

# Imprisonment for Fine Default and Civil Debt

## Report to the Department of Justice, Equality and Law Reform

Nexus Research Co-operative

Dave Redmond

May 2002

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
51 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2,  
(Teil: 01 - 6476834/35/36/37; Fax: 01 - 6476843)  
nó trí aon díoltóir leabhar.

---

DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased directly from the  
GOVERNMENT PUBLICATIONS SALE OFFICE,  
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,  
or by mail order from  
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,  
51 ST. STEPHEN'S GREEN, DUBLIN 2,  
(Tel: 01 - 6476834/35/36/37; Fax: 01 - 6476843)  
or through any bookseller.

(Pn. 11805)

€8.00



# Contents

---

<b>Chapter 1</b>	<b>INTRODUCTION AND REPORT STRUCTURE</b>	<b>7</b>
1.1	Research Objectives and Methodology	7
1.2	Policy Context	8
1.2.1	Law Reform Commission Report on Indexation of Fines (1991)	8
1.2.2	The Management of Offenders – A Five Year Plan (1994)	8
1.2.3	Tackling Crime (1997)	9
1.2.4	Strategy Statement 1998-2000: Community, Security and Equality (1998)	9
1.2.5	Report of Dáil Sub-Committee on Crime and Punishment (2000)	10
1.2.6	Conclusion	10
<b>Chapter 2</b>	<b>PREVIOUS RESEARCH AND DATA ON PERSONS IN PRISON FOR NON-PAYMENT OF FINES OR CIVIL DEBT</b>	<b>11</b>
2.1	Introduction	11
2.2	Trend of Imprisonment for Fine Default	11
2.3	Previous Research on Imprisonment for Fine Default in Ireland	12
2.4	UK Based Research	13
2.4.1	Recent Trends in Imprisonment for Fine Default in the UK	13
2.4.2	Characteristics and Circumstances of Fine Defaulters	14
2.4.3	Sentencing Practice in Relation to Fines	16
2.4.4	Alternative Penalties for Non-payment of Fines	16
2.5	Main Issues Emerging from Previous Research	17
<b>Chapter 3</b>	<b>ENFORCEMENT PROCESS AND MECHANISMS OF FINANCIAL PENALTIES AND CIVIL DEBT</b>	<b>19</b>
3.1	Fines	19
3.2	Civil Debt	19

<b>Chapter 4</b>	<b>PRISON BASED DATA ON FINES OFFENDERS</b>	<b>21</b>
4.1	Rationale and Methodology	21
4.2	Quality and Scope of Information	21
4.3	Trend in Committals and Characteristics of Offenders	22
4.4	Number of offences, fine amounts and sentences	24
4.5	Time Served and Reasons for Discharge	27
4.6	Relationship between types of offences, fines and outcomes	29
4.7	Conclusions	32
<b>Chapter 5</b>	<b>THE OFFENDERS EXPERIENCE OF THE PROCESS</b>	<b>33</b>
5.1	Objectives of Interviews	33
5.2	Roles of Questionnaire and Interview	33
5.3	Making Contact	33
5.4	Interview Settings	34
5.5	Background Characteristics of Interviewees	34
5.6	Income Adequacy	36
5.6.1	Methodology	36
5.6.2	Findings on Deprivation	38
5.6.2.1	Basic Deprivation	38
5.6.2.2	Secondary Deprivation and Housing Deprivation	38
5.6.3	Findings on Relative Income Poverty	39
5.6.4	Conclusion on Material Deprivation and Relative Income Poverty	39
5.7	Issues Emerging from Interviews	40
5.7.1	Introduction	40
5.7.2	Types of Offences	40
5.7.3	Civil Debt	41
5.8	Living Circumstances	43
5.9	The Court Process	44
5.10	Reasons for Non-Payment	46
5.11	Arrest and Committal	48
5.12	Consequences of Imprisonment	51
5.13	Why or how might imprisonment be avoided	51
5.14	Alternatives to Imprisonment	52
5.15	Conclusions and Issues to be Addressed	53
	<b>BIBLIOGRAPHY</b>	<b>55</b>

# Acknowledgements

---

This report would not have been possible without the voluntary co-operation of the interviewees in prison. Their help in this is greatly appreciated.

The management and staff in the prison also played a vital role in securing the co-operation of interviewees. Thanks are due to the Governors and staff in Limerick Prison, Cork Prison, Mountjoy Prison, Loughan House and the Dochas Centre. Many thanks to the staff of the Irish Prison Service who acted as liaison between the researcher and prison management and provided valuable support in accessing the computerised records in Mountjoy prison.

Finally, my thanks to the officials in the Criminal Law Reform Division of the Department of Justice, Equality and Law Reform who guided the overall direction of the research.

DAVE REDMOND



# CHAPTER 1

## Introduction and Report Structure

---

This section outlines the rationale for this research and the policy context.

Section 2 describes the trend in imprisonment for fine default and civil debt insofar as it's possible from official statistical sources. It then outlines the scope of previous research in this area and issues emerging in Ireland and the United Kingdom.

Section 3 briefly describes the enforcement process and mechanisms for financial penalties and civil debt.

Section 4 outlines the characteristics of persons committed to prison for fine default or civil debt as established from primary data sources in three Irish prisons.

Section 5, based on interviews with 24 offenders imprisoned for fine default or civil debt, initially assesses the circumstances of the interviewees especially in relation to personal/family circumstances of poverty and indebtedness. It then outlines the process from offence to imprisonment as experienced from the offenders perspective. Conclusions are drawn and issues highlighted.

### 1.1 Research Objectives and Methodology

An Enforcement of Fines Bill forms part of the Government's legislation programme. The stated aim of this legislation is to end, as far as practicable, imprisonment for inability to pay fines and non-payment of civil debt. However there is scant information on the number, characteristics and circumstances of persons in prison for these reasons. This research aims to fill that gap and inform policy makers.

To assist the preparation of this legislation research in the area was commissioned by the Department of Justice, Equality and Law Reform through its Public Policy Research Unit following a tendering process.

The purpose of the research was to gather qualitative information in relation to those persons who find themselves committed to prison for non-payment of fines and civil debt. This qualitative information will help in the formulation of proposals for inclusion in the proposed legislation, by identifying the measures most likely to be of assistance in ensuring payment of the fines and the measures which might prevent the imprisonment of persons for non-payment of fines.<sup>1</sup>

The key questions to be addressed by the research are:

1. How many people pay fines and how many do not?
2. For what types of offences are fines most "at risk" of non-payment?

---

<sup>1</sup>All outputs arising from this research will remain the sole property of the Department of Justice, Equality and Law Reform.

3. What are the characteristics of non-payers?
4. Why and in what ways do people fail to pay fines (or civil debts)?
5. What are the outcomes for those in prison for non-payment of fines (or civil debts)?
6. What are the benefits of alternatives to imprisonment for non-payment of fines (and civil debts) and what types of resources and supports need to be put in place for them to be effective?

This entails undertaking two research tasks. In relation to questions 1 to 3, information was compiled mainly from prison based sources enabling the number, trend and characteristics of persons in prison for fine default to be established. In relation to questions 4 and 5, interviews were undertaken with persons in prison for non-payment of fines or civil debt.

## **1.2 Policy Context**

### **1.2.1 Law Reform Commission Report on Indexation of Fines (1991)**

In its report on the indexation of fines in 1991, the Law Reform Commission noted that:

“. . . the number of persons imprisoned for fine default is disturbingly high, which suggest that the system at the moment is insufficiently flexible.”(Ireland, 1991:2)

Commenting on English proposals and legislation at the time, the Commission noted that in the case of fine defaulters the court must enquire, in the offenders presence, into why the fine has not been paid. Options available to the Means Enquiry Court are: remit all or part of the fine; to reduce the level of instalments and to extend the period over which they are paid; to order supervision of the fined person (normally by a social worker) who will assist and advise the offender in regard to payment of the fine. The Commission took the view that the adoption of similar provisions in the Irish jurisdiction would be a salutary measure (Ireland, 1991:45).

The Commission considered also the practicality of a day fine system but found that the obstacles to its introduction could be ‘unlimited in duration and effect’ (op cit: 66).

### **1.2.2 The Management of Offenders – A Five Year Plan (1994)**

The Management of Offenders (1994) was the first major policy document produced by the Department of Justice on issues arising in the management of offenders. Following on from the 1985 Whitaker report among the guiding principles accepted is the acknowledgement of the severity of imprisonment as a form of punishment and a recognition that it should be used only as a last resort reserved for serious offences against the person and major property offences (Ireland, 1994: 17). In this context community based sanctions are considered as important as penal based ones.

In the discussion of public perceptions of prison the issue of imprisonment for fine default or civil debt is considered. On the one hand there is the view that imprisonment for these categories of offenders is unacceptable on the other hand there is the view that if the option of imprisonment were removed a significant proportion of people would refuse to pay their fines. In the plan it is announced that the Minister is “examining methods other than imprisonment whereby reluctant debtors are actually compelled to pay their debts” (op. cit., 17).



### 1.2.3 Tackling Crime (1997)

Tackling Crime, the 1997 discussion paper produced by the Department of Justice, Equality and Law Reform, represents the first attempt by the state to consider policy goals and strategies for tackling crime. It outlines twelve specific goals. Under Goal 9, it promises to:

“Accord priority to the development of custody alternatives, as it is a much less expensive, and in many cases, a more effective way of managing offenders.” (Ireland, 1997:24)

The paper recognises the links between crime and social disadvantage (op. cit. 50-54). But it points also to the lack of quality research and statistical data on crime (op. cit. 15, and 60).

Under the reform of the criminal law it refers to measures under preparation including an *Indexation of Fines Bill* and an *Attachment of Earnings Bill* (op. cit. 66). These bills have not yet been published. The intention remains to provide for payment of fines by instalment and to examine the alternatives to imprisonment such as community service.

Of the two proposed bills, the former is intended to update fines to make them realistic and provide for their automatic indexation. The latter is intended to prevent imprisonment for non-payment of fines through such proposals as payment by instalment as well as use of alternative enforcement methods to imprisonment. (Reference is made also to the report by the Law Reform Commission on Indexation of Fines.)<sup>2</sup>

### 1.2.4 Strategy Statement 1998-2000: Community, Security and Equality (1998)

In July 1997 the Government transferred responsibility for equality and law reform to an enlarged Department of Justice, Equality and Law Reform. Some of the issues addressed in the discussion paper are revisited in that Department’s Strategy Statement 1998 to 2000 entitled Community, Security and Equality. The Strategy summarises the objectives in the programme for Government for which the Department has responsibility. A notable shift since the 1997 paper is to the emphasis on a “zero tolerance to the crime problem” (Ireland, 1998: 24).

The Strategy Statement observes that the goals and objectives enunciated in the 1997 discussion paper were quite broadly stated with the intention of further refinement on the basis of comments received and with a view to specifying action plans and timeframes.

Therefore, while 79 objectives are detailed in the Strategy Statement they do not follow on from those broader objectives of the earlier discussion paper Tackling Crime. For each of the objectives a strategy and output are outlined.

