People with a learning disability who offend: forgiven but forgotten?

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The Irish College of Psychiatrists
Coláiste Síciatraithe na hÉireann

Contents

Members of the working group

This report was prepared by the Forensic Learning Disability Psychiatry Working Group at the request of the Executive of the Irish College of Psychiatrists. The Working Group comprised:

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Acknowledgements

Particular thanks to Professor Gregory O'Brien (Associate Medical Director Learning Disabilities, Professor in Developmental Psychiatry, Consultant Forensic Learning Disability Psychiatrist, Northgate Hospital), who kindly agreed to act in an advisory capacity. His comments and observations are very much appreciated and have been incorporated into this final document.

We thank all the participants of the focus group for their attendance and contributions.

Finally thanks to Lorna O'Callaghan and Patricia Vahey (Irish College of Psychiatrists administration) for their invaluable help.

Executive summary

The needs of people with learning disability and offending behaviour pose a huge challenge to service providers. There is anecdotal evidence of significant unmet need in this area, which was the main impetus for the formation of this Working Group. The international literature in relation to people with learning disability who offend is limited.

Underreporting of offending behaviour is partly due to the overlap with the paradigm of 'challenging behaviour'. Such underreporting makes it difficult to define and measure this population.

The vulnerability of people with a learning disability who come in contact with the criminal justice system is well described and noted.

Several documents have been published in recent years recommending the establishment of a forensic learning disability service in Ireland. *A Vision for Change* (Department of Health and Children, 2006) outlines plans for a forensic learning disability service in Ireland. This is warmly welcomed, although the service outlined is inadequate when compared with the service provision recommended in the research literature.

Court diversion schemes are developing in Ireland but need to include people with a learning disability who offend.

The Mental Health Act 2001 and the Criminal Law Insanity Act 2006 facilitate the admission of people with learning disability who offend to approved mental health treatment centres. The existing facilities are substantially general adult psychiatric services and do not offer the specialist facility for the assessment, care and treatment required by this specialist group. In addition, those who are unfit to stand trial because of a learning disability are placed in the National Forensic Mental Health Service's Central Mental Hospital, Dundrum, rather than a learning disability service.

The population with learning disability who offend does not easily fit into existing services. The Forensic Learning Disability Psychiatry Working Group was formed in order to estimate the existing unmet need in this area and recommend solutions for the current situation. In 2005 the Working Group reviewed the existing literature, conducted a survey of service providers in Ireland, consulted with stakeholders through the use of a focus group and presented findings to a joint meeting of the learning disability and forensic faculties of the Irish College of Psychiatrists and Northern Ireland Division of the Royal College of Psychiatrists.

The Forensic Learning Disability Psychiatry Working Group survey highlighted the following:

- There were 431 persons with a learning disability and offending behaviour identified nationally. The majority of these were males with learning disability in the moderate or severe range.

- This range of learning disability reflects the population catered for by learning disability service providers. As a result those within the mild range of learning disability who may present to general adult services are probably not captured within our data.
- The majority of service providers strongly supported the urgent development of a forensic learning disability service.
- There were 105 patients reported to require urgent forensic service assessment, care and treatment.

A substantial number of patients are currently receiving such a specialist service outside of Ireland (mainly in UK). The Working Group considers that the funding required for such placement would provide the necessary finance to establish this specialist service within Ireland.

Summary of activity of the Forensic Learning Disability Psychiatry Working Group

The Forensic Learning Disability Psychiatry Working Group had its first meeting on 1 April 2005. The aim of the Working Group was to review the available international literature of those people with learning disability who offend, with particular emphasis on local research. It held seven meetings throughout 2005. A survey was carried out in May 2005, and results (presented below) were tabulated and discussed. See *Appendices 1 and 2* for a copy of the questionnaire and the covering letter sent with it.

Following analysis of the survey results, Irish organisations working in the area of forensic learning disability were invited to participate in a focus group, held in the Irish College of Psychiatrists on 13 October 2005.

Presentation of results of survey at Winter Meeting of the All-Ireland Institute of Psychiatry

G.J.C. and P.L. presented results of the survey, and advice given by the focus group to a joint meeting of the Learning Disability and Forensic Faculties of the Irish College of Psychiatrists and Northern Ireland Division of Royal College of Psychiatrists on 11 November 2005.

The Forensic Learning Disability Psychiatry Working Group was advised to publish its findings, and examine methods to complete further research. Those psychiatrists present were extremely concerned in relation to patients being treated outside of Ireland and advised that this situation be made public as soon as possible.

Conclusions

The work of the Forensic Learning Disability Psychiatry Working Group was a scoping exercise. The limitations of the scientific methodology used in the survey are acknowledged.

The Working Group is confident of the validity of the findings and recommendations, which have also been informed by consultation with stakeholders.

Comments from Professor Gregory O'Brien

Professor Gregory O'Brien reviewed this paper and made valuable observations (see Appendix 3). We refer in particular to his comments on the probability of 60 individuals with mild learning disability requiring a forensic learning disability service in Ireland.

