declare that I will fully and honestly fulfil my duties as an Officer of Statistics in conformity with the requirements of the Statistics Act, 1993, and of all orders thereunder, and that I will not, except in the performance of my duties under that Act and such orders, disclose or make known during my service as an officer of statistics or at any time thereafter, any matter which comes to my knowledge relating to any person, family, household or undertaking by reason of my service as an officer of statistics.

Signed:

Date: 18/2/14



An Phríomh-Oifig Staidrimh
Bóthar na Sceiche Airde
Corcaigh
Éire
Oifig i mBaile Átha Cliath
+353 1 498 4000

Central Statistics Office
Skehard Road
Cork
Ireland
Dublin Office
+353 1 498 4000



LoCall 1890 313 414 (ROI)
0870 876 0256 (UK/NI)
+353 21 453 5000
+353 21 453 5555
information@cso.ie
www.cso.ie

Appendix K: Information sheet for research liaison officers



Guidelines for Informing Prisoners/Community Service Order participants about the Research

In order to achieve consistency in the recruitment process across research sites, the following guidelines for identifying and approaching potential participants are outlined below:

- Check what community service order participants have nearly completed their order.
- Based on your knowledge, or that of others, identify and approach potential participants who vary in age, offence type, previous criminal history, and previous experience of prison or community sanctions.
- Ask potential participants whether it would be alright if a researcher from Dublin Institute of Technology came in to speak to them and explain the study.

In the interests of consistency, when approaching a prisoner/community service order participant please tell them - *A researcher from Dublin Institute of Technology is doing a study and would like to come and speak to you about the research. Would this be OK?*

- If they agree, please inform me and I will arrange a convenient date and time to come in and explain the study potential participants.
- If they decline to speak to a researcher, please keep a record of this and note down any reasons provided.

Appendix L: Consent form for interview participants

Introduction/Consent Procedure

It's been at least 24 hours since you received information about this interview, would you like me to go through the information once more?

If you are happy to proceed, I will need you to sign this consent form before we begin. Shall I go through it with you?

I will read and explain the ethical considerations to participants when obtaining their consent. Emphasising in particular how confidentiality will be maintained and my use of a voice recorded.

If at any time we touch on a topic that is too uncomfortable to speak about, please let me know and we can skip to another part of the interview.

I'm going to begin with some questions about your life before you came into prison/started your CSO. Then I will turn on the recorder and begin the interview. I will ask you questions about your experience of serving a short prison sentence/CSO, then ask you about how you think CSOs and short prison sentences compare, before finishing with a discussion about what you think motivates you to continue or stop offending.

If at any time you want to stop the interview for a break, or stop it completely that is no problem just let me know.

Do you have any questions before we begin?



CONSENT FORM

Name _____

Research ID Number _____
(please leave blank)

1. I confirm that I have read and understood the information sheet and have had the opportunity to ask questions.

OR I confirm that I have had the attached information sheet explained to me and have had the opportunity to ask questions.

2. Are you happy that your questions were answered?
3. I agree to the use of unnamed direct quotes from my interview in reporting the results from this study.
4. I understand that I can withdraw from the study at any time without having to give any reasons.
5. I hereby give consent to be involved in this research project. I understand that there will be no negative impact if I decide not to participate.