Objective 32 (under the management of offenders policy area) is to ensure that there is an effective system of community sanctions in place for offenders dealt with by the Courts for whom imprisonment is not considered essential. One output envisaged is the courts will have greater opportunity to impose non-custodial sanctions (op.cit. 44). This objective corresponds to Goal 9 of the 1997 discussion paper.

Under the programme for law reform an Attachment of Earnings Bill and an Indexation of Fines Bill are again listed. The Progress Report on the Strategy Statement (September 2000) noted that in the case of the Attachment of Earnings Bill “The issue is being addressed in consultation with the new Courts Service and in the context of a major technology investment programme which

---

<sup>2</sup>The functions of the Commission are to keep the law under review, to undertake examinations and to conduct research with a view to reforming the law, and to formulate proposals for reform.

is underway. Work on a General Scheme is in progress but publication is not expected before 2001". Regarding the Indexation of Fines Bill it was reported that work on the bill was "at a preliminary stage".

### 1.2.5 Report of Dáil Sub-Committee on Crime and Punishment (2000)

In March 2000 the Sub-Committee on Crime and Punishment of the Joint Committee on Justice, Equality, Defence and Women's rights published a report Alternatives to Fines and Uses of Prison. It considered the enforcement of financial penalties and the management of prisoners.

With a view to reforming the system of fines the Sub-Committee explored a number of strategic options, including:

- unit or day fine systems (i.e. a system that imposes fines in terms of units of gravity whose monetary value is dictated by the means of the offender);<sup>3</sup>
- widening the range of enforcement option – i.e. means of payment, reviews of the level of the fine in whole or in part with change in circumstances;
- widening the range of sanction available for fine default e.g. curfew, community service.

It recommended that:

- there should be a full means enquiry in every case where a financial penalty is being considered;
- as a general rule fines should be payable within one year;
- a day fine system should be introduced;
- courts should not be limited to imposing a term of imprisonment (currently the only penalty available for fine defaulters);
- before sanctions are imposed, courts should consider all the available enforcement measures.

However, the issues previously raised by the Law Reform Commission report regarding the implementation of day fines are not addressed by the Sub-Committee. The recommendations of the Sub-Committee have not been implemented to date.

### 1.2.6 Conclusion

A number of themes are evident from policy evolution in recent years. In the first place there has been a recognition of the importance of alternatives to custody as way of managing offenders. At the same time there is a realisation of the paucity of research. Against this backdrop some legislative proposals around indexation of fines and attachment of earnings are proposed but have yet to be implemented.

According to the Department part of the reason they have not been implemented is the lack of qualitative research on alternatives to imprisonment. This research is to assist in the formulation of policy in this area.

---

<sup>3</sup>In the United Kingdom unit fines were introduced by the 1991 Criminal Justice Act, but abandoned in the 1993 Act. However, the later Act did retain elements of the means-based approach to setting fines, in that fines could be increased for the better-off as well as reduced for the poor.

## CHAPTER 2

# Previous Research and Data on Persons in Prison for Non-Payment of Fines or Civil Debt

### 2.1 Introduction

This section firstly traces, insofar as possible from official statistical sources, the trend of imprisonment for fine default or civil debt in Ireland. It then outlines the nature of previous research in Ireland and in the UK on imprisonment for non-payment of fines or civil debt. Finally, it summarises the common themes emerging from the research.

### 2.2 Trend of Imprisonment for Fine Default

The most recent published data for committals to prison for non-payment of fines is for 1994. As the Minister for Justice, Equality and Law Reform explained in response to a question in the Dáil committal statistics are not maintained in such a way as to provide information on the number of persons imprisoned for non-payment for fines each year.<sup>4</sup>

The following table shows the trend in the committals for fine default in the 1990s. No information is available for 1997 and beyond.

**The use of prison for fine defaulters**

Year	No. in default of fine	As a % of all committals	Total committals
1990	961	28.3%	3,400
1991	769	22.1%	3,472
1992	1,404	29.6%	4,756
1993	1,880	34.5%	5,443
1994	2,173	21.0%	10,348
1995	1,920	19.3%	9,928
1996	1,610	15.5%	10,367
Change	+649	-12.8 % pts	+205%

*Source: 1990-94 Annual Reports on Prisons and Places of Detention; 1995-6 Written answer to Question No. 156 to the Minister for Justice, Equality and Law Reform, March 1st, 2000.*

The most striking feature from these data is the large increase in the number of committals in the 1990-96 period.<sup>5</sup> Against this backdrop the percentage of total committals for fine default has fallen since 1993, though the absolute number of committals has shown an increase.

<sup>4</sup>Question No. 156 to the Minister for Justice, Equality and Law Reform – Written Answer March 1st, 2000.

<sup>5</sup>The number or percentage of committals does not correspond to the number of percentage of prison places.

No information is available on the characteristics of those imprisoned for fine default, such as: age, gender, amount of fine, type of offence, duration of imprisonment and final outcome in terms of whether the fine was eventually paid. The Prisons Service have indicated that at any one time less than 1.5% of prison spaces are taken up by persons committed for non-payment of fines. In reply to a Dáil question in October 1998 the Minister of Justice, Equality and Law Reform revealed that the number of persons in prison for non-payment of fines on 13th October 1998 was 22 or 0.82% of the total prison population on that day. According to the Prison Service the total number of persons in custody on May 1st, 2002, whose most serious offence is non-payment of fines, was 16 out of a total prison population of 3,224, or just under 0.5%.<sup>6</sup>

The recent report by the Comptroller and Auditor General on collection of fines covered on-the-spot fine cases and other District Court summons cases. It included also cases involving more serious indictable offences tried in the District Court that occasionally may result in imposition of fines on conviction (Ireland, 2000b: 3). The report focused on alleged offences detected in 1998. However the main focus of the report is on the effectiveness and efficiency of the fine collection system.

### 2.3 Previous Research on Imprisonment for Fine Default in Ireland

Fines and alternatives to fines were considered in the Final Report of the Expert Group on the Probation and Welfare Service (1998). They observed that there is relative under-use of fines for indictable offences.

“Data on sentencing for 1996 show that only 6 percent of those sentenced before the District Courts received a fine. This compares with 36 percent in the equivalent courts in England and Wales. Also of concern is the absence of an alternative to imprisonment as the penalty for non-payment of a fine.” (op. cit. 21)

They noted that there had been an increase in committals to prison and places of detention in the context of a declining crime rate (op. cit. 25). In support of this they cite the fact that there were 2,173 committals under sentence of imprisonment in default of fines in 1994 compared to 961 in 1990 (Ireland, 1998b: 50). The Expert Group took the view that such offenders do not, by and large, pose a risk and do not require either imprisonment or the intervention of rehabilitative agencies Ireland, 1998b: 51).

This report of the Dáil Sub-Committee on Crime and Punishment notes the fall in the crime rate in recent years and points to the fact that, though much crime is petty and involves damage or theft rather than violence, the prison population per 100,000 recorded crimes is relatively high in Ireland compared to other EU member states (Ireland, 2000a: 2).

The Sub-Committee took the view that jailing of fine defaulters raised a number of serious issues:

1. the original offences did not merit imprisonment;
2. the sanction impacts most severely on those without means;
3. the imprisonment of large numbers of fine defaulters, albeit for short periods, exacerbates an already chronic overcrowding at the committal prisons, especially Mountjoy;
4. the fine remains unpaid;
5. significant costs are associated with incarceration.

---

<sup>6</sup>Statistics for 2001 were not available at the time of publication of this research but will be available in the Prison Service Annual Report for 2001 which will be published in a few months time.

Citing Bacik’s (1997) study of sentencing practice in the Dublin District Court which “revealed that defendants from the more deprived areas of central Dublin were 50% less likely to be fined but 50% more likely to be sent to prison”, the Sub-Committee felt that the poor are doubly disadvantaged (Ireland, 2000a: 10).

O’Donnell (1998), citing the most recent published statistics” relating to the 1990 to 1993 period, observed that one in three of all adult committals were in default of fines (O’Donnell, 1998: 40). While he acknowledges that judges must take into account the defendant’s means when setting the level of the fine and may allow an extension of time for payment, he argues that given the high level of imprisonment the system was not working effectively.

Regarding imprisonment for civil debt, according to a submission made by the Complementary Sub-Committee to the National Anti-Poverty Strategy (Kavanagh, 2000:29) comprehensive statistics on debt proceedings, the number of actions defended, the methods of debt enforcement chosen by creditors and the number of cases of imprisonment for non-payment of debts of different kinds are not available in any comprehensive form.

The latest available figures are for 1993 (Connolly, 1997), when 277 persons were committed to prison for non-payment of civil debt. According to Connolly very few people use the limited facilities available to them within the system, many debtors fail to appear in court and few apply for or are granted legal aid.

A more recent submission on behalf of the Money Advice and Budgeting Service for the West and North-West Region (1999:5) draws attention to an analysis of 33 debt cases at examination order stage. It noted that only two had submitted a statement of means and only four appeared in court (including the two who had submitted a statement of means). It argues that debtors are not participating in the court process as action escalates against them with serious consequences.

## 2.4 UK Based Research

### 2.4.1 Recent Trends in Imprisonment for Fine Default in the UK

The table below summarises the trend in the overall prison population and in the percentage of fine defaulters in the 1990s. The 1990-99 period saw an increase in the prison population of 49%, but a 76% fall in the number of fine defaulters in prison.

**Population in prison on June 30th with number and percentage for fine default (England and Wales)**

Year	Population in Prison (30th June)	In default of fine payment	As a % of all offences
1990	28,819	348	1.2%
1991	29,321	317	1.1%
1992	29,992	300	1.0%
1993	27,965	445	1.6%
1994	30,487	463	1.5%
1995	33,537	441	1.3%
1996	36,440	126	0.3%
1997	40,856	116	0.3%
1998	43,748	99	0.2%
1999	43,049	85	0.2%
Average	34,421	274	0.8%

Source: Home Office, Research Development Statistics – prisons.

## 2.4.2 Characteristics and Circumstances of Fine Defaulters

In a UK Home Office study Moxon and Whittaker (1996) interviewed 188 fine defaulters in 23 establishments (90% of total identified). The survey of establishments included all defaulters held on a particular week in 1995. The context for the research was the steady rise in the number of fine defaulters imprisoned between 1990 and 1994. In 1994 fine defaulters accounted for 27% of all receptions under sentence (op cit: 1). Although only 1.5% of the sentenced population were fine defaulters they accounted for 12% of those sentenced to less than six months.

Regarding the social characteristics of fine defaulters:

- 90% were men;
- 76% were unemployed (about double the rate for the general prison population);
- 46% had other outstanding debts e.g. electricity, gas, or telephone bills;
- Almost 66% (a higher proportion than the sentenced prisoners) said that they had been in prison before either for non-payment of a fine or for something else;
- Four-fifths had more than one set of offences on which they had outstanding fines.

Most of the offences for which people ended up in prison for fine default were not ones that normally would have resulted in imprisonment – motoring offences and theft being the two largest categories.