Recommendations

Health Service Executive corporate strategy

1 The Health Service Executive (HSE) must act on the current mental health policy, *A Vision for Change* (Department of Health and Children, 2006), and make the development of a national forensic learning disability service a strategic priority.

2 In addition, all funding currently committed to purchasing out-of-state forensic learning disability services should be rededicated to the development of a national service. Over time this could provide a cost neutral solution for the initial development of an appropriate secure service.

Service characteristics

3 A forensic learning disability service must be delivered by fully resourced multidisciplinary forensic mental health of learning disability teams.

4 A national forensic learning disability service must have the facility to treat patients in environments of varying therapeutic security (from low to high).

5 An outreach service could provide consultation, assessment, advice and follow up, supporting services to meet the needs of their patients while maintaining a safe environment. This service is currently being purchased from the independent healthcare sector in the UK which provides assessments on a one-off basis.

6 In the event that a patient requires admission to a more secure environment, medium secure facilities should be equitably provided.

7 Two 30-bedded in-patient stand-alone units would contribute to meeting the needs of existing out-of-state placements. There may be a need for a development of a further 30-bedded unit in the future. A 30-bedded unit has the advantage of critical mass, and value for money. It would provide a tertiary service and specialist in-patient assessment and treatment unit for this population.

8 In addition, each HSE area will require a number of dedicated and appropriate step-down residential community facilities to enable overall service viability. These must be provided at the same time as the development of in-patient treatment facilities.

9 Given the size of our national population the need for high secure provision should be minimal and adequately provided for within a redeveloped forensic mental health service.

Affiliation with the National Forensic Mental Health Service/ organisational structures

10 In order to ensure quality in governance, clinical and academic excellence the National Forensic Learning Disability Service should be linked to the National Forensic Mental Health Service.

11 This link could be developed to the level of incorporation into the corporate and clinical governance structure of the National Forensic Mental Health Service.

12 Such a link also has the benefit of providing economy of scale for the initial development of medium secure facilities for the eastern HSE regions of the country.

13 Integration with the National Forensic Mental Health Service would allow the development of community assessment/consultation services and prison in-reach services in parallel with the existing forensic services.

Multi-agency working/a joint strategic approach

14 To take this matter forward we recommend that a multi-agency working group be set up under the auspices of the Irish College of Psychiatrists. This group should comprise representatives from:

- Health Service Executive
- Department of Health and Children
- Department of Justice, Equality and Law Reform
- An Garda Siochána
- Irish College of General Practitioners
- Irish Prison Service
- Mental Health Commission
- namhi (now Inclusion Ireland)
- National Disability Authority
- National Federation of Voluntary Bodies
- Probation and Welfare Service
- Psychological Society of Ireland
- Schools of Nursing and Midwifery Studies
- Social Workers in Learning Disability.

15 This group would be in a position to examine the interface this population has with the health and criminal justice systems and promptly provide a report advising the HSE, Department of Health and Children and the Department of Justice Equality and Law Reform of appropriate multi-agency measures required in order to protect this vulnerable population and develop an appropriate model of service delivery for specialist forensic learning disability services in Ireland.

16 The development of court diversion schemes for people with a learning disability who offend requires the immediate attention of the Department of Justice, Equality and Law Reform, the Department of Health and Children and the HSE.

IMMEDIATE ACTION POINTS

17 Given the overwhelming unmet need and current lack of forensic learning disability services, an immediate strategic commitment is required from the HSE to develop appropriate services.

18 The HSE must undertake to precisely quantify the numbers of patients with forensic learning disability needs who are currently being funded in out-of-state placements.

19 The HSE must quantify the annual funding that is currently committed to out-of-state placements.

20 The HSE must cease sending patients out of Ireland for specialist forensic learning disability services and instead commit funding to the development of an Irish service.

Definitions

Learning disability

Learning disability is the presence of a significantly reduced ability to understand new or complex information and to learn new skills (impaired intelligence), with a reduced ability to cope independently (impaired social functioning), which started before adulthood, with a lasting effect on development. This definition encompasses people with a broad range of disabilities. The presence of low intelligence, for example an IQ below 70, is not, of itself, a sufficient reason for deciding whether an individual should be provided with additional health and social care support. An assessment of social functioning and communication skills should also be taken into account when determining need. Many people with intellectual disabilities also have physical and/or sensory impairments. The definition covers adults with autistic-spectrum disorder who also have intellectual disabilities, but not those who are of average or even above average intelligence, such as some people with Asperger syndrome. Learning disability does not include all those who have a learning difficulty, which is more broadly defined in education legislation.

Psychiatric disorder

Psychiatric disorder is defined as abnormalities of thinking, perception, emotions and behaviour that are developmentally inappropriate and of sufficient duration and severity to cause persisting suffering or hardship to the individual, disruption to interpersonal relationships and/or distress to the family or community. Examples of such conditions include mood disorders, schizophrenia, autism spectrum disorder, anxiety and personality disorders and problem behaviours.

