

## ***Submission to the Future of Policing Commission***

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### ***Introduction***

My area of particular research and policy interest is in the criminal justice and human rights arena. While my primary focus is on research and policy matters relating to prisons and Probation, I welcome the opportunity to make a written submission to the Commission on the Future of Policing in Ireland (the Commission) and hope that my observations will be of some interest.

There are five sections to my submission. The first section addresses a number of points of a general nature about recent positive criminal justice initiatives and policy development. The second deals with the desirability of timely access to Garda data for researchers, while the third addresses issues relating to Garda leadership, management issues, nurturing talent and accountability. In the fourth section I discuss the Joint-Agency Response to Crime (J-ARC), drawing on empirical data from interviews conducted during my PhD research on post-release supervision of long sentence prisoners, presenting quotations from key players, including Gardai, on the value of closer working between An Garda Síochána, the Irish Prison Service (IPS) and Probation Service.

In the final section, adapted from an article I am currently writing entitled “Bearing witness to trauma in prisons” I argue that although the core business of An Garda Síochána is the detection and investigation of crime, the entire service should be trained in the prevalence and impact of childhood trauma on individuals and marginalised communities. This would, I suggest, lead to the police service adapting its sometimes heavy-handed approach to dealing with suspected offenders, their families and communities, towards trauma-informed practice based on an understanding of the massive human cost of high levels of Adverse Childhood Experiences (ACEs) among the so-called “criminal classes”. An Garda Síochána might well find that people who are, or are at risk of becoming “prolific” offenders are, in fact, better understood as unrecovered trauma survivors whose offending behaviour is just one “minor” affliction caused by massive exposure to trauma in their early years.

### ***General observations***

First, the welcome and necessary establishment of the Commission on the Future of Policing (the Commission), with an obligation in its terms of reference to consult widely with civil society and members of the public, is in line with a the recommendation contained in the Toland Report<sup>1</sup> regarding the Department of Justice and Equality to engage “with broader organisation and key external stakeholders to get their input on future culture and the key changes and actions to make it a reality”, and to focus on “changing closed and secretive cultural model to being as open and inclusive as possible”.

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<sup>1</sup> See, Report of the Independent Review Group on the Department of Justice and Equality (2014) at p. 12, available at <http://www.justice.ie/en/JELR/Independent%20Review%20Accessible.pdf/Files/Independent%20Review%20Accessible.pdf>

The recent committed approach to joined up thinking and working to improve criminal justice outcomes through interagency collaboration between An Garda Síochána, the IPS, Probation and the Department, including the development of the four-way approach – *the Joint Strategy on the Management of Offenders 2016-2018*<sup>2</sup> - shows what can be done in a short space of time, *when the will is there*. Collaboration towards joint goals is the way forward. The old “Us and Them” mentality serves no-one, not An Garda Síochána, the partner Criminal Justice Agencies (CJAs), the Department of Justice and Equality, nor the public which deserves the highest standards from its public servants.

I wish to express enthusiastic support for a number of recent initiatives within the criminal justice arena, namely:

- The formation of the Strategic Penal Policy Implementation Group. **(Its existence should be guaranteed indefinitely by Statute, so that it is not jettisoned over time)**
- The efforts by the Strategic Penal Policy Review Group to convey the connectedness of issues relating to penal policy to other Departments such as Health, Housing, Education, Social Protection, and Jobs.
- Greater interagency working between the Irish Prison Service, Probation Service and An Garda Síochána on the J-ARC pilot projects.
- The development of the e-JARC information-sharing platform to ensure the efficient and timely dissemination of information.
- The ongoing work on the Cost of Crime within the Department of Justice and Equality by an economist. **(An additional study on the Cost of the War on drugs should be conducted)**
- The Annual Criminal Justice Agencies conference is a great way to convene interested parties to discuss pressing issues, share information and build alliances.
- The Open Policy Discussion model (for example the event on the desirability of a CJAs inspectorate) is an excellent opportunity to acquire input from external parties on difficult policy issues.