They found that employed defaulters had larger debts than those who were not employed reflecting that courts take into account means when setting fines. On average they had three outstanding fines though almost a fifth had six or more. Moxon and Whittaker (op cit: 2) note that while courts are required to take individuals means into account when sentencing they often do not know whether the offender has any other outstanding fines at the time of sentence. In this way offenders may accumulate large amounts of fines which become difficult both to pay and enforce.

Reasons proffered for non-payment of fines are:

- Not being able to afford to pay;
- Prefer to go to prison rather than pay fine;
- Lost job since fine imposed;
- Confused about the instalment terms;
- Family difficulties;
- Forgot about fine;
- Refused to pay on principle;

On average fine defaulters were sentenced to 31 days imprisonment – which means 15 days to serve with 15 days remission.

Regarding previous enforcement measures many interviewees were vague about what had happened to them in court – 12% could not recall any enforcement action. Typically two different enforcement measures had been used before the person was committed to prison. Defaulters may have come before the court on numerous occasions when they were allowed more time to pay the fine. Two-thirds of the interviewees had been issued with a reminder notice and most of

those imprisoned initially had the sentence suspended subject to payment being made at a rate set by the court. Very little use was made of the power to deduct benefit. Similarly little use was made of the power to partially remit fines. Attachment of earnings was only used in two cases. This may be partially explained by the fact that even for the minority of interviewees that were in employment, employment was often casual or self-employment and some worked for small enterprises that did not have the administrative capacity to implement attachment of earnings.

In a further Home Office study published one year later Whittaker and Mackie (1997), using court observers, focussed on the characteristics of offenders who appear in means enquiry courts and on the various enforcement options open to the court, such as attachment of earnings, deduction from benefit and attendance centres. The data was collected in 25 magistrates courts in 1994 and 1995. One limitation is that it could not investigate enforcement measures carried out outside the courtroom e.g. issuing of reminder letters or distress warrants. Moreover while the research relies on reasons given by defaulters in court and on court records it was by no means possible to collect full information on the defaulters circumstances.

In describing the various enforcement options open to the courts Whittaker and Mackie (op cit: 12) note that despite the introduction of a provision in 1992 enabling deduction from welfare payments (similar to attachment of earnings) there did not seem to have been a reduction in committals to prison for fine default that might have been anticipated. In this study deductions in benefit were made from 5% of fine defaulters on benefit – mainly women.

Whittaker and Mackie found that:

- The average age of people appearing in court, at 31, was older than the average age of people normally appearing in the criminal courts, reflecting the fact that fines are less likely to be given to younger offenders.
- The proportion of women appearing in court is somewhat higher than the proportion of women fined – 25% compared to 19%.
- Only 22% of male defendants were in employment. Most people appearing were reliant on state benefit.
- The main offence types were summary motoring and public disorder – for men; and summary motoring and theft for women.
- About half the defendants had fines outstanding that were accumulated over repeated court appearances.

Though the average amount of outstanding financial penalties was stg£358 this statistic is skewed by a few people who had very large amounts outstanding. Moreover 7 out of 10 people had paid at least half of the original penalty when they appeared in court. On average almost 6 months elapsed between the penalty being imposed and the person appearing in court.

Defaulters most frequently said that they had not paid their fines either:

- because their circumstances had changed since the fine was imposed they could no longer afford to pay – the main reasons were illness of the offender or of a family member, or loss of a job;
- that they had other financial commitments or debts which meant they found it difficult to pay – in this context one in twenty offenders had an irregular income.

Refusal to pay a fine accounted for less than three percent of cases.

Half of the FEOs (Fine Enforcement Officer) interviewed said that many defaulters would pay their fines in between appearing in court and arriving at prison so that they were released immediately (op cit :24).

Being unemployed or with dependent children did not affect the likelihood of being committed to prison, though those who were married were less likely to go than single people.

The key factors magistrates took into account when immediate or suspended imprisonment were the length of time the enforcement had been ongoing and whether the defaulter had made any attempt to pay the fine at all.

In November 1995, after the research fieldwork was completed but before publication of findings, a legal decision was made that affected enforcement practices. The outcome being that, prior to issuing a committal warrant, courts had to show why each enforcement measure had either not been tried or had failed. Consequently the number of fine defaulters being committed to prison in the first half of 1996 was half the number in the corresponding period in 1995 (op cit: 39).

### **2.4.3 Sentencing Practice in Relation to Fines**

One of the aims of Flood-Page and Mackie's (1998) research on sentencing practices was to examine when fines were used and how they were set in relation to income. They also wanted to find out whether extra-legal factors, such as ethnic origin of the offender, influenced sentences.

They found that fines tend to be given to: first offenders, those convicted of summary offences – low level motoring, possession of drugs, or summary non-motoring offences.

According to Magistrates Association guidelines fines are fixed according to three (net) income bands:

- low income – about £100 per week;
- average income – about £250 per week;
- high income – about £600 per week.

Information on income was obtained on a means form which sought information on regular income and outgoings. If the offender did not complete the form it was assumed that they could pay the 'going rate', whatever it may be. If the offender failed to pay the fine it could be reassessed at a means enquiry.

As magistrates assumed that the maximum weekly amount a person receiving benefits could pay was between £3 and £5 per week, the maximum fine for unemployed offenders was normally between £150 and £250.

### **2.4.4. Alternative Penalties for Non-payment of Fines**

Under the Crime (Sentences) Act 1997 alternative penalties to imprisonment were made available such as community service orders, curfew orders enforced by electronic monitoring and driving disqualification. Elliot et al (1999) undertook research in 1998 in two areas where electronic monitoring (tagging) had already been piloted to assess the experience of alternative penalties to imprisonment for fine default in practice.



Data were collected from court records on all cases where the pilot measures were selected. Information was collected on 786 orders made under the Crime (Sentences) Act up to the end of 1998. 'Before' and 'after' samples of offenders given fines respectively in 1997 and 1998 were also collected.

Summary motoring offences were the most common category of offence for which defaulters had originally been fined.

Community service was the most popular measure imposed in both pilot project areas, accounting for approximately three-quarters of orders. The average order for community service was 59 hours. Curfew orders accounted for 12-13% of orders, the average length of curfew being 50 days.

While the majority of fine defaulters and petty offenders in the two areas were male and aged under 35 there was a wide range of ages – from 16 to 75 in the fine defaulters group.

Magistrates said they preferred community service because it was more positive than tagging or driving disqualification. Driving disqualification was not often appropriate as many offenders had already been disqualified. There was also a concern expressed that it could affect a person's ability to get work.

Most offenders interviewed thought the new measures were preferable to the alternatives such as prison or fines that they might have difficulty paying. For the cases for which the outcome was known 82% of orders under the new measures were completed. Though one of the aims of the measures was to encourage fine defaulters to pay all or part of the outstanding fine, few payments had been made by offenders to set aside any of the new measures. Feedback from court staff suggested that offenders found it easier to complete their orders than pay the fines.

The final report on this research will compare the use of imprisonment and the new measures before and after the pilots began.

## **2.5 Main Issues Emerging from Previous Research**

There is virtually no up to date information on the trend of imprisonment for fine default or civil debt in Ireland or on the characteristics of those imprisoned for fine default. Almost no research has been undertaken on these issues. The limited evidence from the report of the Dáil Sub-Committee on Crime and Punishment and from Bacik's (1997) study suggest that those imprisoned for fine default share the characteristics of the bulk of the prison population in that they tend to be from disadvantaged backgrounds.

UK based research has found that those committed for fine default were predominantly men, who tended to be unemployed and had other outstanding debts. It was found also that the majority of those committed had more than one set of offences on which they had outstanding fines.

UK based research suggests that alternative measures for fine defaulters can work.

In the case of both Ireland and the UK it is acknowledged that the offences for which people end up in prison for fine default are ones that would not normally result in imprisonment, being mainly motoring and public order offences.

The main reasons for non-payment of fines are changes in circumstances since the imposition of fines and the fact that offenders had other more pressing financial commitments that made payment difficult.

Regarding civil debt in Ireland, the scant evidence available strongly suggests that few defendants participate in the court process, with adverse consequences for themselves.

## CHAPTER 3

# Enforcement Process and Mechanisms of Financial Penalties and Civil Debt

---

### 3.1 Fines

When fines are imposed by a District Court judge, offenders are usually required to pay the fine (and costs if awarded against them) within a time period specified by the judge. The period typically varies from one week to several months. At the same time the judge will set a term of imprisonment to be served if the fine is not paid.

The procedure adopted at present is that the relevant court office for the area where the offender was fined in court prepares a warrant for the committal of the offender to prison on the expiration of the date of payment of the fine. This warrant is then signed by the judge and is sent to the Gardaí for execution. This warrant directs that the offender be taken to prison and lodged there to serve his/her period of detention in lieu of payment of the fine. In the vast majority of cases the offender will not reside in the Garda district. The warrant will then have to be forwarded to the Garda district which covers the last known address of the offender. If the warrant is not executed within six months it must then be returned through the same channels to the court to be reissued by the judge. In some cases it may not be reissued and in other cases it may be written off altogether. In the view of the Expert Group on the Probation and Welfare Service, these procedures are both wasteful and expensive (Ireland, 1998b: 50-51).

Currently there is no alternative to imprisonment for fine default. Neither District Court Offices nor the Gardaí may accept payment of fines imposed in criminal cases by instalment as the current law provides for payment of court fines in full by the due date.<sup>7</sup>

### 3.2 Civil Debt

Connolly (1997) describes the range of legal procedures available to a creditor seeking to recover payment of a legally enforceable debt. If a creditor has obtained judgement for an amount owing:

1. the creditor may register judgement in the Central Office of the High Court;
2. the Sheriff or County Registrar has powers to seize goods of the debtor in satisfaction of the debt;
3. examination order/instalment order/committal order: the creditor may serve – i) an examination order which calls the debtor before court to give evidence of his or her means; – after hearing evidence of means the court may make an ii) instalment order

---

<sup>7</sup>The value for money report by the Comptroller and Auditor General (2000: 45) points out that the Courts Service is considering the feasibility of fines payment by instalment.

requiring the debtor pay the debt by instalments; iii) if payment is not made the creditor may seek a committal order requiring the debtor to attend court to explain why he or she should not be committed to prison for non-payment of instalments.

4. judgement mortgage: if the debtor owns a house or lands the creditor may obtain judgement against the property securing the debt;
5. bankruptcy: the creditor may apply to court to have the debtor declared a bankrupt (the creditor must be owed at least £1,500 and a debtor must have property valued at a minimum of £1,500 which can be realised).
6. deed of arrangement: a procedure falling short of bankruptcy;
7. receiver by way of equitable/execution/garnishee: where a creditor applies to have a receiver appointed to take control of assets and to pay the amount due to the creditor.

A debtor may be imprisoned for up to three months for failure to pay the amount set out in a court instalment order.

This submission also offers some pointers as to how the Department of Justice, Equality and Law Reform could adjust the legal system in relation to debt enforcement, such as:

- ensuring legal documents which institute legal proceedings could explain in a clear fashion the consequences for the debtor;
- how the system might keep the debtor in the system – e.g. encouraging the debtor to make a repayment into court;
- ensuring that any instalments ordered by the courts are based on a realistic assessment of the debtor's income and expenditure;
- how a financial statement drawn up by a money advisor might become the basis for his or her ability to repay.