Challenging behaviour

Challenging behaviour is now a frequently used term (not a diagnosis) to describe severe problem behaviour. It is an important component of psychiatric disorder and is defined by Emerson (1995) as 'behaviour of such intensity, frequency or duration that the physical safety of the person or others is likely to be placed in serious jeopardy, or behaviour which is likely

to seriously limit or delay access or use of ordinary community facilities'. Challenging behaviour may be caused by one or more of a number of factors: autistic-spectrum disorder, psychiatric illness, personality disorder, environmental stressors, physical illnesses and behavioural phenotypes.

Medium security and low security

Medium security and low security can be misleading descriptions. Medium security is a very highly structured service; medium secure facilities in the UK admit people directly from such high profile premises as Durham and Exeter prison – high secure prisons.

Low security is a very secure setting in the UK with two locked doors forming an 'air lock', such that there is always one locked door between the patient and outdoors.

This is an important consideration for planners when deciding the way forward for a forensic learning disability service in Ireland.

Diagnostic criteria for mental retardation

DSM–IV–TR diagnostic criteria for mental retardation are as follows (reprinted with permission from the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision* (©2000), American Psychiatric Association):

- significantly sub-average intellectual functioning: an IQ of approximately 70 or below on an individually administered IQ test (for infants, a clinical judgement of significantly sub-average intellectual functioning)
- concurrent deficits or impairments in present adaptive functioning (i.e. the person's effectiveness in meeting the standards expected for their age by their cultural group) in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety
- the onset is before age 18 years.

Codes based on degree of severity reflecting level of intellectual impairment are:

- 317 Mild Mental Retardation: IQ level 50–55 to approximately 70
- 318.0 Moderate Mental Retardation: IQ level 35–40 to 50–55
- 318.1 Severe Mental Retardation: IQ level 20–25 to 35–40
- 318.2 Profound Mental Retardation: IQ level below 20 or 25
- 319 Mental Retardation, Severity Unspecified: when there is strong presumption of Mental Retardation but the person's intelligence is untestable by standard tests.

Offending behaviour in individuals with learning disability

For the purpose of our work, offending behaviour in individuals with learning disability included the following offences: offences against property (arson/ fire setting, criminal damage, larceny/burglary and car theft/joyriding) and offences against person: drug/alcohol related offences, assault/battery, manslaughter, murder, indecent exposure, stalking/dangerous threatening behaviour, sexual assault – child, sexual assault – adult and prostitution/ soliciting.

Introduction

The population of people with a learning disability and forensic problems presents specific needs which pose a challenge to existing services in Ireland. The scale of this problem is difficult to estimate with accuracy, as the Irish and international research literature is weakened by inconsistencies in the definitions of both offending behaviour and learning disability, and by the use of widely heterogeneous sample populations.

As an example Hodgins (1992) studied a historical cohort of more than 15 000 Swedish-born children. She found that both males and females with a learning disability were more likely to offend than those without disabilities but her conclusions were weakened by the fact that learning disability was not defined in terms of currently accepted criteria.

In contrast, Gunn *et al* (1991) studied a population in youth custody and found that only 0.2% had a learning disability. However, the findings of this study are not robust because learning disability was diagnosed by 'clinical impression'.

Simpson & Hogg (2001) conclude their systematic review of the evidence regarding the association between learning disability and offending, by commenting that there is 'no clear evidence that the prevalence of offending among people with a learning disability is higher than for the wider population … offending among those with an IQ less than 50 is rare'.

Mulrooney *et al* (2004) reported from a sample of 10% of the Irish prison population that as many as 28.8% of Irish prisoners may have a learning disability as measured using the Kaufman Brief Intelligence Test.

Holland *et al* (2002) have reported that of those people with a learning disability who offend, young males are over-represented.

Issues of capacity also complicate the application of a legal paradigm to problem behaviours. The overlap between offending behaviour and 'challenging behaviour' as described by Emerson means that much offending behaviour goes unreported. This phenomenon has been well described by Lyall *et al* (1995) and is encapsulated by the comment that 'staff at one residential home said they would hesitate to report rape'.

The legal and decision-making capacity of people with a learning disability is an issue that concerns all of those working in the field. The Irish Law Reform Commission (2005) document *Vulnerable Adults and the Law: Capacity* highlights the need for enabling capacity legislation in Ireland.

This vulnerability is particularly striking when offenders with a learning disability come in contact with the criminal justice system. Brown & Courtless (1971) found that 8% of those with learning disability presenting to the courts in the US did not have legal representation.

In Ireland the Garda Siochána are obliged in the first instance to offer a verbal caution followed by a complicated written procedure that many

people with learning disability would not have the ability to comprehend. This practice of cautioning detained suspects by presenting a written 'notice to detained persons' poses obvious problems to people with a learning disability as it has been shown to require a reading age above the ability of most people with a learning disability. The right to remain silent may not be understood by persons with a learning disability as this population has been shown to be extremely suggestible and their efforts to be helpful can lead to acquiescence and 'false confessions'.

