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The Life and Times of Young People on Remand: Recommendations for Future Policy in Ireland

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Abstract

The remand population of children and young people continues to rise in Ireland. Despite this growth, little is known about their experiences on remand. This paper focuses on such experiences from the perspective of the young prisoners. It is based on 62 semi-structured interviews conducted with young males and females aged 16 to 21 years on remand in St. Patrick's Institution, Cloverhill Remand Prison and the Dóchas Centre, Mountjoy Prison. The paper highlights how young people who have yet to be found guilty are frequently detained for long periods in prison and are exposed to punitive conditions. The findings have important implications for policy in Ireland particularly in light of the principles of the Children Act, 2001 which state that young people should only be detained in custody for the shortest amount of time possible and as a measure of last resort. The paper seeks to make an important contribution to the criminology field by providing a critical analysis of the provisions that regulate custodial remand for young people in Ireland.

Introduction

*Did you ever hear that song 'I'm locked up and they won't let me out', do you know that song? There's a bit in it yeah, where they say when you're inside people don't give a damn, they forget about you, do you know what I mean.
(P9, Male Age 17 on Remand 2 days)*

The concept of custodial remand refers to the phenomenon whereby individuals are denied bail and are held in detention pending criminal legal proceedings (Sarre et al. 2000). International legal instruments and other measures (such as United Nations Standard Minimum Rules for the Treatment of Prisoners, 1977 and the United Nations Convention on the Rights of the Child, 1990) as well as legal textbooks (see. Ryan and Magee, 1983; Quinn, 1993; O'Malley, 2000) consistently highlight how remand prisoners are presumed to be innocent until proven guilty and should not be confined in

custody as punishment. However, numerous international research studies (Lader et al, 1998; HM Chief Inspector of Prisons, 2000; Goldson, 2002) have found that the reality of the custodial remand situation is somewhat different from the theoretical perspective. Despite the extra rights attributed to remand prisoners relative to sentenced prisoners,¹ individuals' experiences of remand have reportedly been particularly negative and restrictive (Penal Affairs Consortium, 1996; Lader et al, 1998; Hodgkin, 2002). These findings give particular cause for concern in light of the extensive use of custodial remand in many countries (SACRO, 2002; Raes and Snacken, 2004). The Republic of Ireland is no exception to this trend and Irish prison statistics demonstrate that the number of individuals who pass through prison on remand is almost as high as those committed to sentenced custody (Irish Prison Service, 2004; 2005)².

Despite the rise in the remand population, there is little research concerning the remand situation in Ireland particularly for young people. Thus a dearth of information exists as to who ends up on remand and what conditions are like for remand prisoners. Such a lack of information has resulted in little analysis regarding the legislative provisions which regulate custodial remand in Ireland. This paper aims to address this gap by providing a synopsis of the custodial remand situation for young people aged 16 to 21 years, who have been widely recognised to be one the most vulnerable groups of individuals who enter the prison system (Lader et al, 1998; HM Chief Inspector of Prisons, 2000; Social Exclusion Unit, 2002).

Methodology

Following ethical clearance from the Irish Prison Service Prisoner Based Research Ethics Committee, semi-structured interviews were conducted with 62 young remand prisoners. Fifty-five (89%) were young males and seven (11%) were young females broadly reflecting the composition of the prison population in the Republic of Ireland where nine

¹ For example in Ireland remand prisoners have the right to receive extra visits, make a greater number of telephone calls and obtain private health care at their expense if they so wish (Prison Rules, 2005).

² In 2004, there were 4, 647 remand committals compared to 5, 064 sentenced committals (Irish Prison Service, 2004). In 2005 there were 4, 522 remand committals compared to 5, 088 sentenced committals (Irish Prison Service, 2005).

out of every ten prisoners are male (Irish Prison Service, 2004). Participants were aged between 16 and 21 years, with a mean age of 18 years. Forty-eight of the interviewees were Irish; nine were Irish Travellers; two were African, two were English and one was Romanian. Sixty percent (37) of participants had prior experience of custodial remand and half (51.6%) had previously spent time in sentenced custody. One-third (20) reported that it was their first time in prison.