### **Timely access to Garda data by researchers**

From my experience of interacting with members of An Garda Síochána as research consultant on Ireland’s report into pre-trial detention<sup>3</sup> in conjunction with the Irish Penal Reform Trust and Fair Trials International, I found them to be generally pleasant and helpful on a personal level once research permission was eventually granted after a prolonged process (including months of attempting to track down the right person/office to request access to Garda files and being passed from pillar to post within the system), yet quite culturally suspicious of research and overly concerned about “Data Protection” issues. While genuine Data Protection concerns are, of course, legitimate, and it is crucial that any researcher seeking to access Garda information or personnel abide by the principle of ethical, responsible research (undertaking not publish information that would identify any individual offender, or Garda etc.), the onerous and time-consuming hurdles that researchers need to jump through in order to gain access to any Garda files, or to conduct interviews

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<sup>2</sup> See

<http://www.garda.ie/Documents/User/Joint%20Strategy%20on%20the%20Management%20of%20Offenders.pdf>

<sup>3</sup> IPRT, *The Practice of Pre-trial detention in Ireland: Research Report* (J. Mulcahy), April 2016, available at [http://www.iprt.ie/files/PTD\\_Country\\_Report\\_Ireland\\_FINAL\\_updated.pdf](http://www.iprt.ie/files/PTD_Country_Report_Ireland_FINAL_updated.pdf)

with staff, is not conducive to the timely production of research reports. In fact, it acts as a barrier to public accountability.

High quality research on issues relating to the success and functioning – or the opposite - of An Garda Síochána can help improve outcomes, as well as the culture and ethos of the service. The perception that the service may, at times, be hiding behind Data Protection issues in order to make research access to data, documents or staff virtually impossible, is not conducive to enhancing public accountability and transparency.

### **Leadership, management issues, nurturing talent and accountability**

The primary challenges facing the An Garda Síochána and the damaging ongoing controversies besetting the organisation, as identified in the terms of reference of the Commission, are those of culture and ethos, issues relating to leadership and management, accountability to the public and community engagement, all of which impact negatively on process of the reform:

“Notwithstanding wide-ranging measures taken to address the causes of these controversies, including the establishment of a new oversight framework and the ongoing implementation of a reform programme within An Garda Síochána, concerns remain in relation to the accountability of An Garda Síochána, its leadership and management capacity and its culture and ethos. These concerns have the potential to undermine public confidence in policing and the legitimacy of An Garda Síochána. Additionally, like all police services it faces internal and external challenges rooted in the changing context in which all police services operate in the 21st century. These include increased expectations of transparency, accountability and professionalism, the changing nature of crime, the changing nature of society and the need for pro-active, routine and continuous engagement with local communities.”

Every mess relating to the criminal justice system cannot, and should not, be blamed entirely on the Minister of the day. Ministers rely heavily on their civil servants and top level management in the CJAs to bring them the best information available. If the Minister does not get the right advice promptly, in clear unvarnished terms, they are more likely to get important policy decisions wrong, swayed by the high-pitched, impatient media and volatile public opinion.

As regards the leadership deficit and management problems An Garda Síochána, I believe the current upper echelons are, irrespective of personal blame or direct involvement, tainted in their entirety by the recent scandals involving the falsification of penalty point records and the treatment of whistle-blower, Maurice McCabe. The legal strategy devised to assassinate his character and the daily revelations at the Disclosures Tribunal are devastating to public confidence in senior Garda management. The recent timing of the Garda apology to Joanne Hayes for her appalling treatment during the original Kerry Babies investigation, along with a decision to open a fresh investigation into the death of Baby John after 34 years has, similarly, done little to enhance the reputation of policing in this country.

In terms of the warped culture that incentivized rank and file Gardai to input false figures into the PULSE system, this culture needs to be swiftly overturned. Promotion should not be linked to meeting target arrests for any given crime type. This is about *justice*. The stakes are too high. People’s lives and wellbeing are at stake when Gardai get it wrong. Human error is always possible.

However, incentivizing error, or deliberate massaging of numbers - to enhance promotion prospects is inexcusable.

Promotion should depend on performance not just “towing the party line”, or displaying blind subservience to superiors. An Garda Síochána is not a political party, but rather a vital organ of the State. If people feel their contributions are discounted, if they are labelled trouble-maker, i.e. someone who is seen as showing up their superiors because they articulate a different viewpoint, or identify a particular pitfall, inappropriate behaviour, or cost related to a proposed policy or practice, their creativity will be stifled and potential solutions could be lost. An example of an inappropriate behaviour that a junior Garda might not have spoken up about, but should have, is the massaging of road traffic numbers, which was, arguably, a large-scale fraud perpetrated on the public.

When a young Garda’s professional development occurs in an organisational culture that appears to be lacking in integrity from the top down, is hostile to the articulation of uncomfortable truths and progressive ideas, it will inevitably grind good people down. Some of them will move on to more fulfilling roles. A majority will stay but these are usually the cautious ones with no desire to put themselves, or their opinions on the line, as it may damage their prospects. If deflated over time, they will inevitably be less productive and effective public servants than they might have been with a different, more nurturing culture.