The UK Police and Criminal Evidence Act 1984 (PACE) provides for the nomination of a 'responsible adult' for 'vulnerable suspects'. However the difficulty still arises regarding the reliable recognition of such 'vulnerable adults' by members of the police force. To this end Smith & Hudson (1995) have developed a brief screening test of competency to stand trial for defendants.

Although there is acceptance that prison is not an acceptable environment for most people with a learning disability who offend, court diversion schemes are only now developing in Ireland. As an historical example, the finding of an 'unfit to plead verdict' has lead to containment within the Central Mental Hospital in Dublin. In order for diversion schemes to be effective, appropriate services are required for this special population.

A number of documents are pertinent to the future development of forensic learning disability services in Ireland and these are discussed below.

A report from the Department of Health (1996) suggested that three regional 10-bed forensic learning disability units would be adequate for national requirements.

The National Disability Authority (2003) report *Review of Access to Mental Health Services for People with Intellectual Disabilities* supported the development of four regional forensic learning disability units affiliated to the National Forensic Mental Health Service.

The Irish College of Psychiatrists (2004) document *A Proposed Model for the Delivery of a Mental Health Service to People with Intellectual Disability* recommends development of forensic learning disability services distinct from mental health services for people with intellectual disability.

More recently, the need for appropriate forensic learning disability services in Ireland was also highlighted by Leonard *et al* (2005) in Irish scientific literature in 2005 and in the submission of the Forensic Faculty of the Irish College of Psychiatrists to the Expert Group on Mental Health Policy (Leonard, 2005). The latter document highlighted the importance of appropriately resourced multidisciplinary teams in forensic learning disability and recommended the establishment of three regional medium secure forensic learning disability units with links to the National Forensic Mental Health Service.

A Vision for Change – Report of the Expert Group on Mental Health Policy (Department of Health and Children, 2006) has now been accepted as Irish Government Mental Health policy. This offers a great opportunity to develop a range of specialist learning disability services in Ireland. This includes in-patient treatment facilities. It is our view that the recommendation for one 10-bedded unit with a fully resourced multidisciplinary team falls far short of the provisions recommended in the literature and would not even accommodate those placed out of state. For example Day (1993), a notable expert in the field, has recommended a

provision of 30 beds for offenders with intellectual disability per 500 000 population.

The issue of the placement of people with a learning disability in the secure, forensic and specialist settings has also gained the attention of the Scottish Executive and is the subject of the report *On the Borderline?* (Myers, 2004). This document reports how this group does not fit with the perceived remit of service providers in Scotland, and so remains 'on the borderline' or edge of both society and available services. This group is also highlighted as relating to various policy and funding streams (e.g. criminal justice and health) but belonging to none in particular. This report reminds us that an overarching view of this population will be required by Irish policy makers, if all the strands are to be successfully drawn together.

The consequences of the full implementation of the Mental Health Act 2001 as of 1 November 2006 require urgent consideration. The Report of Inspector of Mental Health Services 2005 emphasises how the Act provides for involuntary admission to an approved centre of those who meet the criteria for severe learning disability. The core behavioural underpinning of this definition would allow for those who present with offending behaviour, but who are not charged, to be admitted under the Act. This situation is also compounded by the startling lack of approved centres for persons with a learning disability.

Section 14.9 of the Criminal Law (Insanity) Act 2006 provides a mechanism by which those with a learning disability may be diverted from the Central Mental Hospital, but this again occurs in the absence of a specialist approved centre that can adequately cater for this population.

At present, there are limited psychiatric facilities for in-patient treatment of those with learning disability and mental health problems in Ireland. There are also no specific forensic services for assessment, diagnosis or treatment of those with learning disability who offend in Ireland. In the absence of local service provision, at least 35 patients are being treated out of state (Department of Health and Children, 2006).

In stark contrast to the situation in Ireland, a new forensic learning disability in-patient treatment facility opened in October 2006 in Muckamore Abbey Hospital in Northern Ireland.

Survey

As a consequence of the current lack of services and of relevant research data, the Forensic Learning Disability Psychiatry Working Group decided to conduct a survey of relevant services in Ireland in an attempt to estimate service requirements and provision in 2005.

The first meeting of the Working Group was on 1 April 2005, with a further six held throughout 2005. A survey was carried out in May 2005, and results (presented below) were tabulated and discussed.

It is important to recognise that this study is a scoping exercise, attempting to estimate the number of people with learning disability in Ireland requiring a forensic service, and what their demographic characteristics are. We set out to achieve this aim by attempting to examine the needs, demographics and presenting features of those people with learning disability and exhibiting offending behaviour, currently attending services. An enquiry was also made into whether those needs have been met.

The rigour of this study was limited by the resources available. The Working Group acknowledges the limitations of the scientific methodology used.

Following analysis of the survey results, Irish organisations working in the area of forensic learning disability were invited to participate in a focus group, which was held in the Irish College of Psychiatrists on 13 October 2005.