The study was based at three of the main remand sites for young adult prisoners in Ireland. St. Patrick's Institution is a detention centre and the main centre of remand for 16 and 17 year olds. It also houses sentenced and remand male prisoners up to the age of 21 years. Cloverhill Remand Prison is a purpose built prison for males aged 17 and over and is the main remand centre for adult males in Ireland. The Dóchas Centre, Mountjoy Prison is one of only two prisons which caters for females aged 17 and over who are either on remand or sentenced in the Republic of Ireland. All three institutions are operated by the Irish Prison Service.

Findings

Remand Duration

*There's a fella gone to court now this morning and he's been on remand for ten months, like ten months is a joke you know, you shouldn't be on remand for that long just hanging around ... It'd be better for the prisoner and the victim to get it out of the way you know, to get it done and dusted as quick as they can.
(P53, Male Age 20 on Remand 60 days)*

At the time of interview, the duration of time the young people had spent remanded in prison custody ranged from two to 360 days. Over sixty percent had been on remand for less than three months, one fifth from three to six months, and approximately another one-fifth between seven and 12 months:

A lot of people who came here have gone for ages like but I'm still here. It's

difficult cos I'm here a year.
(P41, Male Age 19 on Remand 360 days)

Of those who had been provided with a trial date (22), half anticipated that they would be detained for a further seven months or more.³ Such expected durations meant that a minimum of one fifth of the total sample would spend six months on remand while one in ten would be remanded in custody for a year or more.⁴ Despite the fact that these individuals had not been found guilty, such periods of detention are equivalent to or longer than the average prison sentence in Ireland.⁵ This finding gives particular cause for concern given the fact as the following section highlights that many of the young people were not even being detained due to the nature of the alleged offence but rather other alternative reasons.

Reason for Custodial Remand

There's a mixture of us here. There's people like with serious charges and anyone that breaks their conditions you know, you end up on remand like I am. To be truthful some other people just can't afford the bail. Some poor soul is here a few weeks because he didn't have 100 euro.
(P42, Male Age 21 on Remand 135 days)

Just over one quarter of the sample were denied bail due to the serious nature of the charge or because they were seen to be at risk of re-offending. Almost half were remanded for either breaking bail conditions or failing to appear in court. This figure is perhaps unsurprising given the lack of services and support provided to young people remanded on bail in Ireland (Kilkelly, 2005). Furthermore, young individuals on remand have been previously identified to be one of the most disadvantaged and disconnected group of prisoners (Lader et al, 1998; HM Chief Inspector of Prisons, 2000; Social

³ It is important to note that a prisoner's anticipated duration in custody may in fact be extended further as trial dates can be subject to potential postponements due to a number of factors, including the availability of Judges and courtrooms.

⁴ These figures may be higher as the expected total durations could only be calculated for the 22 participants who had been provided with a trial or sentencing date at the time of interview.

⁵ According to the most recent statistics (Irish Prison Service, 2005) three-fifths of all individuals committed to prison were detained for six months or less while four-fifths were imprisoned for a year or less.

Exclusion Unit, 2002). The young people in this study were no exception and were found to have particularly unstructured lifestyles and an array of difficulties which may have hindered the upholding of bail conditions. These included housing problems (one in four had experienced homelessness) mental health difficulties (one in two had received psychiatric assistance) unemployment (two thirds of those available to work were unemployed) and substance abuse problems (three quarters were regular drug-users):

It was difficult to keep curfew, keeping in at 8 o'clock in the evening. It was too hard staying away from the drink, staying away from the hash.
(P32, Male Age 19 on Remand 90 days)

Such difficulties were reported to have led directly to the detention of almost one-quarter of the sample, two of whom had no fixed address, three could not afford to pay their bail, four who were remanded voluntarily⁶ and six who stated that they had been detained on remand to receive / await drug or alcohol treatment:

I've never got a sentence, I've been here a few times on remand cos of the drugs. I suppose it's a kind of little bit good coming in here for a few weeks like to get myself off but in a way it's is not a place I should be ... it's prison at the end of the day I'd prefer to be at home. I want to be getting treatment outside and see my family.
(P60, Female Age 20 on Remand 17 days)

These findings suggest that many of the young people who end up on remand in Ireland are particularly vulnerable individuals who have entered prison at a particularly unstable and difficult time in their lives. This is of particular concern given the negative experiences the young people were found to encounter on remand.

The Remand Experience

When I first came I thought ah it was beautiful like you know from the outside but then when I walked in it was like ah what? I didn't like it at all.
(P12, Male Age 17 on Remand 124 days)

⁶ Two young males chose to be remanded to give them time to think and sort out their lives. Another two males were remanded voluntarily as an attempt to deter themselves from committing further crimes.

A number of factors which negatively impacted on the young people's remand experiences emerged from the data. These included poor environmental conditions, the nature of the remand regime and the distance the prisoners were held from their families and communities. While conditions were found to be adequate for the females in the Dóchas Centre, the young males detained in Cloverhill Prison identified how they experienced a lack of privacy and personal space as they were required to occupy crowded three-person cells:

It's not nice at all. You've no privacy, it's just, you just want to sit there and just think, you know, and there is other people talking and moving around. If it's warm out three in a cell it's very warm.
(P34, Male Age 20 on Remand 330 days)

The prisoners in St. Patrick's Institution which is responsible for holding the youngest prisoners who are under the age of eighteen also described the physical conditions to be particularly poor:

The place is filthy dirty. They need new everything, the place is falling down. The smell out of the place, the toilets do be blocked, it's just rotten ... If anything can be changed ask them to clean this place up.
(P17, Male Age 16 on Remand 13 days)

Despite various international measures (e.g. UN Convention on the Rights of the Child, 1990; Council of Europe, 2006 European Prison Rules) requiring that young remand prisoners be kept separate from adults and sentenced prisoners, individuals under the age of 18 were found to be integrated with adults in all three settings. Similarly, remand and sentenced prisoners were mixed in St. Patrick's Institution and the Dóchas Centre. With the exception of their daily visitation and prison shop rights, the young people reported that their rights were no better than those who had been committed to prison under sentence. Indeed, despite not being in prison for punishment, it was found that all remand prisoners were locked in their cells for a similar amount of time as sentenced prisoners, 13 hours for females and 18 hours for males:

You don't have that many rights really like, we're locked in all the time. We're the same as any other person really in here. We're suppose to be like innocent until proven guilty but we're all just treated like criminals.

(P1, Male Age 16 on Remand 7 days)

The majority of young people reported that the few hours they were able to spend out of their cells were characterised by boredom and enforced idleness as few facilities were provided. This was particularly the case for the young males as no workshops were available in St. Patrick's Institution, while the school building remained unopened in Cloverhill prison:

There's nothing, no education, there's no facilities, you're just blocked in with four walls, there's nothing to do. I'm just sitting in looking at four walls.

(P18, Male Age 18 on Remand 25 days)

Such a lack of activity gives cause for concern especially in light of the research evidence which has found the presence of constructive activity be connected with comparatively higher levels of well-being in the custodial environment (Liebling, 2004) and to be one of the most effective coping strategies for young people in prison (Liebling, 1992; Cope, 2003; Mohino et al., 2004).