## CHAPTER 4

# Prison Based Data on Fines Offenders

---

### 4.1 Rationale and Methodology

Given the paucity of official information on committal for fine default for 1997 and beyond noted above, it was necessary to establish the trend in committals and the characteristics of those committed by utilising prison based information.

A new IT system, called Discovery 2000, was introduced into the prison service in 2000. However this introduction happened on a rolling basis during the year 2000 and because of this the system could not provide information for a complete calendar year. Moreover the query capacity of the system is still in the course of development and testing and could not generate the type of information required.

Therefore data for 1999 was extracted from prison records in Mountjoy, Cork and Limerick Prisons.

In the case of Mountjoy prison and Mountjoy Women's Prison: computer based records were available through one PC from the old VIS software. (The Prisoner Records System was developed by Wang in the mid 1980s and runs on a Wang VS 5660 written in COBOL and using a PACE relational database. The system was used in Mountjoy and St Patrick's from its introduction in the mid-1980s to September 2000 when it was replaced by the new PRIS system.)

While this information could be seen on screen it could not be printed out. After some experimentation it proved possible to cut and paste these data into a spreadsheet. Thereafter individual records were re-constituted by combining several 'cut and pasted' elements.

In the cases of Cork and Limerick prisons no computer based information was available. Information was manually copied from the prison ledgers.

### 4.2 Quality and Scope of Information

In general the following information was available:

- Gender and Age of offender;
- Whether could read and write (excluding Mountjoy);
- Occupation;
- Offence for which fine imposed;
- Fine amount for offence(s);
- Days sentenced;

- Date committed;
- Date discharged/left/transferred from prison;
- Amount of fine part-paid;
- Reason for discharge from prison.

These data enabled the establishment of two databases – one on offences and one on offenders. The rationale being that an offender may have been committed for more than one offence.

In this way information was compiled on 1,514 prisoners and on over 3,500 offences.

In some cases only total fine amounts were given for multiple offences. Similarly, in some cases the days sentenced for each offence was not available but only the maximum sentence in terms of days – which given that sentences of this nature are served concurrently would equate with the effective sentence. In a few cases the date of discharge and reason for discharge from prison is not provided though in some cases it is possible to deduce that the offender has obviously been discharged on completion of sentence.

### 4.3 Trend in Committals and Characteristics of Offenders

The following table gives the trend in committal to prison on a month by month basis for each of the three prisons.

**Table 1**

**Number of persons committed to prison for fine default or civil debt per month in 1999 by prison**

	Prison				Total
	Mountjoy	Cork	Limerick	Mountjoy Women's Prison	
January	65	29	40	3	137
February	63	35	32	7	137
March	52	44	34	6	136
April	77	46	32	6	161
May	57	33	27	6	123
June	44	22	31	5	102
July	42	34	21	7	104
August	41	23	15	8	87
September	54	26	30	7	117
October	72	31	35	7	145
November	67	30	52	8	157
December	51	32	20	5	108
<b>Total</b>	<b>685</b>	<b>385</b>	<b>369</b>	<b>75</b>	<b>1,514</b>

The monthly average is 126. Some seasonality is evident in the trend. In the summer months of June, July and August the average total number committed is 98. Whereas in months in the Winter and Spring such as October, November and April the average rises to 154.

Some 177 or 12% of the 1,510 offenders were women, with 75 of these committed to Mountjoy women's prison and 102 committed to Limerick prison.

The average (mean) age of offenders committed was 33. The average age of offenders in Mountjoy was 33, 32 in Cork prison, 33 in Limerick prison. At 36, the average age of offenders in Mountjoy Women's prison is somewhat higher though at 32 the average age of women offenders in Limerick prison is slightly lower than the norm.

**Table 2**  
**Age-group of offenders by prison**

Age-group	Prison				Total
	Mountjoy	Cork	Limerick	Mountjoy Women's Prison	
age up to 19	34	32	21	1	88
20 - 24	143	92	81	12	328
25 - 29	130	79	57	12	278
30 - 34	100	44	61	11	216
35 - 39	105	35	46	13	199
40 - 49	111	55	64	18	248
50 - 59	48	39	27	6	120
60 - 64	9	3	7		19
65 or over	5	4	3	2	14
Total	685	383	367	75	1,510

Information on the occupations needs to be treated with caution as for many offenders the question relates to whether they are working at the time they are entering the prison. Nonetheless, it is clear that about half the offenders are unemployed or have no regular occupation. Moreover the number of persons in professional or managerial occupations is tiny. This has clear implications for their income and capacity to pay fines or debts.

**Table 3**  
**Number of offenders by occupational category**

Occupational category	Frequency	Valid Percent
None or Nil	559	36.9
Unemployed	318	21.0
Trade – Carpenter, Electrician, Plumber etc.	79	5.2
Driver or Machine Driver	41	2.7
General Operative, Factory Worker or Fitter	31	2.0
Labourer	151	10.0
In training, apprenticeship or education	14	.9
Catering or bar work	32	2.1
Taxi Driver	8	.5
Farmer, fisherman or gardener	57	3.8
Shopwork or sales	11	.7
Computing, technician or service engineer	16	1.1
Building and construction and related	42	2.8
Security	6	.4
Administrative or Managerial	8	.5
Self-employed	15	1.0
Other	24	1.6
Not in labour force	46	3.0
Soldier	1	.1
Cleaner	6	.4
Street trader	8	.5
Missing	41	2.7
Total	1,514	100.0

Almost 8% of prisoners in Cork and Limerick prisoners were categorised as illiterate. The proportion who may have difficulties with reading and writing may be considerably higher as in practice what is noted on entry to prison is whether the offender can write his or her name.

#### 4.4 Number of Offences, Fine Amounts and Sentences

Table 4 below gives an indication of the types of offences for which persons are committed to prison. Motoring and Road Traffic Act offences account for almost two-thirds. Next in terms of frequency are public order type offences.

**Table 4**  
**Number of offences by broad category**

	Frequency	Valid Percent
Road Traffic Act/Motoring Offence	2,178	68.0
Breach of peace	195	6.1
Other Offence (non-ind)	113	3.5
Drunkenness	112	3.5
Threatening or abusive words	74	2.3
Debtors Act 1872 offences	64	2.0
Possess drugs (simple)	62	1.9
Revenue offence	53	1.7
Common assault	45	1.4
Malicious Damage	35	1.1
Miscellaneous	35	1.1
Fishery Act offence	29	.9
Larceny from shops or stalls	27	.8
No TV licence	26	.8
Receiving stolen goods	25	.8
Larceny or larceny from MPV	23	.7
Assault on Garda (non-ind)	17	.5
Failure to comply with/obstructing Garda	15	.5
Litter/Pollution offence	10	.3
Forgery or uttering	8	.2
Possess drugs w/i supply	7	.2
Loitering or begging	7	.2
Street trading offence	7	.2
Trespass and other offence	6	.2
U/T of MPV (non-ind)	5	.2
False pretences	4	.1
Street trading offence	4	.1
Cruelty/malicious damage to animals	3	.1
Entering as a trespasser	3	.1
Indecent exposure	2	.1
Possess of FA in suspicious circumstances	2	.1
Living off prostitutes earnings	2	.1
Arson	1	.0
Robbery	1	.0
Passenger in stolen MPV	1	.0
Possess house breaking implements	1	.0
Total	2,202	100.0
No information	311	
Total	3,513	



The next table offers a breakdown on the Road Traffic Act/motoring offences. Apart from the miscellaneous 'other RTA offence' category the most frequent types of offences are no insurance and no motor tax.

**Table 5**  
**Distribution of Motoring/Road Traffic Act offence by category**

Offence category	Frequency	Valid Percent
Other RTA offence	1,124	51.6
No insurance	413	19.0
No motor tax	163	7.5
Drunken driving	120	5.5
No driving licence or cert of roadworthiness	104	4.8
Illegal parking	63	2.9
No excise duty paid on MPV	43	2.0
No tax/insurance disk displayed	42	1.9
Failure to produce licence/insurance/certificate of roadworthiness	36	1.7
Dangerous driving	31	1.4
Careless driving	19	.9
Exceeding speed limit	19	.9
Total	2,177	100.0

Table 6 below gives a cross-tabulation of the number of offenders by prison and number of offences. The majority of offenders have been committed to prison for non-payment of a fine in relation to one offence. But there is some variation here between the three prisons. Most strikingly whereas 74% of offenders in Mountjoy, and 78% in Mountjoy Women's prison have been committed for one offence, the corresponding proportion in Cork prison is just under 30%.

**Table 6**  
**Number of offenders categorised by number of offences and prison**

Number of offences categorised	Prison				Total
	Mountjoy	Cork	Limerick	Mountjoy Women's Prison	
1 offence	507 74.0%	114 29.8%	172 46.6%	59 78.7%	852 56.4%
2 offences	78 11.4%	94 24.6%	86 23.3%	8 10.7%	266 17.6%
3 to 5 offences	73 10.7%	127 33.2%	73 19.8%	7 9.3%	280 18.5%
6 to 9 offences	21 3.1%	33 8.6%	25 6.8%	1 1.3%	80 5.3%
10 to 14 offences	4 .6%	10 2.6%	11 3.0%		25 1.7%
15 or more offences	2 .3%	4 1.0%	2 .5%		8 .5%
Total	685 100.0%	382 100.0%	369 100.0%	75 100.0%	1,511 100.0%

The total fine amount per offender and the number of offences for which committed are given in the Table 7. Some 54% of offenders are committed for one offence. However there is no clear correlation between the number of offences and the total amount of fines outstanding.

**Table 7**  
**Crosstabulation of total fine(s) amount category by number of offences**

Total fine amount category	Number of offences categorised						Number of offenders
	1 offence	2 offences	3 to 5 offences	6 to 9 offences	10 to 14 offences	15 or more offences	
Under £50	42	4	3				49
£50 to £99	132	25	10	3	1		171
£100 to £199	233	57	41	8		1	340
£200 to £299	155	46	43	5			249
£300 to £399	71	34	35	8	1		149
£400 to £499	38	26	34	4	1	1	104
£500 to £749	71	31	42	16	5		165
£750 to £999	29	10	22	11	3		75
£1,000 to £1,499	42	16	20	12	3	2	95
£1,500 to £1,999	9	2	5	3	4		23
£2,000 to £2,999	8	4	4	3	3	1	23
£3,000 to £4,999	8	2	1	1		2	14
£5,000 or more	1	1	1			1	4
<b>Total</b>	<b>839</b>	<b>258</b>	<b>261</b>	<b>74</b>	<b>21</b>	<b>8</b>	<b>1,461</b>

Over 50% of total fine amounts are below £300. But though total fine amounts of £1,000 or more account for 11% of individual cases they account for almost half of the total value of fines outstanding.

Table 8 below indicates the number of days sentence imposed. However, where an offender has had more than one sentence imposed the largest one is counted as the sentences are normally served concurrently. Almost half the offenders were committed for periods of less than 10 days.