Bold, intrepid leadership that is not afraid to shed light on the dark places within the organisation - and root out the rot - is essential. Open, inspiring leadership that is receptive to, rather than demoralized by contrary viewpoints, will help create a better, healthier more just police service for Ireland.

An Garda Síochána must identify and promote dynamic people from within the ranks and outside the organisation, who are energetic, effective communicators, who are open to new ideas, who are not threatened by thoughts and values that are different to their own, and who are prepared to be accountable for their actions. Promotion should be based on merit. What is at stake may be a criminal justice or immigration practice that has a direct impact on the well-being and prospects of our citizens and vulnerable people who need and *deserve* to know our police service is fair, accountable and operates fully within the limits of the law.

In my view, the qualities and competencies that are necessary and desirable in the next Garda Commissioner include, but are not limited to:

- professional integrity, honesty and humility;
- a proven track record of public service and change management;
- fearlessness in the face of admitting malpractice, taking prompt responsibility, and a commitment to deal with matters effectively;<sup>4</sup>
- awareness of the difficulties of engendering and sustaining cultural change;
- excellent communications skills and emotional intelligence;
- openness to, and previous experience of working with all relevant stakeholders for better criminal justice outcomes and a safer, more equal society;
- a full understanding of the importance of why Garda policies and practice should comply with international human rights instruments and appreciation of inspection of Garda stations by accountability structure such as the National Preventive Mechanism required by

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<sup>4</sup> See F. O’Toole, “Something sensational!” *The Irish Times*, 8 April 2014, available at <https://www.irishtimes.com/news/politics/something-sensational-1.1753357> (accessed 19/01/18).

the Optional Protocol to the Prevention Against Torture (OPCAT)<sup>5</sup> to safeguard against State abuse;

- commitment to building on existing good models of practice, such as the Joint-Agency Response to Crime (J-ARC);
- an understanding of all the complex issues that cause crime, including Adverse Childhood Experiences (ACEs) and intergenerational deprivation;
- promotion of individuals on merit, not based on a spurious sense of “loyalty” to the service, or merely having “time served”;
- driving the recruitment and promotion of more women and minorities within the service;
- provision of well-resourced, periodic training for Garda staff at all levels of service.

Individual members of An Garda Síochána must be held accountable for their particular briefs. Gardai, at all levels of the service, must be prepared “to own” their work, for good or ill. Accountability means both taking responsibility when things go wrong and enjoying recognition and success when things go right. People should be publically acknowledged and thanked when they do well on projects. Strong management is not afraid to give credit where it is due. Strong managers do not need to claim complete credit for themselves, when the reality is that no-one can accomplish great things alone. Strong managers are also unafraid of confronting people who are exhibiting substandard performances. They expect and demand the best from people. As stated in the Irish Prison Service Strategy 2016-2018, the focus within An Garda Síochána should be on “those that do”, rather than those that don’t.” Only those that do, and do well consistently, should rise up the ranks.

To enhance public accountability across the board, I believe that the contact information of responsible Gardai should be in the public domain, i.e. on the internet. For example, if a Garda is the Juvenile Liaison Officer in a particular region, or local Garda manager of a J-ARC project, then this should be made known to interested parties.

The era of faceless civil servants and Gardai should, in my view, be over. Politicians are the elected representatives who are publically lambasted, or occasionally praised for policy formulation and implementation. While public servants view themselves as there merely “to serve” their respective Ministers<sup>6</sup>, I believe there would be real merit in having all Gardai swear an oath of allegiance to the Irish people at regular intervals, or at a minimum at graduation – if they do not do so already - if only to impress on them who they really work for. They work for the people of Ireland. The discharge of their duties with honesty, integrity and diligence is of huge significance to ordinary citizens. The decisions of individual Guards, their successes, their failures, their bravery, their cowardice, their abuse of power as the case may be, all have real life consequences.