Signature of Participant

Date

Appendix M: Demographic information collected from interviewee participants

Participant Group/ID	Age	Offence	Previous imprisonment	Number of Times	Juvenile detention	Education level	Employment status	Accommodation status
CSO P1	39	Handling stolen property	Yes	2	Yes	Junior Cert	Unemployed/On Benefits	Private renting (benefit)
CSO P2	22	Assault	No	0	No	Level 6	Full Time Education	Sharing with friend
CSO P3	30	Possession of a Class A drug	No	0	No	PLC	Unemployed/On Benefits	Living at home
CSO P4	29	Possession of drugs	Yes	6	No	Junior Cert	Unemployed/On Benefits	Living at home
CSO P5	22	Fraud	No	0	No	Junior Cert	Full time employment	Living with relative
CSO P6	27	Damage to property	Yes	1	No	Diploma	Other	Private renting
CSO P7	33	Fraud	No	1	No	Leaving Cert	Full time employment	Private renting
CSO P8	38	Possession of a weapon	Yes	1	No	Leaving Cert	Full time employment	Hostels – homeless
CSO P9	22	Possession of a weapon	No	0	No	Fetac Level 3	Training Schemes	Own house with family
CSO P10	43	Theft	No	0	No	Fetac Level 6	Unemployed/On Benefits	Family home
STP P1	27	Shoplifting	No	0	No	Primary School	Unemployed/On Benefits	Private renting (benefit)
STP P2	30	Failure to comply with the direction of a member of An Garda Síochána	Yes	2	No	Primary School	Unemployed/On Benefits	Private renting (benefit)
STP P3	22	No car insurance	Yes	2	Yes	Primary School	Casual	Living at home
STP P4	32	Theft	Yes	5	Yes	Primary School	Unemployed/On Benefits	Living at home
STP P5	28	Possession of a weapon	Yes	20	Yes	Primary School	Other	Living with partner
STP P6	27	Assault	Yes	11	Yes	Primary School	Unemployed/On Benefits	Private renting (benefit)
STP P7	27	Assault	Yes	10	Yes	Primary School	Unemployed/On Benefits	Residential placement
STP P8	32	Theft	Yes	11	Yes	Fetac Level 3	Unemployed/On Benefits	Homeless
STP P9	42	Receiving stolen goods	Yes	12	Yes	Leaving Cert	Full time employment	Private renting (benefit)
STP P10	47	Trespassing	Yes	25	Yes	Primary School	Part-Time employment	Corporation flat
STP P11	39	Going equipped	Yes	15	Yes	Primary School	Unemployed/On Benefits	Homeless

Appendix N: Re-arrests classified by original offence and subsequent re-offence within two years: CSO and STP [2011 cases]

Original offence category	Subsequent re-offence													
	Sexual offences		Violent offences		Drug offences		Property offences		Road Traffic offences		Public Order offences		Other offences	
	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)	CSO % (n)	STP % (n)
Sexual offences	0 (0)	0 (0)	<5 (*)	<5 (*)	0 (0)	0 (0)	0 (0)	<5 (*)	0 (0)	0 (0)	<5 (*)	<5 (*)	0 (0)	<5 (*)
Violent offences	0 (0)	0 (0)	27 (53)	26 (62)	22 (43)	18 (41)	14 (32)	14 (69)	21 (70)	24 (56)	19 (88)	23(145)	22 (18)	15 (25)
Drug offences	<5 (*)	0 (0)	8 (15)	<5 (10)	20 (40)	13 (30)	7 (15)	<5 (17)	12 (40)	7 (15)	8 (34)	5 (29)	7 (6)	9 (15)
Property offences	0 (0)	<5 (*)	20 (39)	29 (67)	24 (47)	32 (75)	44 (98)	54(272)	24 (80)	26 (60)	24(110)	32(198)	26 (21)	34 (56)
Road traffic offences	<5 (*)	0 (0)	15 (29)	17 (40)	16 (32)	16 (38)	11 (24)	9 (43)	19 (66)	25 (59)	10 (45)	7 (42)	20 (16)	17 (28)
Public Order offences	<5 (*)	0 (0)	24 (47)	17 (40)	15 (29)	14 (32)	20 (43)	13 (63)	20 (69)	10 (22)	36(161)	25(158)	22(18)	12 (20)
Other offences	0 (0)	0 (0)	<5 (8)	5 (12)	<5 (8)	7 (16)	5 (11)	7 (37)	5 (16)	9 (20)	<5 (14)	8 (48)	<5 (*)	12 (19)
Total	<5 (*)	<5 (*)	13(194)	12(235)	13(199)	12(232)	15(223)	25(502)	23(341)	12(232)	30(453)	31(622)	6(82)	8(164)

Appendix O: Supplementary logistic regression models predicting re-arrest

Logistical regression model excluding CSO non-completers predicting re-arrest after one year