G.J.C. and P.L. presented results of the survey and advice given by the focus group at the Winter Meeting of All-Ireland Institute of Psychiatry on 11 November 2005 – a joint meeting of the Learning Disability and Forensic Faculties of the Irish College of Psychiatrists and Northern Ireland Division of Royal College of Psychiatrists.

The Forensic Learning Disability Psychiatry Working Group was advised to publish its findings and examine methods to complete further research. Those psychiatrists present were extremely concerned that patients were being treated outside of Ireland and advised that this situation be made public as soon as possible.

Written submissions received

Nineteen organisations and six faculties of the Irish College of Psychiatrists were invited to make submissions to the Forensic Learning Disability Psychiatry Working Group. Written submissions were received from: Department of Health and Children (Mr Tim O'Malley TD), Irish Prison Service, Minister for of Justice, Equality and Law Reform (Mr Michael McDowell TD), Namhi (now Inclusion Ireland), National Federation of Voluntary Bodies, Probation and Welfare Service, Department of Justice, Equality and Law Reform, School of Nursing and Midwifery Studies, The University of Dublin, Trinity College and Dr John Sheehan, Consultant in Liaison Psychiatry, Mater Misericordiae University Hospital. (Copies of any of the above written submissions are available from the author on request).

Assessing level of need for a forensic learning disability service in Ireland: pilot survey

Aim

The population of Ireland in 2006 was 4 239 848 (Central Statistics Office Ireland, 2006). The aim of this survey was to establish the current need for a forensic learning disability service for adults in Ireland by capturing a variety of relevant data from a range of service providers. This included quantitative and qualitative data regarding the target population, the recognition and reporting of offending behaviour, current service provision and unmet needs.

This study posed particular methodological challenges as the definition of offending behaviour and its overlap with challenging behaviour is difficult to delineate. This made it extremely difficult to reliably measure the target population.

Method

Learning disability services in Ireland are offered by a multiplicity of organisations, the majority of which are independent voluntary bodies. This situation posed a challenge in terms of identifying relevant clinical personnel to contact for the purpose of this survey.

Ultimately it was agreed that all services providing care and treatment to people with a learning disability would be contacted through each team's senior consultant psychiatrist. The list of services used was that held by the Learning Disability Faculty of the Irish College of Psychiatrists. In addition, clinical directors of general adult psychiatry services nationwide and all consultants working in the National Forensic Psychiatry service were contacted. The number of questionnaires distributed for completion was 52, as follows: learning disability psychiatry services throughout Ireland (n=14), forensic psychiatry (n=5), general adult psychiatry (n=33).

See Appendices 1 and 2 for questionnaire and accompanying letter.

Results

Response rate

Overall, out of the original 52 services contacted, 28 responded (56%). In addition 11 services not initially contacted sent back forms that had been passed on by colleagues in other services. These respondents were from the generic learning disability sector. Two consultant psychiatrists responded for

two services each (as they had clinical duties in both sites) (2 extra forms). In total 41 forms were returned.

The response by the different specialties were: forensic psychiatry, 3 forms returned to cover the whole service (100%); learning disability, 13 of 14 services initially surveyed responded (93%) – when combined with 11 responses from services not initially contacted this provided a total of 26 forms; general adult, 11 of 33 services responded (33%) – a total of 12 forms.

Forensic service

There were 5 patients (all male) identified with learning disability by National Forensic Mental Health Service (Central Mental Hospital, Dundrum). Of these 60% (*n*=3) had moderate learning disability and 40% (*n*=2) had mild learning disability. Ages ranged from 18 years to over 55 years.

Offences committed

Offences committed were: 2 sexual assaults on a child, 1 murder (guilty but insane verdict), 1 criminal damage and 1 assault/battery.

Identification of unmet needs, comments and recommendation

- All respondents confirmed they had patients within the target population and agreed that the needs of these patients were not being adequately met.
- Two-thirds of consultants were aware of patients placed in Northern Ireland.
- An appropriate medium secure unit was suggested as the primary service requirement.
- Acquired brain injury was highlighted as an area of unmet need.
- No forensic consultant was aware of a patient in the target group who was on probation.
- There was mainly a mild range of learning disability encountered in prison.
- All consultants agreed on the need for a forensic learning disability service.
- It was recommended that numbers of patients placed out of state should be quantified.

Learning disability

For learning disability services, responses were received from the following areas: Dublin, Kildare, Midlands, National Eastern Health Board, North Western Health Board, Western Health Board, Mid Western Health Board, Southern Health Board. There were gaps in data mainly from the South East Health Board. (On 1 January 2005 these areas were reorganised into four regions under the Health Service Executive.) Estimate of prevalence was 9 per 100 000 population and variance from 0.5 to 22.5 per 100 000.

Total number of patients identified was 373, of these, there were 297 male (80%) and 76 female (20%). The male/female ratio of 4:1 is in keeping with forensic psychiatric learning disability services in the UK.

Levels of learning disability identified in these patients were: severe, *n*=175 (47%); moderate, *n*=157 (42%); and mild, *n*=41 (11%).