### **The Joint Agency Response to Crime (J-ARC)**

The Carter Report in 2003 referred to the phenomenon of ‘silo mentalities’ among the key criminal justice players in the UK. The prison authorities, probation and the police did not appear to Carter to

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<sup>5</sup> See UN Committee against Torture, *Concluding observations on the second periodic report of Ireland* CAT/C/IRL/CO/2, 31 August 2017, at p. 3, available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fCO%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fCO%2f2&Lang=en)

<sup>6</sup> See H. Annison’s excellent book entitled *Dangerous Politics* (2015) OUP, which discusses the “Westminster tradition” of policy making in the context of the evolution and demise of the Indeterminate Sentence for Public Protection, and the tension that exists between serving the Minister and the public interest.

be working together in as joined up and coordinated a manner as they could, or should.<sup>7</sup> In his Martin Tansey Memorial Lecture in 2014, Paul Senior, an expert in Integrated Offender Management (IOM), provided a helpful overview of the evolution, aims and challenges of IOM, which arose out of various experiments in England and Wales and brought together the main Justice partners – police, prison, probation - with community safety partnerships and the voluntary sector “to find a more focused way to tackle persistent and prolific adult offenders”.<sup>8</sup> According to Senior, IOM is similar to “a human body – extremely complex and integrated in ways we do not always clearly understand, but each part vital in order to function effectively: different agencies with different priorities, different agendas and different targets, but all developing a single organisational model of delivery, working together to achieve a reduction in reoffending.”

Officially launched in November 2015, the Joint Agency Response to Crime (J-ARC) is the Irish version of IOM. There are currently three Dublin-based J-ARC pilot projects “providing for co-ordinated and enhanced levels of co-operation and co-ordination between An Garda Síochána, the Probation Service and the Irish Prison Service”.<sup>9</sup>

“The Guards previously, you know, we’ve always had a great professional workin’ relationship with the Probation Services and the Prison and Court Services and all that, but honestly we probably were like islands. We did our own thing and our interaction would have come through the likes of court reports, for suitability reports, that type of stuff, or even if people were bein’ considered for release, you may get a phone-call, or you may get a letter, but there was no structure there. With this J-ARC there is a structure there and there’s a defined process and it’s great. It’s great peace of mind for the likes of meself - and comfort - because once you can refer to a process and once you know that you have key people as points of contact, it does share the burden and we know we’re all workin’ towards the same goal.” *Interview with Garda involved with J-ARC for PhD research*

The three pilot projects deal with different groups of prolific offenders. The “Change Works” strengths-based program run by the Bridge Project is focused on high risk violent offenders and adopts an integrated case management approach. The Acer 3 project works intensively with burglars in certain parts of Dublin who were identified by the Garda Analyst as being the most prolific burglars in the area. Strive deals with prolific offenders in the Ballymun area of Dublin, focussing on “quality of life” offences, such as public order disturbances, criminal damage and issues relating to the sale and consumption of drugs in the locality. The goal of Strive is to “concentrate on those causing a high level of harm or disruption to the local area. We will seek to motivate them to desist from crime and to have their needs supported by local agencies or face an appropriate level of intervention necessary to disrupt their criminal lifestyle.”<sup>10</sup>

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<sup>7</sup> P. Carter, (2003). The Carter Report – Managing Offenders, Reducing Crime – A New Approach. London: Strategy Unit of the Cabinet Office.

<sup>8</sup> P. Senior, (2014). Integrated Offender Management: Pooling Resources and Expertise and Creating Effective Working Partnerships, *Irish Probation Journal*, 12, 7-28, at p. 7.

<sup>9</sup> Irish Prison Service & Probation Service (2015). Joint Strategic Plan 2015-2017, at p. 7, available at [http://www.irishprisons.ie/images/pdf/jointstrat\\_english.pdf](http://www.irishprisons.ie/images/pdf/jointstrat_english.pdf)

<sup>10</sup> Ibid.

In September 2016, the then Minister for Justice announced that there would be new J-ARC projects targeting prolific offenders in Waterford, Dundalk and Limerick.<sup>11</sup> In June 2017, the Youth Agency Response to Crime (Y-JARC) was launched for problematic young offenders in Cork and Dublin.<sup>12</sup>

“[If the targets want] to avail of supports and services, we’re being very clear that “we’re here to provide you with the support, if you want to work with us.” And ... there’s real life examples again of Guards sitting down and filling out a Passport application form, for example. [It’s] about getting that mind-set to change, and there’s certainly that element and we will reward [good behaviour]... it’s that carrot and stick. I don’t like the expression, but that’s certainly there. So there’s definitely a rehabilitative element there, if the person wants to go on that journey. But I would be very clear about J-ARC that it’s not a kinda early release scheme or anything like that. The people who are picked, they’re the guys who are causing the most damage to communities. “Yes, please come with us and stop offending, but if you want to keep offending, well there’s no rehabilitative element there.” There is unfortunately ... the tough element that you serve to the last day, that the Guards will continue to closely monitor you and monitor you. Bail conditions will be objected to. You’ll be brought back to court. We’ll object to bail. We’ll breach you. So there it’s not just the rehabilitation ... It’s serving the safety of the community ... some people belong in jail.”