**Table 8**  
**Maximum non-concurrent sentence**

Maximum non-concurrent sentence	Frequency	Valid Percent
1-4 days	133	8.9
5-9 days	525	35.3
10-14 days	123	8.3
15-19 days	415	27.9
20-29 days	44	3.0
30-39 days	62	4.2
40 days or more	186	12.5
Total	1,488	100.0
Missing	26	
<b>Total</b>	<b>1,514</b>	

## 4.5 Time Served and Reasons for Discharge

Table 9 below presents information on the actual number of days served in prison compared to the maximum non-concurrent sentence, which will generally be less than the maximum sentence the offender has been given. So while just under 10% of offenders were sentenced for period of 1-4 days almost three-quarters are discharged from prison within 5 days.

**Table 9**

**Crosstabulation of offenders by number of days served in prison and by maximum non-concurrent sentence**

Number of days served in prison	Maximum non-concurrent sentence							Number of offenders
	1-4 days	5-9 days	10-14 days	15-19 days	20-29 days	30-39 days	40 days or more	
0 days	54	200	23	112	7	10	28	434
1 to 4 days	65	275	64	177	21	26	76	704
5 to 9 days	7	32	23	78	4	11	27	182
10 to 14 days	4	5	6	31	3	5	12	66
15 to 19 days	1	1		3	3	2	5	15
20 to 29 days	1	2	1	2	5	5	14	30
30 to 39 days			3	4	1		10	18
40 days or more		8	3	7		2	13	33
<b>Total</b>	<b>132</b>	<b>523</b>	<b>123</b>	<b>414</b>	<b>44</b>	<b>61</b>	<b>185</b>	<b>1,482</b>

Its noteworthy that 434 (29%) of offenders essentially were discharged for various reasons on the same day they were committed to prison. About one third of these had paid or part-paid the fine in question.

Table 10 presents a cross-tabulation of offenders by age-group and reason for discharge from prison.

**Table 10**

**Crosstabulation of reason for discharge from prison by Age-group**

Reason for leaving prison coded	Age-group									Total
	aged up to 19	20-24	25-29	30-34	35-39	40-49	50-59	60-64	65 or over	
Discharge on expiry of sentence	9 10.2%	30 9.2%	28 10.1%	20 9.3%	22 11.1%	34 13.7%	12 10.0%	1 5.3%	5 35.7%	161 10.7%
Discharge on FTR w/o supervision	38 43.2%	130 39.8%	100 36.0%	76 35.3%	76 38.2%	76 30.6%	45 37.5%	6 31.6%	4 28.6%	551 36.5%
Discharge on full payment of fine	11 12.5%	33 10.1%	31 11.2%	18 8.4%	18 9.0%	15 6.0%	17 14.2%	1 5.3%	1 7.1%	145 9.6%
Discharge on part payment of fine	13 14.8%	51 15.6%	46 16.5%	51 23.7%	31 15.6%	49 19.8%	24 20.0%	2 10.5%	1 7.1%	268 17.8%

Table 10 – contd.

## Crosstabulation of reason for discharge from prison by Age-group

Reason for leaving prison coded	Age-group									Total
	aged up to 19	20-24	25-29	30-34	35-39	40-49	50-59	60-64	65 or over	
Discharge on payment of debt	1 1.1%	7 2.1%	13 4.7%	7 3.3%	11 5.5%	11 4.4%	4 3.3%	2 10.5%		56 3.7%
Discharge on remission of sentence		1 .3%	4 1.4%	1 .5%		1 .4%				7 .5%
Transferred to another institution	6 6.8%	44 13.5%	36 12.9%	30 14.0%	32 16.1%	42 16.9%	9 7.5%	5 26.3%	2 14.3%	206 13.7%
Released on mitigation of fines			2 .7%	1 .5%		1 .4%				4 .3%
Discharged on Weekly Renewable Temporary Release	10 11.4%	25 7.6%	16 5.8%	10 4.7%	9 4.5%	17 6.9%	7 5.8%	2 10.5%		96 6.4%
Discharged on payment of costs/compensation			1 .4%			2 .8%	2 1.7%		1 7.1%	6 .4%
Remanded to a court/or bailed		6 1.8%	1 .4%	1 .5%						8 .5%
Total	88 100.0%	327 100.0%	279 100.0%	215 100.0%	199 100.0%	248 100.0%	120 100.0%	19 100.0%	14 100.0%	1,508 100.0%

There is no significant relationship between age-group and the proportion of offenders paying fines in part or in full.

Almost 11% of offenders remained in prison until discharged on completion of sentence. The single most common way out for offenders is being released on weekly renewable temporary release and then on full-time temporary release without supervision.

A relatively small proportion of offenders pay fines in full when committed to prison.

Complete information is available for 44% (117) of the cases where offenders were discharged on part-payment of a fine.<sup>8</sup> An analysis of these reveals that of the total outstanding fine amount of £44,500 some £15,000, or 33%, was paid.

For those discharged on full payment of a debt the average debt was £831, the maximum paid was £5,250.

<sup>8</sup>This information is not available for fines offenders from Mountjoy prison and Mountjoy women's prison.

## 4.6 Relationship Between Types of Offences, Fines and Outcomes

Prison records are geared towards individuals as the unit of analysis or recording rather than the offence. However the quality of information recorded on each offence is variable. In some cases a fine amount and sentence will be recorded for several offences, for example “no motor tax and 6 other RTA” (i.e. Road Traffic Act offences).

Therefore to examine, in particular, the relationship between fine amounts, types of offences, sentences (in lieu of payment) and outcomes (actual days served in prison, reason for discharge from prison), it is useful to restrict the analysis to offenders committed for one offence. This analysis is based on records for 841 offenders. The distribution of offences is given in Table 11 below. The pattern is similar to the distribution of offences described above, in that motoring/road traffic act offences form the single largest category.

**Table 11**

**Distribution of offences by broad offence category (restricted to one offence offenders)**

Broad offence category	Frequency	Valid Percent
Road Traffic Act/Motoring Offence	372	47.4
Other Offence (non-ind)	59	7.5
Drunkenness	45	5.7
Threatening or abusive words	44	5.6
Debtors Act 1872 offences	42	5.4
Breach of peace	35	4.5
Possess drugs (simple)	30	3.8
Larceny from shops or stalls	24	3.1
Revenue offence	17	2.2
Common assault	16	2.0
Miscellaneous	15	1.9
No TV licence	14	1.8
Malicious Damage	13	1.7
Receiving stolen goods	9	1.1
Assault on Garda (non-ind)	8	1.0
Fishery Act offence	8	1.0
Street trading offence	7	.9
Trespass and other offence	5	.6
Forgery or uttering	4	.5
Larceny or larceny from MPV	3	.4
Litter/Pollution offence	3	.4
Possess drugs w/i supply	2	.3
Loitering or begging	2	.3
Failure to comply with/obstructing Garda	2	.3
Living off prostitutes earnings	2	.3
Indecent exposure	1	.1
False pretences	1	.1
Possess of FA in suspicious circumstances	1	.1
Total	784	100.0
Missing	57	
Total	841	

As evident from Table 12 below<sup>9</sup>, on average longer sentences are manifest for offences such as larceny and assault. Motoring or road traffic act offences can also attract long sentences, especially in cases of no insurance, drunken driving or dangerous driving, while public order type offences are associated with smaller sentences.

**Table 12**

**Average number of days sentence by broad offence category (limited to offenders committed for one offence)**

Offence category	Mean	Median
Larceny or larceny from MPV	33.3	5.0
Receiving stolen goods	31.8	15.0
Revenue offence	18.1	15.0
Forgery or uttering	17.5	10.0
Assault on Garda (non-ind)	17.1	9.5
Malicious Damage	16.5	15.0
Road Traffic Act/Motoring Offence	16.5	12.5
Debtors Act 1872 offences	16.3	9.0
Failure to comply with/obstructing Garda	15.0	15.0
Living off prostitutes earnings	15.0	15.0
Miscellaneous	14.1	9.0
Fishery Act offence	13.1	15.0
Litter/Pollution offence	11.3	14.0
Other Offence (non-ind)	10.9	5.0
Common assault	10.6	10.0
Drunkenness	9.9	10.0
Larceny from shops or stalls	9.1	7.0
Loitering or begging	9.0	9.0
Breach of peace	9.0	5.0
Street trading offence	7.9	5.0
No TV licence	7.6	5.0
Threatening or abusive words	6.6	5.0

<sup>9</sup>Excludes categories of offences of which there was only one instance among the 841.

Table 13 below shows the relationship between types of offences and average fine amounts.<sup>10</sup> Though the average fine amount for one offence offenders is £200 (median) the range of fine amounts is quite broad.<sup>11</sup>

**Table 13**

**Average fine amount by broad offence category (restricted to one offence offenders)**

Broad offence category	Mean	Median
	IR£	IR£
Debtors Act 1872 offences	870	644
Receiving stolen goods	571	200
Possess drugs w/i supply	500	500
Revenue offence	440	250
Larceny or larceny from MPV	417	125
Litter/Pollution offence	300	250
Other Offence (non-ind)	298	200
Road Traffic Act/Motoring Offence	263	200
Malicious Damage	258	250
Fishery Act offence	249	163
Common assault	235	200
Living off prostitutes earnings	225	225
Miscellaneous	197	80
Street trading offence	177	150
Possess drugs (simple)	177	200
Trespass and other offence	165	100
Assault on Garda (non-ind)	157	130
Threatening or abusive words	155	100
Forgery or uttering	151	103
No TV licence	148	115
Larceny from shops or stalls	110	100
Breach of peace	109	100
Drunkenness	88	100
Failure to comply with/obstructing Garda	78	78
Loitering or begging	73	73

To some extent the same pattern is apparent in that criminal type offences are associated with larger fines, while public order type offences carry smaller fines.

<sup>10</sup>Cases where there was only one instance of the offence are excluded.

<sup>11</sup>The distribution of fine amounts is not normally distributed. It is positively skewed. In such a case the arithmetic mean is not a good descriptive statistic. The median is not affected by extreme values to this extent and is a more appropriate statistic to use as an average.

## 4.7 Conclusions

Establishing the characteristics of persons committed to prison for fine default or civil debt from prison record sources presents difficulties in terms of both the labour intensive nature of the process but more critically in relation to the uneven quality of information available. Apart from the fact that basic information concerning offence description, fine amount and sentence is not available in all cases the description given to offences can vary from month to month and from prison to prison depending on the concepts invoked by those recording the information.

Despite these reservations some conclusions can be drawn.

- Seasonality is evident in the trend of committals for fine default or civil debt, with numbers declining in the summer months.
- The vast majority of persons committed are male, with many being either unemployed or in unskilled occupations.
- Motoring/Road Traffic Act offences account for almost two-thirds of those for which persons are committed to prison for fine default.
- The majority of offenders have been committed to prison for non-payment of a fine in relation to one offence. But there is some variation here between the four prisons.
- There is no clear correlation between the number of offences and the total amount of fines outstanding.
- Over 50% of total fine amounts are below £300.
- Almost half the offenders were committed for periods of less than 10 days and three-quarters of offenders committed are discharged from prison within 5 days of committal.
- The single most common way out for offenders is being released on weekly renewable temporary release and subsequently on full-time temporary release without supervision. Only a relative small number of offenders pay their fines in full.
- On average longer sentences are manifest for offences such as larceny and assault. Motoring or road traffic act offences can also attract long sentences, especially in cases of no insurance, drunken driving or dangerous driving, while public order type offences are associated with smaller sentences.



