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## Evidencing the Impact of Criminal Justice Services on Re-offending

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## Evidencing the Impact of Criminal Justice Services on Re-offending

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### Summary

From 2003 to 2006, Sacro undertook a quantitative evaluation of five of its Criminal Justice Services, using reconviction rates in an attempt to measure the impact on re-offending. This research illustrates the limitations of evaluating Criminal Justice Services in terms of the impact on re-offending using reconviction data alone. This report discusses the implications for policy, recommends the use of other research methods that are in line with the aims and objectives of specific services and organisational values, while highlighting some of the limits of any criminal justice system in relation to addressing harm in society.

### Acknowledgments

Sacro's research on reconviction data was begun by Elizabeth Cutting, completed by Mary Munro, and assisted by Carol Clethero and Ailie Clarkson of the then Scottish Executive. I would like to thank Susan McVie and Paul Norris of the Scottish Centre for Crime and Justice Research and Mary Munro for their helpful comments on earlier drafts of this document.

### Sacro reconviction data analysis

Sacro is a voluntary organisation with the mission to reduce conflict and offending through the provision of a range of Community Mediation, Youth Justice and Criminal Justice Services. Sacro's Criminal Justice Services aim to contribute to community safety by addressing the risk of re-offending among service users. Sacro also has a strategic objective to engage in research in order to evaluate and provide evidence on the impact of its services. Sacro therefore has a stake in evidencing the role that Sacro services play in helping people to desist from offending, and since 2003 Sacro has invested in trying to evidence the impact that some of its services have through the analysis of conviction data.

The limitations of the use of conviction data for analysing the impact on interventions on re-offending are well documented (for example see Farrall, 2003a; Friendship, Beech & Browne, 2002; Mair, Lloyd & Hough, 1997; Maltz,

2001). Reconviction data, by definition, can only yield information about crimes and offences that are detected, marked for prosecution and subsequently proven (Garside, 2006). This means that they are sensitive to changes in policing, legislation, court and prosecution processes, and the reporting of offences by members of the public (Friendship, Beech & Browne, 2002).

A further limitation of Sacro's study - as with many similar studies - was that, due to data protection and confidentiality issues, we could only obtain data in aggregate or group form, rather than for specific individuals. This makes it difficult to draw meaningful conclusions from the data, run statistical tests, or link the conviction data to other information held by Sacro on service users, such as their level of engagement with the service or changes in broader dynamic factors such as their quality of life. In addition, it is important to keep in mind that this study uses the two-year follow-up period common among similar research conducted in Scotland (e.g., McIvor, 2004; McIvor et al., 2006); this means that the results are essentially historical, reflecting how services operated in the past, rather than current practice.

With an awareness of these issues, in collaboration with an external researcher and Scottish Executive analysts, Sacro gathered conviction data regarding its service users in three Supported Accommodation Services, a Domestic Abuse Groupwork Programme and Community Sex Offences Groupwork Programme, as well as conviction data on some comparison groups. The research addressed four main questions:

1. Did the two-year conviction rates (that is, the proportion of people convicted in a two year period) drop following referral to the service?
2. Did the frequency of reconviction (that is, the number of convictions per person in a two-year period) drop following referral to the service?
3. Did the seriousness of the convictions decrease following referral to the service?
4. Were the two-year reconviction rates for the people who completed the service lower than those for people who did not complete the service, comparison groups and national base-line data?

The findings can be summarised as follows:

- For four out of five services, the proportion convicted within two years dropped following referral to the service for those who completed their planned time with the service;
- For all services, the number of convictions per person dropped following referral to the service for those who completed their planned time with the service;
- For three of the five services, the number of convictions resulting in custodial sentences increased following referral to the service for those who completed their planned time with the service;

- For all services, reconviction rates were lower for those who completed their planned time with the service compared with those who did not;
- For three of the five services, the reconviction rates for service users who completed their planned time with the service were higher than those of the comparison groups and base-line rates.

Due to the methodological issues, overall it was not possible to draw clear conclusions from the data regarding the effectiveness or otherwise of the services in terms of reducing re-offending; that is, it was not possible to determine whether the services had a specific "programme effect" in terms of changes in the rate, frequency or seriousness of re-offending. Where groups had reduced levels of reconviction following referral to the service, it was not possible to rule out the impact of external factors; where reconviction rates differed to that of comparison groups, it was not possible to rule out that these differences were due to differences between the members of the groups.