The most frequently represented group was males in severe range of learning disability, aged between 25 and 54 years (*n*=114, 31%).

The second most frequently represented group was males in the moderate range of learning disability, aged between 25 and 54 years (*n*=84, 23%).

Offences committed

The following list shows the offences committed in decreasing order of frequency, with the most over-represented sub-population committing the offence indicated:

- assault/battery: *n*=133 (36%), majority male in moderate/severe learning disability range, aged 25–54 years
- indecent exposure: *n*=54 (14%), majority male in severe range, aged 25–54 years
- stalking/threatening behaviour: *n*=34 (9%), most represented groups were males in severe range and females in the mild range, aged 25–54 years
- criminal damage: *n*=30 (8%), predominantly males or female in the moderate range, aged 25–54 years
- sex assault on an adult: *n*=27 (7%), predominantly males of moderate or severe disability, aged 25–54 years
- burglary/larceny: *n*=24 (6%), males and females in moderate range, aged 25–54 years
- sex assault on a child: *n*=21 (6%), males of moderate or severe range, aged 25–54 years
- drug and alcohol: *n*=21 (6%), males in moderate range, aged 25–54 years
- fire setting/arson: *n*=9 (5%), males in mild or moderate range, aged 25–54 years
- Joyriding/car theft: *n*=4 (1%), males in mild range, 25–54 years
- manslaughter: *n*=3 (1%), males in moderate range, aged 25–54 years
- prostitution/soliciting: *n*=3 (1%), females in moderate range, aged 18–54 years.

Identified unmet needs, recommendations

- 75% of respondents indicated that they have patients within the target group and 66% reported that the needs of these patients were not currently met.
- 21% reported that they had patients receiving a service in the UK (*n*=8). Several external assessments were reported to have been sought for additional patients.

- 50% indicated that a service is currently required for patients on their caseload (*n* patients=92). Respondents comments on what was required were: 'risk assessment and advice', 'psychological assessment', 'assessment and treatment of sex offenders', 'a medium secure unit', 'a community service' and 'advocacy and support'.
- 88% of respondents reported reluctance among staff to report offences. Comments listed here were 'staff and family reluctant to report and Gardaí reluctant to prosecute… if offence is very serious' or '...if offence is outside of service'.
- 13% reported that they had a patient who was on probation (*n*=6).
- 13% reported they had a patient who was currently in prison (*n*=3) (assault or sexual assault).
- 92% agreed that a forensic learning disability service is required. Comments were: '… need residential unit, forensic team, staff training, risk assessment, forensic therapeutic programmes and resources…', '…need mental health service first…', '…services are exposed to litigation and patients are at risk…', '…offenders in mild range are probably a small proportion of those in the community…', '...mild are in general adult…', 'We have no legal basis for treating these patients'.

General adult

A total of 53 patients were identified with learning disability under the general adult sample; 90% were males and 60% had severe learning disability (mainly in locked wards).

Offences committed

The following list shows the offences committed in decreasing order of frequency, with the most over-represented sub-population committing the offence indicated:

- assault/battery: *n*=27 (50%), males in severe range of learning disbility, aged 25–54 years
- indecent exposure: *n*=5 (9%), all males with mild to moderate, aged 25 to over 55 years
- arson/fire setting: *n*=4 (8%), all males in severe range, 23 to over 55 years
- sex assault on an adult: *n*=4 (8%), all males, majority with mild learning disability and all over 24 years
- sex assault on a child: *n*=3 (6%), all male, majority with mild learning disability and ranging from 25 to over 55 years of age
- criminal damage: *n*=3 (6%), all male, all severe learning disabililty, all 25 years of age and over
- burglary: *n*=3 (6%), all males, all within severe range and mainly 25–54 years
- stalking/threatening behaviour: *n*=2 (3%), both males, aged 18–54 years

- prostitution/soliciting: *n*=1 (2%), female in severe range, aged 25–54 years
- murder: *n*=1 (2%), male in severe range, aged 55+ years.

Identified unmet needs, comments and recommendations

- 75% of respondents reported that they have members of the target population within their caseload.
- All reported that the needs of these patients are not currently being met.
- 17% of respondents reported that they have patients within the target population currently receiving a service in the UK.
- 50% reported that they currently require a service for patients on their caseload (*n* patients=13). Comments given on what is required were 'a consultation service', 'medium secure facility', 'patients are kept on temporary certificate (involuntary admission) in locked ward as there is no alternative…'.
- 83% reported reluctance among staff members to report offences
- 18% reported that they had patients within the target population who are on probation (*n* patients=4).
- 9% of respondents reported that they had patients within the target population who are currently in prison (*n* patients=1).
- 73% of respondents agreed that a forensic learning disability service is required. Specific comments were: 'general learning disability is needed first', 'there are more pressing needs', '…specialist consultation to guide management', '…misplacement affects general adult patients', and 'we need a community forensic service…'.