## CHAPTER 5

# The Offenders Experience of the Process

---

### 5.1 Objectives of Interviews

While an analysis of prison records can describe the characteristics of offenders and offences concerned with fine default it cannot in itself contribute to an understanding of the process and train of events from offence, conviction, to imprisonment from the offenders perspective. This is the aim of the interviews.

More specifically the interviews sought:

1. To detail the circumstances of the interviewee, especially in relation to personal/family circumstances of poverty and indebtedness;
2. To document the interviewees course of contact with the criminal justice system;
3. To come to an understanding of the motivations and decisions underlying the offence for which they were committed;
4. To identify the critical points at which decisions around payment and non-payment are made;
5. To explore alternatives to fines, and/or means of payment and to thereby highlight gaps in existing service provision to make recommendations to address these gaps.

In all 24 interviews were undertaken.

### 5.2 Roles of Questionnaire and Interview

Prior to the interview proper, interviewees were asked to complete a short questionnaire. This was devised to enable background information on interviewees to be compared in a systematic way. More specifically the questionnaire included questions on income adequacy and debt to establish, albeit in a limited way, the extent to which interviewees were living in poverty, with obvious implications for their capacity to pay fines or civil debts.

The information emerging from the questionnaires is dealt with in section 5.4 below whereas section 5.6 deals with issues emerging from the interview itself.

### 5.3 Making Contact

Given the generally short duration of committal for persons in prison for fine default or civil debt it was not practical to identify in advance potential interviewees and write to them explaining the purposes of the research and seeking their consent to interview.

Through the Prisons Division of the Department of Justice, Equality and Law Reform, contact was established with Mountjoy, Limerick, and Cork prisons, Loughan House and the Dochas Centres (women’s prison adjacent to Mountjoy). In consultation with the prison governors and department officials, an explanatory circular to potential interviewees was drawn up. This explained the purpose of the research, the confidential nature of the interview. There was a space at the end of this circular where potential interviewees could sign indicating their consent for interview.

When prisoners consented to interview the prison authorities contacted the researcher who came to the prison for the interview as soon as possible.

## 5.4 Interview Settings

Interviews were undertaken in rooms or cells that had been made available by the prison staff. All interviews were conducted with only the researcher and the interviewee present in the room.

In general, following an explanation of the rationale for the research, the interview typically began by ascertaining the offence for which the person has been committed and the fine amount. From this starting point it was usually possible to work back to the circumstances of the offence, the court appearance (if any). At the same time raising issues to do with payment of fines or debts invariably brought forward matters pertaining to the interviewees working and living situation.

The length of interviews varied from 10 to 45 minutes. Some interviewees would respond to questions and prompts while others were willing and indeed eager to tell of their experiences. None of those interviewed withdrew their co-operation during the course of the interview.

## 5.5 Background Characteristics of Interviewees

Just over half the interviews were undertaken in Dublin prisons. Of the 24 interviewees, just two (8%) were women. As evident from the prison records analysis above, the number of women committed for fine default or civil debt is relatively few compared to men and the number of potential women interviewees was consequently small during the period available for the research.

**Table 14**  
**Distribution of interviewees by prison**

Prison	Frequency	Valid Percent
Mountjoy	11	45.8
Cork	5	20.8
Limerick	3	12.5
Loughan House	3	12.5
Dochas Centre	2	8.3
Total	24	100.0

The average age of interviewees was 33 years of age. However if one interviewee who was 78 years of age at the time of interview is excluded the average age falls to 31 years. (In either case the mean age is very close to that of the offenders considered in the analysis of the 1999 prison records.)

**Table 15**  
**Crosstabulation of age-group of interviewees by gender**

Count

Age-group of interviewees	Q1 Gender		Total
	Male	Female	
Under 20	2	1	3
20-24 years	5	1	6
25-29 years	5		5
30-39 years	4		4
40-49 years	1		1
50-59 years	4		4
60 or over	1		1
<b>Total</b>	<b>22</b>	<b>2</b>	<b>24</b>

Of the 24 interviewees, 15 had children aged under 15 years of age. However two of these were separated from their partners and not living with the children therefore effectively 13 of the interviewees had child dependents.

Eleven of the interviewees were unemployed, while four of the interviewees could not participate in the labour force due to disability or illness. Just six (one-third) of the interviewees were in paid employment.

**Table 16**  
**Labour force status of interviewees**

Labour force status	Frequency	Valid Percent
Employed	6	25.0
Self-employed	2	8.3
Unemployed	11	45.8
Working in the home	1	4.2
Unable to work due to illness or disability	4	16.7
<b>Total</b>	<b>24</b>	<b>100.0</b>

However, according to the interviewees own accounts, it is clear that in many cases even this employment is intermittent and casual.

**Table 17**  
**Descriptions of occupations of interviewees who were employed or self-employed**

Cases	Description of Occupation
1	Family business – window cleaning
2	Screen printer
3	Labourer
4	Painter and decorator
5	Labourer
6	Electrician – self-employed re-conditions cookers, washing machines
7	Comis Chef – for about one month working in security before that
8	Flooring, site labouring on a casual basis

Not one of the interviewees was in permanent employment.

**Table 18**  
**Period since last employment**

Period	Frequency	Valid Percent
0-3 months	4	40.0
4-6 months	2	20.0
1-2 years	1	10.0
Over 2 years	3	30.0
Total	10	100.0

<sup>a</sup>Excludes one interviewee who had been retired for a number of years.

Only two of the interviewees had completed second level education and over half had left schooling without sitting for the Junior Certificate examination or its equivalent. In the course of the interviews it was established that two of the interviewees could not read or write.

**Table 19**  
**Highest level of education completed**

Highest level of education completed	Frequency	Valid Percent
Primary only	4	17.4
Some second level	9	39.1
Second level to Junior/Inter/Group Cert	8	34.8
To Leaving Cert or equivalent	2	8.7
Total	23	100.0
Missing	1	
Total	24	

## 5.6 Income Adequacy

### 5.6.1 Methodology

Callan, Nolan and Whelan (1993) at the ESRI have developed an approach to the measurement of poverty using both measures of income and deprivation indicators. This serves as the basis of the definition of poverty agreed by the Irish government in its National Anti-Poverty Strategy, which states:

“People are living in poverty if their income and resources (material, cultural and social) are so inadequate as to preclude them from having a standard of living which is regarded as acceptable by Irish society generally. As a result of inadequate income and resources people may be excluded and marginalized from participating in activities which are considered the norm for other people in society”. (Ireland, 2002: 4)

Income poverty was measured using relative poverty lines, calculated as proportions of average household or personal income. Three different poverty lines were used corresponding to 40%, 50% and 60% of the average disposable income.<sup>12</sup> For a single person in 1998 the 50% line was £94 and the 60% line was £112.<sup>13</sup>

<sup>12</sup>Median rather than mean income is used as the average. If the values are arranged from lowest to highest then the middle value in the array is the median. (If there is no exact middle value because there is an even number of cases then the two central values are added and divided by two to calculate the median.) Unlike the arithmetic mean the median is not influenced unduly by extreme (untypical) values.

<sup>13</sup>Layte, R. et al (2001:16).

If these are adjusted in line with the consumer price index, for a single person the 50% line for a single person is estimated to be £107 while the 60% line is estimated to be at £127.<sup>14</sup> (This is only a crude estimate as no more recent information is available on the distribution of household or personal incomes that would enable new averages to be calculated.)

In the case of the material deprivation in the 1987 ESRI survey respondents were given a list of twenty items and asked which ones they believed were necessities that every household should be able to have and were then asked whether they had or could avail of these items. Three underlying dimensions of material deprivation were hypothesised (Callan et al, 1996:108):

1. Basic life style dimension – (8 items) refers to “things that every household should be able to have and that nobody should have to do without” (Callan and Nolan, 1996:112):—
  - i) whether had to go through the day without a substantial meal; ii) whether have been short of fuel – gone without fire or heat on a cold day; iii) in debt (on utilities, loan arrangements, rent or mortgage); iv) gone without a meal with meat chicken, fish every second day; v) not having warm waterproof coat, vi) not having two pairs of strong shoes; vii) having second hand rather than new clothes viii) a roast meat joint or its equivalent once a week.
2. Secondary life-style dimension – consisting of access to (9 items):- annual holiday away from home; to be able to save some of one’s income regularly; a daily newspaper; telephone; a hobby or leisure activity; central heating; presents for family and friends once a year; car; being able to afford an afternoon or evening out in the previous two weeks.
3. Housing/durables dimension – ( 6 items) relating to housing quality and facilities:- access to non-shared bath/shower, access to non-shared toilet; access to washing machine; access to fridge; access to colour TV; access to a dry damp-free dwelling.

The items comprising the basic life-style dimension index represent socially perceived necessities – things that every household should be able to have and that nobody should have to do without.

Callan and Nolan (1996:116-7) consider that households suffering from an enforced lack of two or more basic life style items are suffering basic deprivation. Yet, they argue that even an enforced lack of one item should be employed to indicate generalised deprivation. Households in poverty are those identified as both suffering from relatively low income and from enforced lack of basic items.

To capture information on relative income poverty and basic deprivation the questionnaire included a question asking whether the respondent had access to or could avail of these items. It also asked the respondent to state what was their weekly income.

For the purposes of this research the combined income poverty and deprivation criteria mean that a person is in poverty if their income is below the 60% income line and they are suffering the enforced lack of at least two basic lifestyle items.

---

<sup>14</sup>There has been a change of 13.4% in the CPI from November 1998 to November 2001, Consumer Price Index November 2001, CSO, December 14th 2001.

## 5.6.2 Findings on Deprivation

### 5.6.2.1 Basic Deprivation

Some 13 (56%) of the 23 interviewees for whom the information was available were found to be suffering from the enforced lack of at least two basic deprivation items.

**Table 20**  
**Number of basic deprivation items lacking**

Number of basic deprivation items lacking	Frequency	Valid Percent
0	3	13.0
1	7	30.4
2	3	13.0
3	6	26.1
5	3	13.0
6	1	4.3
Total	23	100.0
Missing	1	
Total	24	

Of the 24 interviewees, 6 were living in the parental household. In these cases the questions regarding enforced lack of household items and also questions about arrears on household utilities are patently not applicable. This is because their access to these resources is largely a function of the parent(s) circumstances and income. Yet even among the six interviewees living in the parental household three were experiencing enforced lack of at least one item. Even if these are excluded, the number of interviewees found to be suffering from the enforced lack of at least two basic deprivation items is still 12, or 66% of the sub-total.