### **Why such conviction data must be treated with caution when making judgements about the impact of services**

These caveats point to the difficulty of using reconviction data alone to evaluate interventions in the criminal justice system. The following factors relating to the interpretation of the data will be dealt with in detail below:

- Pseudo-reconvictions
- Comparison groups
- Seriousness and frequency of reconviction and imprisonment
- Increased monitoring or reporting of offences
- Service aims and context
- Organisational values
- National targets for reducing reconviction rates
- Changes in the criminal justice system
- The limits of the criminal justice system

#### **Pseudo-reconvictions**

"Pseudo-reconvictions" are reconvictions that occur after the offender is deemed to have begun the programme, but where the actual offence occurred prior to the intervention (Scottish Executive, 2006b). This is particularly a problem in Scotland as the date of the offence is not held with data on convictions on the Scottish Offenders Index, although offence dates can be estimated if the offences occurred in certain police force areas. If pseudo-reconvictions are not excluded from the analysis - and usually they cannot be - this increases the risk of drawing the false conclusion that service users continued to offend after an intervention when in fact they may have been

only convicted of an offence that occurred before they were referred to the intervention.

### Comparison groups

The Sacro research on reconviction rates involved some comparison groups generated from statistical records by the Scottish Executive and deemed to be broadly comparable in terms of the spread of offences committed, as well as comparisons with national reconviction data. In order to determine whether any changes that occur after referral to an intervention have occurred because of the intervention itself, and not for other reasons, it is desirable to have a method that controls for other factors. The method generally considered to be the most rigorous for evaluating the impact of an intervention on future offending behaviour involves the use of randomised control trials (RCTs; Harper & Chitty, 2005).

This method involves randomly assigning people to either to an "experimental" condition (in which they receive the intervention) or to a control condition (in which they do not receive the intervention). In theory, this should ensure that the only relevant difference between the groups is that one receives the intervention and one does not. Failing this, it is desirable to have a comparison group that is appropriately matched on various characteristics that are related to offending, so that other variables can be controlled for, and any difference could be said to be due to the intervention itself (Harper & Chitty, 2005). Although RCTs are used in some research on the effectiveness of interventions on re-offending (e.g., see Sherman & Strang, 2007), this approach has been criticised in terms of its ethics and its validity (see Wilcox, Hoyle & Young, 2005). Given the way in which Sacro services operate, for the most part it would not be ethical to assign people randomly to a treatment or non-treatment group, both in terms of the negative effect this could have on service users who are denied a service, and in terms of the risk this may create in the community when an offender does not receive the services they need to address their offending. For these reasons, the Sacro research was limited to comparison groups generated by Scottish Executive data and national base rates.

The main problem with using a comparison group drawn from the official data or national base-line reconviction rates, is that it is extremely difficult to know whether the two groups are similar in terms of factors that relate to their likelihood of re-offending. Part of this relates to the referral criteria for each service, which may require some of the following to be met for the person to be able to engage with the service:

- The person must be homeless;
- They must pose a certain level of risk of harm;
- They must be motivated to address their offending;
- Their offences must meet certain criteria (e.g., level of severity, alcohol related);

- A direct victim of their offence must be willing to participate in the intervention.

Unless these factors are measured in the comparison group, it is impossible to say if they are present to a greater or lesser extent in either group. As these factors may be related to their chances the risk of re-offending, if the comparison group is not matched appropriately, the validity of the comparison may be called into question.

An alternative to comparing Sacro service users with a comparison group is to compare those service users who completed their placement with the service ("planned leavers") with those who did not ("unplanned leavers"). The inference is that if one group was exposed to the whole intervention and the other was not, any difference should be due to the intervention itself. The most obvious problem with this approach is that the reasons for people not completing the intervention may be directly related to their offending lifestyles. For instance, perhaps they were not motivated to address their offending and so decided not to attend; their lives were so chaotic that they were unable to comply with the terms of the service or attend meetings; they were actively offending and consequently arrested and imprisoned. Effectively those most likely to re-offend may self-select out of the service, meaning that a comparison between completers and non-completers provides more information about who is likely to complete than it does about the impact of the intervention. This issue is made more complicated by the fact that non-completion is not the same as failure; for example, in the case of supported accommodation, an unplanned outcome might be an unpredicted reconciliation with a partner and a return to a stable relationship and housing, factors that support desistance and therefore decrease the likelihood of re-offending. For these reasons, comparing reconviction rates of completers and non-completers is not particularly useful when evaluating the effectiveness of a service.