General conclusions from results of pilot survey

A total of 431 patients were identified as belonging to the target population. Most were male and within severe or moderate range of learning disability. This raises the issue of whether or not those in the severe range should even be included. However the Forensic Learning Disability Psychiatry Working Group considered that this group should be included because it poses a challenge to service providers even if the population is not typically viewed as 'forensic'. The over-representation of those in the severe and moderate ranges also reflects the patient base of learning disability services in Ireland. The needs of the mild learning disability population were probably not captured by this survey.

The most common offences were assault and indecent exposure.

Respondents identified 8 patients who are placed out of state. However, we now know from *A Vision for Change* (Department of Health and Children, 2006: p. 127) that this population is greater than 30.

There were 105 patients reported as actively requiring a forensic learning disability service. There is a need for a forensic learning disability service, but the development of mental health services for people with a learning disability is a priority for many.

Focus group

A focus group was held by the Forensic Learning Disability Psychiatry Working Group at the Irish College of Psychiatrists on 13 October 2005. The following groups were represented: An Garda Síochána, Community Relations Section, Harcourt Square, Irish Prison Service, Namhi (now Inclusion Ireland), National Federation of Voluntary Bodies, Probation and Welfare Service, Psychological Society of Ireland, Regional Disability Services Unit – Meath Adult Learning Disability Community Team – Cavan/Monaghan area – Louth area, Social Workers in Learning Disability.

Representatives from the following groups were invited, but unable to attend: Clinical Directors Group, Department of Justice, Equality and Law Reform, Department of Health and Children, Health Service Executives – Midland, North Eastern, Southern and Western areas, Irish College of General Practitioners, Mental Health Commission, National Disability Authority and School of Nursing and Midwifery Studies.

Overview of focus group

The reasons for the formation of the Forensic Learning Disability Psychiatry Working Group, its aims, and the history of forensic psychiatry and services in Ireland and the issues being examined by the group were outlined to the focus group. Agencies invited to make submissions and attend the focus group were also detailed.

A presentation was given on the survey questionnaire on adults with a learning disability who offend that was distributed to clinical directors of services in Ireland. The responses received and the main findings from these was summarised. Then three vignettes of difficult and unresolved scenarios involving patients with learning disabilities were detailed.

There was then a discussion and delegates were invited to comment on what had been previously illustrated and presented. The following topics were covered in discussion: categorisation of learning disability, survey terms of reference, literature review, difficulty regarding prosecutions, out-of-state placements, probation and custody and going forward, next steps.

Conclusions

It was agreed that the cost of providing placements outside of Ireland for individuals must be quantified. That way, it will be possible to make a cogent case to both the Department of Health and Children, and to the Department of Justice and Law Reform, to set up an appropriate centre in Ireland. The cost benefits would be obvious.

A multidisciplinary meeting such as this focus group was agreed to be beneficial, and the work of the Forensic Learning Disability Psychiatry Working Group was supported by the attendees.

The focus group strongly advised that further research should be carried out. It was recommended that funding from various agencies for further research be explored, along with bridging finance to return individuals currently out of state back into services in Ireland.

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Appendix 1: Covering letter sent with questionnaire

25 May 2005

Re: Survey - Adults with a Learning Disability who Offend

Dear XXXX,

Individuals with a learning disability who present with offending behaviour are recognised nationally as being in need of specialised services. The Irish College of Psychiatrists has established a working group to ascertain the level of need for those services and to make appropriate recommendations.

There is no baseline data on this population in Ireland and robust information is required to support this report.

We are carrying out a national survey which is being circulated to all relevant areas. We are particularly interested in the group functioning in the I.Q. range below 70 (see attached table). In addition, we would appreciate any information regarding those with an I.Q. range of 70-80.

We would appreciate if you could complete the enclosed forms and return them to Lorna O'Callaghan, Administration Office, Irish College of Psychiatrists by **Monday, 20th June 2005,** as we intend to report by July 2005.

Yours faithfully,

_____

Dr. GJ Calvert, Chair of the Working Group
Dr. M Delaney-Warner
Dr. P Leonard
Dr. A Morrison
Encl.

Appendix 2: Questionnaire

Part 1 – Adults with a Learning Disability Who Offend – Population Data

Name of Service:_____
_____

Catchment Population: _____

Address:_____
_____

Please complete the table below giving the number of individuals in your service who match the criteria. NB – In the event that a person has committed more than one offence, please record the most serious offence only for that person i.e. only record once for each offender.