### 5.6.2.2 Secondary Deprivation and Housing Deprivation

Considering secondary deprivation, and excluding the six interviewees living in the parental home, the table below shows that all the interviewees were experiencing enforced lack of at least two of the nine secondary life-style deprivation items.

**Table 21**  
**Number of secondary deprivation items lacking (excluding interviewees living in the parental household or those living on the streets)**

Number of secondary deprivation items lacking	Frequency	Valid Percent
2	3	21.4
3	1	7.1
4	2	14.3
5	4	28.6
6	2	14.3
7	2	14.3
Total	14	100.0

The following table shows the number of housing deprivation items lacking by interviewees. As with the basic deprivation items, those interviewees living in the parental home are excluded from consideration. Obviously the three interviewees living on the streets suffer from a lack of all six items. Disregarding these, of the remaining 15 interviewees 8 were suffering from an enforced lack of at least one item.

**Table 22**  
**Number of housing dimension items lacking**

Number of housing dimension items lacking	Frequency	Valid Percent
0	9	50.0
1	4	22.2
2	1	5.6
6	4	22.2
Total	18	100.0
Not applicable <sup>a</sup>	6	
Total	24	

<sup>a</sup>The not applicable category includes 6 interviewees living in the parental home.

### 5.6.3 Findings on Relative Income Poverty

The second aspect of poverty concerns income. Even in those few cases where a weekly income was not forthcoming in the questionnaire it was possible, by reference to the interview proper and to the type of social welfare income that the interviewee was drawing, to make a deduction about the likely level of weekly income. For two interviewees it was not possible to establish their position in this respect as their weekly income varied because of the casual nature of their employment.

Bearing this in mind, of the 24 interviewees, 14 (58%) had weekly incomes below the (1997 and estimated 2001) 60% relative income line. Some 13 (54%) were also below the 50% relative income line.

In this context it is important to bear in mind that payment of fines for anybody in employment will come from their net income. So, in order to pay a £250 fine the offender is likely to have to earn £300 or £350 gross.

### 5.6.4 Conclusion on Material Deprivation and Relative Income Poverty

Of the 21 respondents for which information was available, 9 (42%) had incomes below the 60% relative income line and were experiencing an enforced lack of at least one item that is considered a necessity for any household.

The interviewees are not a representative cross-section of society in general. For example, none of the interviewees owned their house or flat (either outright or on a mortgage), none had a permanent job. Nearly all had left school before or at the minimum school leaving age. Those who were in employment worked in predominantly unskilled manual occupations. This is perhaps not so surprising given O'Mahony's (1997) profile of Mountjoy prisoners which revealed that they came overwhelmingly from disadvantaged areas of Dublin city.

These individuals are living in poverty. It follows that these individuals would have difficulties coming up with a lump sum to pay a fine or fines, though that may be relatively modest in comparison to the average industrial wage.

## 5.7 Issues Emerging from Interviews

### 5.7.1 Introduction

Whereas the questionnaire data enables the characteristics of interviewees to be established, the main aim of the interviews is to understand the process from the offenders point of view. In particular their perception of events is important in coming to an understanding of their decisions and non-decisions that ended in imprisonment.

In the following sub-sections the material is organised thematically. Therefore extracts from different interviews are combined. However in each case the interviewee number is provided to enable individual experiences to be followed.

### 5.7.2 Types of Offences

The following table gives an indication of the types of offences for which the interviewees were committed.

**Table 23**  
**Type of Offences for which interviewees committed**

Type	No.	%
Road Traffic Act offence(s)	14	58%
Public order	4	17%
Civil Debt	2	8%
Possession of drugs (simple)	1	4%
Drunkenness	1	4%
Forging	1	4%
Revenue	1	4%

The distribution of offences is broadly comparable to that emerging from the analysis of the 1999 prison data. This suggests that, at least in these terms, the interviewees are representative of the population of those in prison for non-payment of fines or civil debt.

Interviewees could recall in varying degrees the offences for which they were committed for non-payment of fines. In some cases interviewees were not aware of the offence event. For example one interviewee fined for a motoring offence explained that someone else may have given the Gardaí his name and address:

“That fine was from last year, when I was in the treatment centre. I wasn’t even asked about it I was just handed it. To this day I don’t even know whether it was me. It could have been anyone in the area who gave my name, date of birth. There’s a lot of people round the estate, friends from school. There’s not a lot you can do”. [1]

This interviewee explained that he had been in a drug treatment centre at that time. Another interviewee recounted that he was already in prison:



“No tax and insurance on a car. I got summonsed to court but I was already locked up. I was in St. Patrick’s at the time and I didn’t know I got the summonses. I probably, I’m not saying I would have paid, but I probably would have if I’d known.” [14]

But drink also features, especially with public order offences:

“You know yourself, drink like – too much. It’s just a phase as far as I’m concerned. As far as I’m concerned it’s a long time since I’ve been in bother. Well a long time for me.” [7]

“I was at a christening one night, a family christening. Everything was going grand until an argument broke out between my two cousins and their father and one of my cousins, he’s blind, they took him outside the pub in fairness. And I was trying to get outside the pub just to make sure he didn’t get a belt where he shouldn’t have got a belt ‘cos he can’t see nothing. So while I was going out the barman wouldn’t let me out. He locked the doors. He wouldn’t let nobody out or in and he just kept pushing me and I told him numerous times not to push me and I just lost the head basically and I hit him and I got out the side.” [8]

. . . and motoring/Road Traffic Act offences:

“Yea . . . I was stopped, I hadn’t got much drink on me though. I was just over the limit. So I just got caught.” [11]

Though not always in the usual way:

“It was a mates car I was dropping home. He was too drunk so I dropped it home. I wasn’t drinking so I was staying sober and I drove the car home and that’s where I got lifted. It was bad in a way and good in another way if you know what I mean. I know if I’d crashed the car I weren’t insured but at least he wouldn’t go in it pissed drunk.” [16]

### 5.7.3 Civil Debt

Two of the interviewees had been committed for non-payment of a civil debt. In one instance the debt was a maintenance payment in the other the validity of the debt was disputed. Both these cases, each in their own way, may have arisen because of problems of communication between the interviewees and their creditors.

In the first case the interviewee had been committed for non-payment of a maintenance debt to his girlfriend of £850. He describes what happened, explaining that because payments to his girlfriend were not officially registered the court considered that he had reneged on the arrangement.

“Yea . . . we went to Dolphin House, I think it was in April we were in Dolphin House and we agreed to pay £40 per week. So I was giving her £40 per week before receiving a receipt from Dolphin House. I’d send a receipt in with the payment, a postal order, each week. And she was stuck for money so I was giving her cash while I was waiting for the receipt.” [19]

Delays caused problems:

“Well, you see Dolphin House send out the receipt. It should have been there within two or three weeks it took me six weeks. . . . I shouldn’t have even given her the money until I got the receipt but what could I do I can’t leave her without money. . . . It’s a tricky situation.” [19]

He came to court not relying solely on his account:

“I had witnesses but the judge wouldn’t even listen. I had people there to say I gave her £300 before she went away. Like that was 5 or 6 weeks worth of £40. The judge didn’t even want to listen – 30 days straight away.” [19]

The other case is noteworthy in that it concerned a elderly man (78) committed to prison for 5 days in a dispute over a civil debt of £70. The debt related to a non-refundable deposit on a holiday cottage for a weekend. The interviewee owned the cottage. A woman came to inspect the cottage one week-end. She was not happy with the accommodation. The owner explained that she could leave and have her £70 deposit returned. In the event she complained but stayed and did not pay the balance owing for her accommodation.

“She said “I’m not paying”. So she didn’t leave until Monday afternoon – Friday, all day Saturday, all day Sunday and Monday – she still wouldn’t pay. So she drove back up to Dublin where she lived and then she filed a suit against me, trying to get her £70 back that she’d given me. And then I guess with the money she had to pay [in legal costs] it came to £150.” [21]

The interviewee felt strongly that he was in the right and that he would have won his case in court. However problems appear to have arose because the hearing was to be in Dublin.

“And so I wrote to the County Court, first I called them, I talked her up [name of court clerk]. I said “I’m handicapped, I can’t get to Dublin. I’ve got a doctor that will sign it.” She said “send that to me, we’ll show it to the judge and get it into the X court”, which would have been fine. I could have made it there.” [21]<sup>15</sup>

But the case was not moved to a court in his area. In his absence the case went against him with £150 being awarded against him to his protagonist. He was unwilling to pay this because he felt his side of the case was not heard. Thereafter he was notified by letter of a payment hearing in Dublin.

“And again it was in Dublin and again I called the court clerk. She says “well, I can’t do anything about that, sorry” and hung up. So then I get a letter from the judge in year 2000, late in 2000, either I pay her the £150 or I do five days in jail. I couldn’t believe it. I said [to the court clerk by phone] “I don’t understand this at all. I tried to tell you to have it transferred to the court [in X]. I couldn’t get there [to Dublin]. I have a doctor’s letter that says that.” [12]

He explained that:

“I had a doctor write a letter and they still ignored that – twice. In fact when I drove up here they have a doctor’s letter right here on their possession showing what I had to have when I’m here. I have blood clots I have to have my blood clot medicine and I have arthritis in my hands and knees and I have to have that medicine every day and my calcium pills. So they know that for a fact . . . ” [21]

During the course of the interview the researcher took pains to check with the interviewee several times that the crux of the problem was that his efforts to have the case heard in a place nearer his residence were unsuccessful, despite initial indications from the court office that this could be arranged.

---

<sup>15</sup>This interview with this man was undertaken in the medical wing of the prison. He made his way into the interview room with sticks.

In this case committal to prison for 5 days happened not because of the interviewee's incapacity to pay but because he took what he regarded as a principled stand.

"What was the clerk doing? Why didn't she answer? Did the judge ever see those letters I sent to her? I don't know, I have no way of knowing, and who was the judge? I still don't know." [21]

## 5.8 Living Circumstances

Beyond the immediate events of the offence, the life circumstances of the offender has a large part to play in the subsequent course of events.

As indicated above, several of the interviewees were homeless<sup>16</sup>:

"Well I came home from England and I ended up staying with my brother. We'd had a falling out over this that and the other. So I ended up on the streets. I was on the streets for about 4 or 5 weeks. A local councillor came down and took me out of the park where I was sleeping. He says 'X go and get yourself a flat – we'll be able to get you a – what is it – a housing allowance. And the council will give you a deposit if the landlord needs a deposit'. So I went off again to try and get the flat – no one entertained me." [4]

"Mom died about five years ago and the house was sold. My young brother got it and I applied to the Council and after 18 months they sent the forms back out to the house and the house was already sold and we didn't even know about it." [12]

". . . you see the address they have for me is the family home and that's been signed over by the father to the eldest brother and his girlfriend and their kids. So I was sort of left in the lurch then. I had a tent. I keep it in the area where I grew up in X in Z." [15]

Becoming homeless may be a partially linked to other problems:

"Well I was basically homeless, strung out to bits on drugs. I wasn't in the right frame of mind when I went to the doctor, I actually got greedy when I went to the doctor. He was after looking me already. I was getting by, by day, the tablets were helping, just basically if you were cold and couldn't sleep the tablets would put you asleep and the next day they're right. All you do is take it day by day, that's all you can do. And when I did do it I was on tablets and I know if I hadn't have taken them, I wouldn't have done it, I wouldn't have went into the pharmacy with a false prescription. Obviously I wasn't in the right frame of mind doing it." [23]

"I had a bad reputation over drugs and things like that so I get the money of the social welfare and all that but as soon as people find out who I was I'd be chucked out again. . . Just packed in the drugs and all that and went back on the drink just to pass the time away during the day and it was easier to go to sleep at night if you were drunk. [12]

In addition to problems relating to alcohol and drugs, difficulties in relationships with partners also figure prominently in the accounts of some interviewees.