### **Seriousness and frequency of reconviction and imprisonment**

Analysing reconviction rates (that is, the proportion of people in a group who were reconvicted within a set time frame) is a very blunt way of looking at re-offending and desistance from crime. Research should take into account changes in the frequency and seriousness of reconvictions, to pick up more subtle indicators about people's involvement in offending (Mair, Lloyd & Hough, 1997; Scottish Executive, 2006a). Sacro's research found that the average frequency of reconviction dropped following the intervention for all groups that completed their planned time with the service.

In an attempt to measure changes in seriousness of offending, two proxy measures were used: the frequency of convictions from solemn proceedings and the frequency of convictions resulting in a custodial sentence. For groups who completed their time with the service, for four out of five services the frequency of solemn convictions (heard in the High Court or Sheriff Court) dropped following the intervention; however, for three out of five services, the frequency of custodial convictions increased following the intervention.

The contrast between the overall decrease in the frequency of convictions (and the decrease in solemn convictions specifically) and the increase in custodial convictions creates three distinct problems for the interpretation of the data:

1. It makes it very difficult to conclude whether the offending was becoming more or less serious and therefore whether or not the severity of the crimes being committed was reducing;
2. The increase in custodial convictions, and subsequent imprisonment, would reduce the opportunity for people to commit offences in the community, and it is difficult to tell whether the decrease in the frequency of reconviction was due to the intervention or to the period of imprisonment (Farrall, 2003a);
3. An increase in custodial convictions may also reflect judicial exasperation with the 'failure' of the offender to respond to a community sanction rather than a change in the seriousness of offending: "You've had your chance and didn't take it and now I have little choice but to send you to prison" (see Tombs, 2004).

It is important to note that before-and-after comparisons of the frequency of conviction can be misleading. For example, some people begin engagement with a Sacro service (such as supported accommodation) at the point of liberation from what might be a lengthy prison sentence. A low number of convictions in the two years prior to the intervention, due to the period of imprisonment, may actually indicate a high risk of re-offending, and an apparent increase in the frequency of offending is the likely result. Furthermore, in Scotland people under sixteen years of age who offend will generally be dealt with by the Children's Hearing System, rather than the adult criminal justice system, and so will not usually receive criminal convictions for their offences. Because of the different ways in which the two systems respond to offending behaviour, the data on young people who make the age transition from the Children's Hearing System to the adult criminal justice system may show an increase in the frequency of conviction, even if their re-offending has reduced or stayed the same.

The complexity of this issue also acts as a reminder about the nature of reconviction data: it is information on the response of the criminal justice system to an individual (Anderson, 1999). Although an increase in the frequency of custodial convictions may indicate an increase in the seriousness of offending, the sentencing process takes into account many factors relating to the circumstances of the offender, their response to prosecution and their criminal history (Tombs, 2004), meaning that the relationship between the seriousness of the offence and the type of sanction is by no means straightforward.

### **Increased monitoring or reporting of offences**

Reconviction rates may increase independently of changes in re-offending. Many of Sacro's services - either by design or as a by-product - increase the extent to which the service users are monitored in the community. This is likely to increase the chances of offences being detected and subsequently reported to the police. Furthermore, some of Sacro's services also work with

the direct victims of the offences for which the service users have been referred (e.g., the partners and ex-partners of people convicted of domestic abuse). This work is intended to empower victims and increase their confidence in the criminal justice system, thereby increasing the likelihood of them reporting further offending behaviour to the authorities and giving evidence against the offender. Reducing the risk of re-offending is not the only aim of the services, and therefore reconviction data cannot be the sole indicator of effectiveness; in some cases an increase in reconviction may be an indicator that the service is performing effectively in terms of improved monitoring and empowerment of victims of crime.