*Interview with IPS civil servant for PhD research*

“[R]ehabilitation, I suppose, is a very *broad* – we’d often look at rehabilitation – when does rehabilitation start? Sometimes it starts when a person goes into a prison – talk about prison bein’ able to rehabilitate, or *failin’* to rehabilitate – whatever viewpoint people take. Sometimes we talk about when people leave prison they haven’t been rehabilitated, so [...] maybe the connotation there is that it’s up to the prison to rehabilitate people. Maybe there’s *some* truth in that, but I don’t think that once a person leaves prison that their rehabilitation should *finish* and then, I suppose, that’s then where the Probation Service and post-release supervision orders and all the other stuff come into operation. Have the police a role? From a policing perspective, have we a role in rehabilitation? I suppose we never thought we did. But we probably *now*, we probably see the values of it. *Interview with Garda involved with J-ARC for PhD research*

The original J-ARC pilots are in the process of being evaluated by external research consultants, who are reportedly adopting a mixed methods approach, utilising statistical inputs from the Garda Analyst in addition to interviews with J-ARC clients and members of the CJAs working on the projects. Once all three evaluations are completed, an economist in the Department of Justice and Equality will undertake a cost benefit analysis of the projects and, depending on the findings, may recommend further expansion of the J-ARC model. It is anticipated that a decision on the future of J-ARC will be made by the end of 2017.

According to the CJAs, there are distinct benefits to interagency working and timely data sharing regarding breach of release conditions, risks relating to drugs relapse or the acquisition of fresh charges in terms of swift decision-making and immediate consequences.

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<sup>11</sup> Department of Justice and Equality (2016). Tánaiste Launches Joint Strategy on the Management of Offenders and announces the extension of Joint Agency (J-ARC) initiative to Dundalk, Limerick City and Waterford City, available at <http://www.justice.ie/en/JELR/Pages/Extension-of-Joint-Agency-J-ARC-initiative>.

<sup>12</sup> Probation Service, (2017). Probation Works, available at [http://www.probation.ie/EN/PB/0/04A522F04DF0EE3A8025816A005D23BD/\\$File/Probation%20Works%20July%202017.pdf](http://www.probation.ie/EN/PB/0/04A522F04DF0EE3A8025816A005D23BD/$File/Probation%20Works%20July%202017.pdf)

“When someone goes out on Community Return and [doesn’t] turn up for work we know at half ten that morning. If someone doesn’t attend their Community Support Scheme meetings, or if they’re falling down not attending their placement, as it were, we know about it straight away and we can make informed decisions better. And the same applies to any release under J-ARC. It has that wrap-around commitment and structure that’s in place as well.” *Interview with IPS civil servant for PhD research*

The enhanced strategic partnership of the IPS and Probation with the Gardaí in providing prolific offenders with intensive interventions through J-ARC is reportedly yielding positive results, though data has yet to be made public confirming this and the measures for “success” are unknown. In my view, J-ARC type projects should be expanded if the statistics are yielding tangible benefits for the human targets and the communities in which they live. If effective, this integrated, case-management style of strategic management of particular cohorts of prolific or otherwise problematic offenders should be rolled out elsewhere. In particular, projects like the Bridge Change Works scheme for violent offenders would be of benefit elsewhere.

### ***Bearing witness to trauma among offenders***

In the quest to become a high-functioning 21<sup>st</sup> century police service, An Garda Síochána must, as a matter of urgency, become aware of Adverse Childhood Experiences (ACEs) and adopt trauma-informed practice for better policing outcomes. ACEs quite literally attack the structures of a child’s developing brain, leading to “lasting effects on brain structure and function”. This brain injury - acquired in infancy or adolescence - has individual and societal costs in terms of damage to the person’s health over the life course, in addition to a variety of behavioural and social problems, including involvement in drug-taking and criminality.<sup>13</sup>

Basically, ACEs cause the production of toxic stress or cortisol in children, which activates the “fight/flight/freeze” stress response system causing “neural pruning”, whereby the development of normal neural pathways is stunted. Childhood trauma haunts people into adulthood. Over time the traumatized person’s “window of tolerance” (where they can comfortably “metabolize” the ups and downs of daily life) shrinks, causing them to either remain constantly on high alert for danger, responding with anger, violence, impulsivity or defensiveness (hyperarousal) or by shutting down/disconnecting (hypoarousal) when emotionally overwhelmed or triggered.<sup>14</sup>

ACEs are divided into three groups: abuse, neglect, and household challenges. The ACE Score Calculator<sup>15</sup> asks people questions about whether they experience ten types of childhood experience known to cause trauma before they turned eighteen. The ten questions relate to:

- Persistent physical abuse

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<sup>13</sup> Felitti VJ, Anda RF, Nordenberg D, Williamson DF, Spitz AM, Edwards V, Koss MP, et al. (1998) The relationship of adult health status to childhood abuse and household dysfunction. *American Journal of Preventive Medicine*; 14:245-258.