The young people's negative experiences of the remand prison settings were exacerbated by the fact that many were detained far from their local areas and family home. While all three of the prisons / places of detention are located in the Dublin area, just over half (56.5%) of the participants in this study were from Dublin, with the remaining 27 (43.5%) individuals hailing from counties as far away as Waterford, Limerick, Cork and Donegal. Being detained such a long distance from home created a number of difficulties for the young prisoners, particularly in relation to family contact. Despite their extra visitation rights⁷ one third of the sample did not receive any visits from their family and the young people identified distance as the greatest barrier regarding visitations. Indeed, three quarters of those who did not receive visits came from areas outside Dublin:

⁷ All remand prisoners are entitled to one fifteen minute visit six days a week. Sentenced prisoners under the age of 18 are entitled to receive two thirty minute visits per week while those over the age of 18 can receive one thirty minute visit each week (Prison Rules, 2005).

I'm too far away from my home. My girlfriend and mam, they can't make it up here like cos it's too far. I will never see my baby. It drives me off my game altogether, it would drive you off the game wouldn't it if you couldn't see your baby?
(P10, Male Age 17 on Remand 3 days)

Such a lack of contact is of particular concern given that social support has been found to act as an important coping resource during imprisonment (Cohen and Taylor, 1972; Toch, 1977) and was identified in this study to be one of the few factors which helped prisoners to feel happy on remand.⁸

Being located far from home was also found to create additional burdens for the young people attending court. The prisoners reported that they were forced to endure long journeys handcuffed in cramped vehicles to and from the courts in their local areas on a regular basis:⁹

Going up and down to court is the hardest thing about remand, it wrecks your head. You're handcuffed all the way down and all the way back up and you get barely nothing to eat. It's easier for people who live in Dublin cos it's only like across the road for them.
(P26, Male Age 16 on Remand 12 days)

Overall, the young people's accounts clearly demonstrate that although they were not detained in prison as punishment, they were exposed to punitive conditions and experiences during their time on remand.

Discussion

I just hope that more is done to help remand prisoners in the future, in years to come. I wouldn't like it to stay like this, you know.
(P34, Male Age 20 on Remand 330 days)

⁸ Visits were identified to be the main factor which made the prisoners feel happy on remand. The other factors identified included having friends in prison and participation in work.

⁹ Under the Criminal Procedure Act, 1967, individuals on remand are required to attend court every eight days. This can be extended to a maximum of thirty days if both the accused and prosecution agree.

The findings indicate that in reality the current remand situation is not in keeping with Irish and European legislation and prison guidelines¹⁰ which state that detention should only be used as a measure of last resort and for the minimum amount of time possible. Thus, in order to comply with legal requirements, it is evident that a number of modifications to the current custodial remand system are required, changes which will be referred to here as ‘the need to remove’ and ‘the need to improve’.

‘The need to remove’: Given that only one-quarter of respondents were detained due to the nature of the alleged offence or risk of offending, the findings suggest that many young people could be prevented from being exposed to the punitive conditions of custodial remand if alternative community based options were in operation. As Lay (1991:129-132) states ‘locked away in the remand population are remandees who may be potential bailees given an expansion of the strategies for managing defendants and accused persons currently denied bail ... prison is not the last resort if the application of all alternatives has not been tested’. The need for alternatives has previously been recognised and recommended by the Council for Europe (2003) and in Ireland by Kilkelly (2005), who observed that there was a distinct lack of support to help young people desist from offending while on bail. A number of alternative schemes are already in operation in England, Scotland and Australia, while measures are currently being piloted in Latvia. These include a variety of initiatives such as bail hostels, remand foster care and bail supervision schemes. Bail hostels and remand foster care provide individuals with stable accommodation while they are on bail (Lipscombe, 2003). Bail Support and Supervision schemes provide young people with the necessary assistance to ensure they attend court and abide by their bail conditions. They also offer training and help for those who experience difficulties with drugs, housing, education and family relationships (Scottish Executive, 2000; Youth Justice Board, 2002). These types of services would be particularly appropriate given the range of problems young remand prisoners have been found to experience in Ireland.

¹⁰ These include the Children Act, 2001; The UN Convention on the Rights of the Child, 1990 and The UN Standard Minimum Rules for the Treatment of Prisoners, 1977.