### **Service aims and context**

Sacro services do not work in isolation but in partnership with local authority Social Workers, the police, drug treatment and other support agencies, and any evidence of effectiveness needs to be understood in this context. It is very difficult to disentangle a simple "programme effect" from other elements in a probably complex social and personal situation.

Furthermore, it should be noted that Sacro Criminal Justice Services have wider aims than reducing the risk of re-offending, including:

- Enhancing the supervision of offenders in the community;
- Improving the health, safety and welfare of service users;
- Assisting service users to access appropriate treatment, care and support agencies;
- Reducing the non-essential use of custody / remand;
- Helping service users to resettle in the community upon leaving prison;
- Offering opportunities for service users to make amends to people harmed by their actions.

It is important that services are evaluated in terms of their effectiveness in achieving their stated aims and objectives, not just their effectiveness in reducing re-offending (Maltz, 2001). All of these factors mean that evaluation needs to be carefully designed and take into account the context in which the service operates.

### **Organisational values**

The research methods used to evaluate Sacro services should be in line with Sacro's values, which include empowerment, personal responsibility and capacity for change. In contrast, the experimental model for evaluating effectiveness - whereby people are allocated to the intervention or to a control group - is based on the manipulation of variables, so as to clearly manage and distinguish cause and effect, and fits more closely with the tenets of social control. As stated by Pawson (1997, p. 153), '*Choice is the very condition of social and individual change and not some sort of practical hindrance to the understanding of that change*'. In the experimental model,

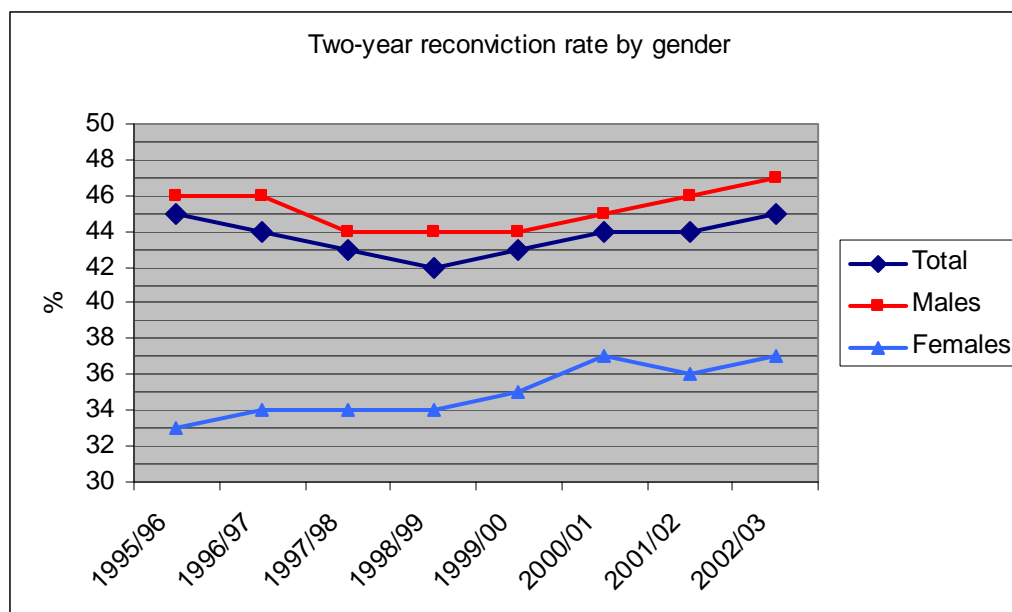


individual agency and choice are considered to be problems that must be eliminated. There is some obvious tension between Sacro's values and the implicit values of the experimental research paradigm, and the experimental model may be an inappropriate way of evaluating services that have a focus on the potential for individuals to take control of their own lives, especially where voluntary engagement is a core aspect of the service.

### National targets for reducing reconviction rates

In 2004, the Scottish Executive set specific targets in relation to re-offending, namely: a "2% reduction in reconviction rates in all types of sentence by March 2008" (Scottish Executive, 2004). Examination of the statistical data on reconviction rates suggests that even if the target reduction was made, it would still be unclear whether the system was more effective at reducing re-offending among people who have committed crime and are handled by the criminal justice system. The two-year reconviction rates for the 2002/03 cohort of those released from custody or receiving non-custodial sentences was 45%, the same rate recorded for the 1995/96 cohort; the rates for all other cohorts from 1996/97 to 2001/02 ranged from 44% to 42% (Scottish Executive, 2006b). However, as shown in figure 1, when the data is broken down by gender, the 2002/03 rates for men and for women were actually the highest on record over the eight-year period.