<sup>14</sup> J. Fisher, *Psychoeducational Aids for Working with Psychological Trauma* (2011); Edwards, V. J., Dube, S. R., Felitti, V. J., & Anda, R. F. (2007). It's OK to ask about past abuse. *American Psychologist*, 62(4), 327-328; Hankinson, *Trauma and the Impact on Brain Development* (2014), available at <https://dbhdid.ky.gov/dbh/documents/soca/2014/Hankinson.pdf>

<sup>15</sup> See <http://www.acestudy.org/uploads/3/4/9/6/34961588/10-qacecalc.pdf>; see also a fascinating blog by J. Tomlinson, “We need to talk about trauma” 2017, available at <https://abetternhs.net/2017/10/15/we-need-to-talk-about-trauma/amp/https://www.cdc.gov/violenceprevention/acestudy/>

- Persistent emotional abuse
- Contact sexual abuse
- Physical neglect
- Emotional neglect
- Presence of alcohol/drug abuser in the home
- Imprisoned family member
- Depressed, mentally ill or suicidal family member
- Mother subjected to domestic violence
- Loss of/separation from parent(s).

It is important to acknowledge that ACEs in the general population are commonplace. Many of us will have experienced at least one ACE in childhood. In the two wave CDC-Kaiser study of over 17,000 ordinary Americans, almost two-thirds of people reported at least one ACE, and more than one in five reported three or more ACEs. One in sixteen research participants experienced 4 or more ACEs. Similar to the RNR evidence base which shows the higher the number of risk factors, the higher the likelihood of reoffending, the ACE study found **“the higher the ACE Score, the greater the risk of experiencing poor physical and mental health, and negative social consequences later in life”**.<sup>16</sup> According to the initial Felitti et al. study, sexual abuse was the second most common ACE or trauma, reported in 22% of the first wave of 9,508 adult respondents.<sup>17</sup>

The core finding of Felitti *et al*'s research is that the greater the dose ratio of childhood trauma, the more detrimental the impact on a person across their lifetime. ACEs contribute to ischemic heart disease, liver disease, mental illness (chronic anxiety, chronic depression, OCD, bipolar and personality disorders), obesity, alcoholism, drug addiction and early death. Significantly, Felitti *et al*'s research does not “include higher risk populations such as patients attending psychiatric clinics and in psychiatric hospitals and institutions, prisons, the homeless, and others who have a very high rate of child abuse and neglect in their histories”.<sup>18</sup>

Whitfield notes that 50-70% of people who require psychiatric inpatient treatment as well as those who avail of psychiatric or psychological out-patient services are trauma survivors. In his view, when people engage in high-risk behaviours such as drug-taking, excessive drinking or feckless promiscuity that are often interpreted by others as “antisocial” or “crazy”, they are, in fact, “unconsciously re-enacting aspects of their original trauma in order to master it and in hopes of eventually healing from it”.<sup>19</sup> Dr. Daniel Sumrok, Director of the Center for Addiction Sciences at the University of Tennessee Health Science Center’s College of Medicine, advocates for the renaming of addiction as “ritualized compulsive comfort-seeking”.<sup>20</sup> According to Sumrok, ritualized compulsive comfort-seeking is a “normal response” to ACEs, “just like bleeding is a normal response to being stabbed”. In his individual and group-work with patients seeking to overcome harmful substance dependencies

<sup>16</sup> See <http://www.acestudy.org/the-ace-score.html>

<sup>17</sup> See Felitti *et al*, above fn. 12.

<sup>18</sup> C. Whitfield, (1998) Adverse Childhood Experiences and Trauma, *Am J Prev Med* 1998;14(4), at pp.361-362.

<sup>19</sup> *Ibid*, p. 362.

<sup>20</sup> J. E. Stevens, (2017) “Addiction doc says: It’s not the drugs. It’s the ACEs...adverse childhood experiences”, available at <https://acestoohigh.com/2017/05/02/addiction-doc-says-stop-chasing-the-drug-focus-on-aces-people-can-recover/>

he aims to help them find a healthier replacement ritualized compulsive comfort-seeking behavior “that won’t kill them or put them in jail”.