Variable	B	S.E.	Wald	df	<i>p value</i>	OR	95% C.I. for OR
Sanction (ref: CSO)							
STP	.043	.049	.766	1	.382	1.044	.948 to 1.150
Gender (ref: Female)							
Male	.081	.082	.977	1	.323	1.084	.924 to 1.272
Age at prison imposition/committal							
Rural court	.001	.047	.000	1	.990	1.001	.912 to 1.098
District court	.106	.082	1.651	1	.199	1.111	.946 to 1.306
Province (ref: Leinster)							
Munster	-.035	.051	.460	1	.498	.966	.874 to 1.068
Connacht	-.088	.089	.972	1	.324	.916	.769 to 1.091
Ulster	-.195	.096	4.113	1	.043	.823	.681 to .993
Previous convictions since 2003							
Offence category (ref: Property offence)							
Sexual offence	-1.133	.444	6.545	1	.011	.322	.135 to .768
Violent offence	-.209	.064	10.705	1	.001	.811	.715to .919
Drug offence	-.144	.087	2.714	1	.099	.866	.730 to 1.028
Road traffic offence	-.426	.073	33.656	1	.000	.653	.566 to .754
Public order offence	-.103	.065	2.522	1	.112	.902	.794 to 1.024
Other Offence	-.126	.089	2.101	1	.156	.882	.741 to 1.049
Constant	-.750	.149	25.227	1	.000	.472	

Logistical regression model excluding CSO non-completers predicting re-arrest after two years [2011 cases only]

Variable	B	S.E.	Wald	df	<i>p</i> value	OR	95% C.I. for OR
Sanction (ref: CSO)							
STP	.129	.069	3.511	1	.061	1.138	.994 to 1.303
Gender (ref: Female)							
Male	.139	.111	1.557	1	.212	1.149	.924 to 1.429
Age at prison imposition/committal	-.02	.003	30.233	1	.000	.982	.976 to .988
Rural court	-.15	.063	5.276	1	.022	.829	.654 to 1.052
District court	-.08	.117	.477	1	.490	.923	.734 to 1.159
Province (ref: Leinster)							
Munster	-.02	-.023	.113	1	.737	.977	.854 to 1.118
Connacht	-.19	.121	2.39	1	.122	.829	.654 to 1.052
Ulster	-.27	.121	4.999	1	.025	.763	.602 to .967
Previous convictions since 2003	.684	.086	63.435	1	.000	1.982	1.675 to 2.346
Offence Category (ref: Property offence)							
Sexual offence	-1.33	.416	10.271	1	.001	.263	.117 to .596
Violent offence	-.383	.088	19.081	1	.000	.682	.574 to .810
Drug offence	-.521	.117	19.987	1	.000	.594	.472 to .746
Road traffic offence	-.640	.095	45.605	1	.000	.527	.438 to .635
Public order offence	-.193	.090	4.574	1	.032	.825	.691 to .984
Other Offence	-.593	.125	22.446	1	.000	.552	.432 to .706
Constant	.667	.200	11.109	1	.001	1.948	

Appendix P: Fines, probation and custody orders as a proportion of all orders made in criminal cases in the District Court 2010-2014 from Courts Service annual reports

Year	Orders made in criminal cases in the District Court ^a	Fine	Probation	Custody
		<i>n</i> (%)	<i>n</i> (%)	<i>n</i> (%)
2010	498672	63620 (13%)	Missing	12979 (3%)
2011	468525	Missing	Missing	Missing
2012	400911	82371 (21%)	15130 (4%)	18522 (5%)
2013	347998	74202 (21%)	12736 (4%)	16427 (5%)
2014	312861	74003 (24%)	12577 (4%)	7462 (2%)

Note. Due to changes in how offence information is presented some information could not be accurately extracted from annual court reports

^aTotal orders are presented to illustrate the volume of cases being heard in the District Court and are not a tally of cases in receipt of the three sanctions presented

PUBLICATIONS

O'Hara, K. & Rogan, M. (2015). Examining the use of community service orders as alternatives to short prison sentences in Ireland, *Irish Probation Journal*, 12, 22-45.