Figure 1. *Scottish two-year reconviction rates by gender for those discharged from custody or given non-custodial sentences 1995/96 to 2002/03.*



Source: *Scottish Executive (2006b)*.

This can be explained in part by the fact that the proportion of women in the cohort has increased from 14% in 1995 to 16% in 2002/03 (Scottish Executive, 2001), and that women have a notably lower reconviction rate than men (37% compared with 47%; Scottish Executive, 2006b). That is, the sample now contains a higher proportion of people who have a lower likelihood of being reconvicted; this is consistent with the data showing that among people with proven charges against them the proportion of women has

increased from 5% to 7% from 1995/96 to 2002/03 (Scottish Executive, 2006c). This means that a headline reduction in reconvictions in line with targets might be due to a change in the gender balance of the incarcerated population, rather than the success of any policy or intervention. If the target for a reduction in the overall reconviction rate is met, and this is mainly due to more people with a lower likelihood of re-offending being brought into the criminal justice system and being convicted, rather than through a reduction in rates of re-offending among those who would normally be brought into the system, this would bring little cause for celebration.

### **Changes in the criminal justice system**

A small selection of the recent changes in criminal justice in Scotland includes:

- New powers for police to issue Fixed Penalty Notices in relation to antisocial behaviour;
- Fiscal Compensation Orders as an alternative to prosecution;
- The issuing of Antisocial Behaviour Orders to children under sixteen;
- A "crackdown" on carrying offensive weapons;
- Attempts to increase the conviction rates for rape charges;
- Increased statutory supervision of short-term prisoners if the Custodial Sentences and Weapons (Scotland) Act 2007 is implemented.

Although the Home Office (2007) has developed methods for controlling for many of the factors related to offending so that the year-on-year comparison of reconviction rates with targets is more meaningful, the issue still remains for both jurisdictions that, given that reconviction rates are affected by changes in policing, prosecution, legislation, sentencing, monitoring of adherence to conditions, etc. (Friendship, Beech & Browne, 2002), it is unclear how changes in reconviction rates can be said to be a result of changes in re-offending rather than changes in the functioning of the criminal justice system itself. In order to control for this issue, any comparison studies should ensure that comparison groups are tracked over the same period in time as the group receiving the intervention. In terms of using reconviction rates as a "performance indicator" at the national level, it would seem to be very difficult to control for changes in the criminal justice system across points in time, especially when there are so many changes in way that the state responds to crime.

### **The limits of the criminal justice system**

The criminal justice system only detects a fraction of all crime and offences that occur, only a proportion of these are proceeded against in a court of law, and only a proportion of these result in conviction; that is, the majority of crime goes "unpunished" (Garside, 2006). This means that even if the criminal justice system was effective, the overall impact on all crime - not just recorded crime - would be minimal. Therefore, diverting all energies into achieving

targets relating to criminal justice system process and outcomes - such as police clear up rates, the number of persistent offenders, and national reconviction rates - may be making the unjustified leap in logic that the criminal justice system deals with the majority of crime, narrowing attention to a tiny portion of the problem, while diverting attention from the larger issues.

Garside (2006) cited British research that showed poverty to be the strongest predictor of being murdered and that the difference between rich and poor in this regard became more marked through the 1980s (Dorling, 2005, cited in Garside, 2006), suggesting that social and economic policy has more of an impact on murder rates than does the criminal justice system. Similarly, Houchin (2005) in his study of address data of Scottish prisoners, showed that the higher the level of deprivation in a geographical area, the higher the imprisonment rate:

*"Just as it is a fact of life if you are born in the most deprived parts of the country that there is a greatly increased probability that you will remain poor and that you will have poor health and will die young, so it is an analogous fact that you have an increased probability of spending time in prison" (p. 18).*

Houchin argued that increased risk of imprisonment is *"both a consequence and indicator of the deprivation of the community from which you come"* (p. 23), and that imprisonment was another symbol of this inherent exclusion from mainstream society. He argued that those undergoing criminal justice sanctions were a minority of those who offend, that there are trends between criminal justice sanctions and other social indicators, and the contexts where criminal behaviour was prevalent would be more resilient to the impact of methods of punishment and rehabilitation. Based on this, he suggested that it may be both unethical and impractical to use a system that has a disproportionate negative impact on individuals from an identifiably excluded section of society when this is likely to have minimal impact on the individual and leave the wider issues of preventing undetected harm and continuing exclusion untouched.