In the recently published Welsh ACEs study, 2,028 Welsh adults were questioned about their current health behaviours and exposure to ACEs. The Welsh study has added to the growing evidence base that a wide range of long-term harms resulting from chronic stress experienced during childhood, finding that that 47% of respondents reported having experienced at least one ACE and 14% experiencing four or more ACEs.<sup>21</sup>

Compared with interviewees with no experience of ACEs, those who experienced four+ ACEs were:

- 4 times more likely to be a high-risk drinker
- 6 times more likely to have had or caused unintended teenage pregnancy
- 6 times more likely to smoke e-cigarettes or tobacco
- 6 times more likely to have had sex under the age of 16 years
- 11 times more likely to have smoked cannabis
- 14 times more likely to have been a victim of violence over the last 12 months
- 15 times more likely to have committed violence against another person in the last 12 months
- 16 times more likely to have used crack cocaine or heroin times
- 20 more likely to have been incarcerated at any point in their lifetime.(Bellis et al, 2015 p.5)

In Ireland, Lambert and Gill-Emerson’s recent investigation into the prevalence of ACEs among Cork Simon Community homeless service-users yielded fascinating results. Of the 50 service-users surveyed, **77%** had four or more ACEs, while 8% had **10** ACEs.<sup>22</sup> More than 1 in 3 were sexually abused as children, a quarter were subject to physical neglect and two thirds experienced emotional neglect. Over 70% lived with someone with an alcohol or drug addiction, more than 50% lived with a mentally ill person, 50% were raised in a single parent household and almost one third grew up in home where a was family member incarcerated. Almost half witnessed their mother being subjected to domestic violence. Moreover, 71.4% had a history of suicidal thoughts and 44.8% had self-harmed in the past. Other findings regarding physical and mental health were that:

- the average number of visits to Accident and Emergency departments was 17 and the mean number of Intensive Care stays was 1.89;
- 47% reported suffering a serious head injury;
- 39% admitted to having shared a needle for intravenous drug use;
- 62% reported they had overdosed in the past;
- 90% had been seen by a psychiatrist or psychologist;

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<sup>21</sup> M. Bellis , K. Ashton, K. Hughes, K. Ford, J. Bishop & S. Paranjothy, Adverse Childhood Experiences and their impact on health-harming behaviours in the Welsh adult population, Public Health Wales NHS Trust (2015), p. 3 available at <http://www.cph.org.uk/wp-content/uploads/2016/01/ACE-Report-FINAL-E.pdf>

<sup>22</sup> S. Lambert & G. Gill-Emerson, Moving Towards a Model of Trauma-Informed Care. A Model of Research and Practice at p. 12, available at <http://www.corksmon.ie/wp-content/uploads/2017/10/Moving-Towards-Trauma-Informed-Care-Report.pdf>

- 90% stated they believed they had psychological problems but only 23.5% could name an exact diagnosis (e.g. depression, anxiety, psychosis, Post Traumatic Stress Disorder, Attention Deficit Hyperactivity Disorder, Borderline Personality Disorder, Bipolar and schizophrenia);
- Thirty five of the 50 participants were currently using prescription medication, including antipsychotics, benzodiazepines, methadone and sleeping tablets.

In addressing the thorny issue of whether it is ethical to ask questions about ACEs, Edwards *et al*, argue that “researchers studying health outcomes who do not ask study subjects about traumatic childhood experiences are overlooking an important risk factor for many of the major health issues of our day”.<sup>23</sup>

I would argue that CJAs that are not trauma-informed and who do not train specialised staff to ask offenders about ACEs including sexual abuse, neglect, domestic violence, intergenerational imprisonment, family addictions and mental illness among offenders, are similarly overlooking important information relevant to continued offending behaviour. The Gardai, for example, are missing out on opportunities to build an evidence base about the prevalence of ACEs among people who are “known” to them, so as to better understand and interact more meaningfully with unrecovered trauma victims, and to lend their influential voices to the case for increased investment in early intervention and prevention services for families and communities most riven by ACEs.<sup>24</sup>

Moreover, members of An Garda Síochána whose *raison d’être* it is to reduce crime and recidivism and to enhance community safety are neglecting opportunities to assist people to make sense of themselves, their lives and the assortment of difficulties and struggles they experience as adults, including the reasons for their poor physical and mental health, their failure to make and sustain healthy relationships including with their own children, their inability to hold down employment, their battles with illegal substances *and* their accumulation of convictions. Realistically, offending behaviour may often be the least of an offender’s worries.