Alternative measures have been identified to yield many advantages over custodial remand, as they enable individuals to receive assistance for their difficulties while remaining within or close to their communities (Scottish Executive, 2000). Remand alternatives also have the potential to remove individuals away from the prison environment not only on remand but also sentenced custody as it has been found that individuals are more likely to receive custodial sentences if they are remanded in custody (Utting and Vennard, 2000; Flood-Page and Mackie, 1998; Fitzgerald and Marshall, 1999). This would not only be beneficial to the individual but it is also likely to ease the problem of prison overcrowding which has been widely reported to exist in Irish prisons (Inspector of Prisons, 2005). Research has also revealed that alternatives such as bail supervision schemes are more cost effective than prison remands. For example, according to SACRO (2004) a bail supervision placement costs approximately STG£1,000 (€1,500), which is only half that of a 24 day custodial remand (STG£1,962 (€2,943)).

It is evident that remand alternatives possess many social, legal and financial benefits. But do they succeed in helping individuals abide by their bail conditions? Evaluation studies indicate that success rates vary among the different remand alternative schemes. Bail supervision schemes have been found to yield a success rate of approximately 80% (Youth Justice Board, 2002; SACRO, 2004) which compares favourably with the 70% success rate of all bailees (Brown, 1998, SACRO, 2004) particularly as those on the alternative schemes are considered to be a much more high risk population. A high breakdown rate in the arrangements for remand foster care and bail hostels has been identified mainly due to the young people's array of problems and behavioural difficulties. Despite this, such schemes still hold out much promise as they have been shown to exert a positive impact on offending levels (Lipscombe, 2003; SACRO, 2004).

In addition to the above alternatives, more young people may be removed from the prison setting through the establishment of bail information schemes. Such programmes which are currently provided in England and Scotland help to ensure that the necessary information regarding individuals' backgrounds and needs is provided to the courts. This

enables more balanced and informed bail decisions to be made at an early stage of the criminal justice process and ultimately prevents individuals who may go on to receive bail at a later date from entering the prison system in the first place (Raes and Snacken, 2004; SACRO, 2004). Research studies indicate that the existence of such schemes result in approximately one quarter of individuals who would usually be remanded in custody being successfully granted bail (Stone, 1988; Lloyd, 1992).

While the alternatives to remand may cater for a large majority of young people, it is important to acknowledge that not all individuals may be suitable for such schemes and may still need to be detained in a secure setting. Thus, it is vital that improvements are made to the remand setting.

‘The Need to Improve’: Given the findings, it is evident that many improvements are required to bring the remand settings in Ireland in line with Irish and European guidelines. Such improvements include the provision of cleaner and more modern facilities and a less restrictive regime where activities and rehabilitative services are provided. More initiatives also need to be introduced to assist young prisoners to be able to maintain contact with their families. Additionally, in order to improve young people’s remand experiences and ensure that detention is for the shortest amount of time possible it is essential that a maximum limit of detention for remand is introduced in the Republic of Ireland. The Council of Europe (2003) recommends that young people should be remanded for no longer than six months before the commencement of their trial. Such practices already exist in countries such as Scotland and England (Raes and Snacken, 2004; SACRO, 2004).

Conclusion

To conclude current remand provisions in the Republic of Ireland fail to adhere to legislative guidelines and ultimately fail to provide for the needs of young people on remand. Several policy changes are required to bring Ireland up to date with its European neighbours. However as Raes and Snacken (2004: 514) state, ‘determining the future of

remand custody and its alternatives is not an easy task'. Thus, it is imperative that detailed research is conducted in the coming years to establish the most effective alternatives for the Irish context. Measures must also be identified to ensure that such schemes are used for their defined purpose as an alternative to custodial remand rather than an extra sanction for those who are usually granted bail. The identification and implementation of such changes will hopefully bring about a more effective and just remand system in the Republic of Ireland in the near future. A system which will enable remand prisoners' rights and entitlement to be presumed innocent until proven guilty not just to prevail in theory but in everyday practice within the Irish criminal justice domain.

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