Garside (2006) asks whether it is time to consider the extent of harm caused, rather than the number of crimes committed, and have a more informed debate about the purpose and limitations of the criminal justice system. Added to this, recent research on the process by which people "desist" from offending suggests that Sacro has the right approach in terms of helping people known to have committed harm to attempt to put this right, negotiate their relationships with a community from which they may feel excluded in some way, increase their motivations and capabilities to live crime free, while recognising that the social context plays a key role in whether or not they will commit further harm (McNeil, 2006). Balancing these positions will allow Sacro to work, and evaluate its work, in line with some of its core values: personal responsibility, belief in the individual's capacity for change, and an inclusive expression of society's responsibility to all its members.

## Conclusions and Ways Forward

1. A system for identifying "pseudo-reconvictions" needs to be developed in order to improve the interpretation of conviction data; this could be done by linking police data with the reconviction data, as happens in the Strathclyde

police force area where arrest dates are imbedded into the conviction information.

2. Research involving comparison groups should measure both static risk factors (e.g., gender, criminal history) and dynamic risk factors (e.g., drug misuse, employment status, accommodation, motivation to address offending) among the comparison group and the group receiving the intervention. The groups either need to be matched on these factors, or data needs to be analysed at the individual level using statistical analysis (such as logistic regression analysis) to determine the impact that the intervention has made on future offending. This is of particular importance where service criteria (e.g., homelessness status, drug misuse, motivation to change) will determine who accesses the service.

3. Research looking at changes in the frequency of offending needs to use information on age and custodial sentences to ensure that any changes in frequency of offending are due to the intervention rather than a result of periods of imprisonment or the transition from the Children's Hearing System to the adult Criminal Justice System.

4. Research on the effectiveness of interventions needs to take into account the different aims and objectives of the services. If certain aspects of the service - such as monitoring or empowerment of people harmed by crime - are likely to increase reconviction rates among service users, research needs to take this into account. This requires looking not only at the outcomes, but also at the processes by which the services operate, and how the processes impact on the outcomes. This could be achieved by using data on assessed needs, the work done by the services to address the needs, improvements in the factors targeted by the services, and information on needs that remain unmet. Qualitative data from service users, service workers and other stakeholders could be used to identify how the service processes (i.e., what has been done and how it has been done) are related to outcomes (for examples of this method see Pawson, 1997; Farrall, 2003b; & Chatterji, 2004).

5. Evaluation of criminal justice services should employ research methods that are in line with the values of the organisation that delivers the services. For example, Sacro's values include fairness, empowerment, personal responsibility and capacity for change (Sacro, 2005). Therefore research should strive to use methods - such as qualitative methods or the analysis of dynamic risk factors - that highlight the capacity for change. Any research methods that potentially undermine these values - such as random control trials that unfairly deny people access to services - need to be very well justified.

6. If national reconviction rates continue to be used as performance indicators, the data need to be analysed in a way that takes into account changes in the offender population over time (such as age, gender and offence history; see Home Office, 2007).

7. Given on-going changes in the operation of the criminal justice system, if reconviction rates are used as performance indicators at the national level or at Community Justice Authority area levels, it will be very difficult to tell

whether changes are due to "real" changes in levels of re-offending or due to changes in the way that the criminal justice system detects and deals with offending behaviour. There is no easy solution to this issue, although self-report data on offending and victimisation might help to validate the reconviction data.

8. It is important that research on the effectiveness of the criminal justice system acknowledges that the system does not deal with all harm that occurs in society. Research should still investigate how work done with known offenders assists them to desist from offending and improves community safety. This should complement research on what work could be done in communities to improve community safety and what could be done to better meet the needs of those harmed by crime.

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