Part 1 – Adults with a Learning Disability Who Offend – Population Data

	IQ under 55							IQ 55 – 69							IQ 70 – 80					
	Male			Female				Male			Female				Male			Female		
Offence	Age 18–24	Age 25–54	Age 55+	Age 18–24	Age 25–54	Age 55+		Age 18–24	Age 25–54	Age 55+	Age 18–24	Age 25–54	Age 55+		Age 18–24	Age 25–54	Age 55+	Age 18–24	Age 25–54	Age 55+
Arson/ Fire Setting																				
Criminal Damage																				
Burglary																				
Car Theft/ Joyriding																				
Drug & Alcohol Related Offences																				
Assault/Battery																				
Manslaughter																				
Murder																				
Indecent Exposure																				
Sexual Assault – Child																				
Sexual Assault – Adult																				
Prostitution/ Soliciting																				
Stalking/ Dangerous Threatening Behaviour																				

See overleaf for explanatory notes on completing the form

Part 2 – Service Provision for Adults with a Learning Disability Who Offend

Explanatory Form

1. We are only providing one form for each Service to limit duplication of data.
2. In the event that a person has committed more than one offence, **please record the most serious offence only for that person i.e. only record once for each offender.**
3. The offending behaviour should be of sufficient severity that in the absence of a learning disability, criminal proceedings would ensue.
4. Offence descriptions are as follows:

Property

- Arson / Fire Setting
- Criminal Damage
- Larceny / Burglary
- Car Theft / Joyriding

Person

- Drug / Alcohol Related Offences
- Assault / Battery
- Manslaughter
- Murder
- Indecent Exposure
- Stalking / Dangerous Threatening Behaviour
- Sexual Assault – Child
- Sexual Assault – Adult
- Prostitution / Soliciting

Please return completed forms to:

Lorna O'Callaghan, Administration Office, Irish College of Psychiatrists, 121 St. Stephen's Green, Dublin 2
Tel: 01 402 2711; Fax: 01 402 2344; e-mail: cpdadmin@eircom.net

Part 2 – Service Provision for Adults with a Learning Disability Who Offend

Please complete the following questions:

1. (a) Do you and/or your colleagues have this population group in your active service? **Yes** / **No**
   (b) Are their needs being adequately met in your service?
   Yes / **No** Please elaborate _____
2. Are any of the individuals from your service receiving a forensic service in
   a) Ireland **Yes** / **No**
   If yes – please state number and service type _____
   b) Outside of State **Yes** / **No**
   If yes – please state number and locations _____
3. Are forensic services required for anybody with a learning disability on your caseload? **Yes** / **No**
   If yes – please state number _____
   State what types of services are required _____
4. Are offenders with a learning disability who commit offences charged routinely? **Yes** / **No** Please elaborate _____
5. Is there anybody with a learning disability who attends your service on probation? **Yes** / **No**
   If yes – please state number _____
   State offence types if possible _____
6. Is there anybody with a learning disability who attends your service currently in prison? **Yes** / **No**
   If yes – please state number _____
   State offence types if possible _____
7. In your opinion should there be a Forensic Learning Disability Service in Ireland? _____
8. Any other comments or concerns are welcome below _____

Name of person completing the questionnaire _____

Please return completed forms by Monday, 20th June 2005 to:

Lorna O'Callaghan, Irish College of Psychiatrists, 121 St. Stephen's Green, Dublin 2
Fax: 01 402 2344; e-mail: cpdadmin@eircom.net

Appendix 3: Comments of Professor Gregory O'Brien

The following comments on this document were made by Professor Gregory O'Brien, Associate Medical Director Learning Disabilities, Professor in Developmental Psychiatry and Consultant Forensic Learning Disability Psychiatrist, Northgate Hospital, Northumberland, Tyne and Wear NHS Trust.

1 'This is a thoughtful and well conducted survey. The literature review and the pilot survey focus group, combined with your plenary Winter Meeting session, provided you with a multiple set of perspectives, and have given strength to the data.

2 'From the body of the report, there is careful consideration given to how the methodology has affected the results you have gained, and I noted in particular your conclusion that the study has not captured all cases of Mild Learning Disability.

3 'One of the striking findings from your survey is the male/female sex ratio of 4:1 male to female. I confirm that this is in keeping with Forensic Psychiatry Learning Disability experience in this country, and indeed beyond. That you have found this ratio is testimony to the strength of the methodology.

4 'In the document, you give careful consideration to the issue of Severe and Moderate Learning Disability, as opposed to Mild Learning Disability. It is the case in the UK that Moderate to Severe Learning Disability – particularly those who have no language, would not fall within the rubric of a "Forensic" service, generally, if they lack the capacity to form intent, due to the severity of their intellectual disabilities. Such individuals come under the rubric of a "challenging behaviour" type service, and I see that this is also the thrust of your report.

5 'I do agree that, doubtless, you have reached an underestimate of the number of cases of Mild Learning Disability. When I saw the report, thinking of your population of around 3.5 million, I was expecting you to come up with a figure of around 60. I see that you have in fact identified just 40 and that you are aware of your "out of State" cases, and so I would suggest that 60 might be nearer the mark.

6 'One other point to bear in mind is the issue of "medium security" and "low security". In my experience, they are misleading phrases. When people see the phrase "medium security" or "low security" they think of something which is perhaps only a bit secure, or partly secure. Medium security is actually a very highly structured service, and medium secure facilities in the UK admit people directly from such high profile premises as Durham and Exeter prisons – high secure prisons. "Low secure" is a very secure setting, with two locked doors forming an "air lock", such that there is always one locked door between the patient and outdoors.'