The findings from the Cork Simon Community ACE study, in particular, are relevant to the prison population and Probationers in Ireland. To date, there has been no ACE study conducted in Ireland in relation to either prisoners or offenders on the books of the Probation Service. I am convinced that greater attention should be given to the prevalence of ACEs and childhood trauma. Ideally, going forward the ACE questionnaire should be conducted by a staff member with specialist trauma training at the point of arrest. If data on ACEs were to be gathered in Ireland in relation to Garda suspects, in the light of the Cork Simon findings, I suggest that the likely findings would show that very high numbers of people would have four or more ACEs and that people who would score as “high risk” on risk actuarial assessment tools, are in fact highly traumatized individuals whose offending behaviour is, indeed, just a minor aspect of their wider health, relational and social problems. Moreover, certain cohorts of offenders might well have 8 or 10 ACEs, including women, chronically homeless men who may have unmet/undiagnosed mental health needs, or prolific low

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<sup>23</sup> Edwards, V. J., Dube, S. R., Felitti, V. J., & Anda, R. F. (2007). It's OK to ask about past abuse. *American Psychologist*, 62(4), 327-328 at p. 327, available at <http://www.theannainstitute.org/ACE%20folder%20for%20website/58%20Its%20OK%20to%20Ask%20about%20Past%20Abuse.pdf>. See also R. Anda, *The Health and Social Impact of Growing Up With Adverse Childhood Experiences The Human and Economic Costs of the Status Quo*, available at [http://s3.amazonaws.com/zanran\\_storage/www.aapweb.com/ContentPages/17392325.pdf](http://s3.amazonaws.com/zanran_storage/www.aapweb.com/ContentPages/17392325.pdf);

<sup>24</sup> See J. Mulcahy, “Safeguarding Area Based Childhood Programmes for better, brighter futures, (2017), available at <https://alittlebitprickly.wordpress.com/2017/06/03/safeguarding-area-based-childhood-programmes-for-better-brighter-futures/>

level offenders who have a high volume of convictions for acquisitive crime because of their ritualized compulsive comfort-seeking behaviour, i.e. their debilitating addiction which they feed by violating the rights of others. Some of these individuals are also likely to be people for whom prison may become a respite, or an adaptive response to escaping from the chaotic horrors of their lives outside.

Vulnerable children become vulnerable adults, with expensive health complaints and problematic relational and social behaviours. The “fight/fright/freeze” response that is triggered in stressful situations, if understood properly by staff working in police stations, or walking the beat in underprivileged communities, should lead to superior strategies for interacting with unrecovered trauma survivors, particularly those who hardest to reach and demonstrate oppositional or aggressive behaviours when challenged or fearful.

Criminal justice professionals such as Gardai might well experience secondary trauma<sup>25</sup> without even being aware of it. In the policing context, daily contact with unrecovered trauma survivors can lead to burn-out, absenteeism and the adoption of negative coping strategies such as addictive behaviours or a propensity to dehumanise/brutalize offenders and their families.<sup>26</sup> Training on the impact of both childhood trauma and secondary trauma is crucial for all staff working with offenders, as is information about positive coping strategies and mental health supervision.

\*The views expressed in this submission are the author’s own and do not reflect the views of the Irish Research Council, the Probation Service or the Cork Alliance Centre.

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<sup>25</sup> See Lambert and Gill-Emerson, above fn 21; Law and Justice podcast with Dr Sharon Lambert on Adverse Childhood Experiences, 2017 available at <https://podtail.com/podcast/law-and-justice-podcast/law-and-justice-episode-6-december-6-2017/>

<sup>26</sup> During my time as Research and Policy Officer at the Irish Penal Reform Trust, I occasionally took phone calls from members of the public who complained about the indignity and shame felt at having three or four Gardai turn up to the house to bring them to prison for non-payment of a fine. Aside from the fact that this could be perceived by the individual, and any children in the house, as being an illegitimate display of State force, it was a gross waste of public resources. I recently attended Red Cross training organised by Probation, where there was a mixed group of both offenders and criminal justice personnel. A number of offenders mentioned deplorable behaviour on the part of Gardai, including cruel and untrue statements by arresting Guards to the wife of one of the men about him being unfaithful, as well as a criminal. One of the facilitators, a former offender, mentioned that when he was arrested and remanded in custody, the arresting Guard made several attempts to entice his wife out on dates and used sexual language towards her. This is, obviously, grossly inappropriate behaviour.