"Well, I had a drink problem then when I left the . . . when we separated first, started drinking everything. And then I had money, at that time I was with a band. Also it was free [the drink] you can't refuse it. . . . when I broke up with the family I just didn't care anymore.

---

<sup>16</sup>While 3 of the interviewees were living on the streets at the time of the interview a fourth interviewee was also homeless at the time of the offence. Another interviewee was intermittently homeless through a barring order.

I just used to put them [the fines notices] into a drawer or something like that, forgot all about them.” [6]

“I had a problem with drugs since I was 12 or 13 years of age. . . . Like the background of family for me is not too good . . . Yea . . . the way it was they [the tablets] helped me forget me past and things that happened to me. My father drinks a lot – so it can be hard.” [23]

For some interviewees, the nature of problems arising in these cases understandably create more immediate and urgent demands which overshadow the payment of fines:

“So eventually, I was on the verge of suicide. Lets put it like that, I was on the verge of suicide because my whole life was turned upside down. And every policeman in X knew me name and they knew I had a barring order. Eventually when I got myself dried out a little bit. I got barred out of the hostel. They wouldn’t let me into the hostel in X.” [13]

“It doesn’t weigh with me at all. Like it I though I was going to be executed, I know it sounds silly, but it would be the same I think. I think after the loss of my child that was it for me with life so I don’t really care what I do or where I end up or what happens.” [15]

## 5.9 The Court Process

Interviewees were asked about their experience of court. Two aspects are of note. Not all interviewees were in court, and even where interviewees had been their understanding of the setting and process is often very limited.

There are various reasons why interviewees did not make it to court. Especially for the interviewees in the younger age group summons and reminders were in many cases addressed to the parental home.

“When I was away I do caddying. When I was away I couldn’t go to court.” [1]

“I stopped living in my mother’s as well. I was not livin’ on the streets but I was livin’ in town in B & Bs with me girlfriend.” [3]

“I think they [summons] went to my Ma’s gaff at the time. I was never told about them myself.” [14]

“So, like most of the post that would be written from the court gets sent there. I have no relationship at all with that brother since he got the house.” [15]

For those interviewees who were living on the streets:

“. . . these fines all came into the house when I was on the streets. . . . I never made a court appearance.” [13]

“Yea . . . never turned up in Court that day because I wasn’t really sure whether it was that Wednesday or the Wednesday afterwards ‘cos I had a drink problem most times.” [12]

One interviewee recalls he was actually in custody at the time of his court date.

“I only got out in January and I was supposed to be in court in December. But I was in there [in prison] at the time so there was nothing I can do. I never heard anything about these fines until yesterday.” [14]

Problems can arise also liaising with legal representatives.

“No, I was there for the first one but it was put back and the solicitor was supposed to notify me about it and he never notified me [of the date for the hearing]. I wasn't there and they gave me three years off the road. There was nothing I could do about it.” [5]

Some interviewees were simply not aware of their requirement to attend court.

“I don't know whether there was a court date. There was a warrant .. or there was court date and there was a fine.” [16]

“ . . . the summons come out but I never got it and I got fined and all on it. . . . [17]

Some interviewees recall speaking up on their own account in court.

“I told the judge there's no way I can get £300, that I'm on the streets and practically homeless.” [4]

“I can't really remember to tell you the truth. I didn't say a lot. The solicitor stood up for me and he said all the stuff like. I think I just apologised at the end of the case. That's about it.” [18]

Yes I had a chance to speak and I told him I had to bring a child to a doctor and he said like “£380 and three months to pay” and like if you don't pay 15 days. [24]

On the other hand some felt that what they, or their legal representative said, made no difference to the outcome.

“I told him I was working, that I'm on £8 an hour now and I'd have no problem paying it at £100 or £150 a week I just barely got it out. I don't think he was even listening to me when I said it.” [19]

One interviewee had a particular Machiavellian strategy:

“I wasn't working at the time but I told him I was because . . . the judge down in X . . . I'd say he would have given me a month in prison if I said I wasn't working, so I told him I was working and he gave me that big fine. So I suppose it was half my fault as well.” [10]

The interviewees' experience is that there is virtually no negotiation or debate about the time or means of payment.

“I asked could you pay off the fine weekly but he said no you have to pay it off in full. So he went bang – three months – £100 a month to pay and that's it end of story.” [5]

“It was a lot of money to me like, £1,300. I offered to pay a certain amount every week but they weren't havin' it like.” [7]

“No, it was just over quickly.” [11]

Only one of the interviewees had used the fine appeals process. As far as can be established from their own accounts virtually no assessment of their means and capacity to pay fines occurs.

One interviewee did not realise he had been sentenced:

“No, to be honest I didn't really know what was happening. I thought everything was grand. I remember him saying 30 days but I didn't hear him say 'Mountjoy', 'remanded in custody' or anything. So he goes right that's it. I stood up. I went to walk out with her to go and get

a cup of coffee afterwards and one of the policemen just grabbed me back in and I says 'where are we going?' 'Mountjoy.'" [19]

Another was later disconcerted to later find he had a £500 fine:

"I was sitting in the court. All I got was a receipt for £250 plus a receipt for £50 the first time." [2]

## 5.10 Reasons for Non-Payment

Apart from three cases (1 civil debt and 2 fines) where the interviewees refused to pay on a point of principle, there were no cases where interviewees could have paid the fines in one payment.<sup>17</sup> In general, interviewees did not have the capacity to pay the outstanding fines in full in a single payment.

"Yea, but when you have all that bother about bills and when you're trying to feed yourself and dress yourself on the dole. As soon as I lost my licence I lost my job So I was back on the dole. That's £85.50 per week is all I'm getting. It's hard enough then I had to pay rent, wood for the fire." [5]

"Yea . . . Well I would have kept on payin' them if I'd had the job but . . ." [3]

Interviewees could in retrospect acknowledge that fines were accumulating. But this awareness was overshadowed by other events and circumstances at that time:

"So I was getting these things in the letter box and at that time as I said at that time I was separated from my wife and I didn't care I just threw them into the drawer or threw them onto the mantelpiece. Didn't realise they were building up. I was drinking at that period. I just didn't care." [6]

"There was one for £220, there was one for £170, £90 , £120 and there was ten of these, there could have been ten of these. They started to come when I got myself back into the house, when I was sober and off the beer. These fines kept on coming. I couldn't even recall them." [13]

It is also important to note that some interviewees were still unsure of the fine amounts outstanding.

I don't know. I don't know how much they added up to. There's a few of them for £150 for failing to produce licence, failing to produce tax, failing to produce insurance. There's a few bits and pieces £150 and £50s here and there. I think they all added up to £700 or something." [14]

"A £1,000 I got it for and he'd [the fines officer] given me a receipt. I must have been on the phone. And I asked have they still got like the form that has how many days you have to pay it and that and he said they still have that and I said "are you sure that they didn't send anything out to say it's put up to £2,000?". He said "no, nothing had been sent out". Like a Gardá is supposed to knock on the door and hand a summons in as well, but not any more. I don't know if they still do it, but nothing at all to say I had to go back to court, that it was gone up to £2,000. And I couldn't understand how it was up to £2,000 without me getting informed." [23]

---

<sup>17</sup>Even in one of these fines cases the refusal to pay was also accompanied by the explanation that he did not have the money to pay.

In these cases they asked the prison authorities to ascertain the total amount. A related factor is that in some cases interviewees explained that they had not received any notices reminding them to pay outstanding fines.

“No . . . nothin’ at all . . . they probably did go but I just never got it. It could have been just picked up and left there for me, someone forgetting to tell me or something simple like that. I could imagine that it did get posted out.” [14]

Or if they had they thought it referred to a fine which they had already paid.

“Yeah I got one of them but I thought I paid that. I just looked at it and I said ‘I don’t know why they’re bringing that up?’ ” [3]

In this context the interviewee’s labour force status is obviously important.

“Well I was paying the fines at the start but I finished work then, I stopped working so I couldn’t afford to pay the fines. So I rang them and they gave me back the money I paid and I just gave it to the girlfriend for to look after herself and the two kids. ‘Cos there’s no point in me holding on to it.” [3]

“Well, I was given I think 3 months to pay the fines. But after I lost my licence I lost my job. Everything just started to fall apart.” [5]

“If I’m not working it’s difficult. If I’m working I know I could get it and give it back then when I get paid. Or I could ask me Da but like I don’t like going and asking him for money especially when he doesn’t know what it is.” [14]

“I’ve no job. I thought I would have been able to pay for it at the start then I totally forgot about it because I was going through court dates with my ex-girlfriend, about me trying to get the kids more often.” [16]

“I just had no way to pay it, I wasn’t working. If I’d had a job back then I’d paid it off. Just didn’t get any work back then.” [18]

“I knew I’d be fined money and I wouldn’t have enough .. like with two kids on £97 a week you’re not going to pay a fine and feed them.” [24]

Even for those working it can be a struggle.

They [the Gardaí] called twice and they gave me time to pay it. But I hadn’t got it. I couldn’t get it. They gave me 2 weeks to get the half of it [£750]. I couldn’t get it. I was working at the time but I couldn’t save and trying to pay rent and that. I was a month behind in the rent. [7]

Two of the interviewees explained that their refusal to pay the fine was on a point of principle. The first case concerned a revenue offence (among others).

“The tax man wants £2,500 for something I know nothing about. I had a herd of asses. I gave £3,000 for it, before I got sick, for to breed donkeys. So they come and took them away and said I was ill-treating them. They took them on me and never gave me nothing for them and fined me £700. Them two fines was put in together. It’s what I’m here for. . . . No . . . sure I wasn’t going to pay it. I just wasn’t. Would you? And they after taking £3,000 off me and giving me £700 fines. There’d be no God in Heaven if that was the case.” [9]

For the other interviewee, who had refused to pay a fine on principle, there were two issues at stake. The first related to the circumstances of the public order offence. The interviewee felt strongly that the situation could have been resolved in a different way by the Gardaí.

“They just done me with the Public Order Act because your man in the pub dropped the charges and that was it. I shouldn’t be here at all to be honest with you. . . . Yea . . . I mean if the guard had listened to me that night and had listened to us I wouldn’t be here now. And the only reason I didn’t pay the fine was on principle.” [8]

Of more concern was his distress at his treatment by the arresting Gardaí later on, bearing in mind that he had a sight disability.

“When I was brought in, they just brought me in, charged me, took my glasses off me. I asked them several times that I need my glasses that I can’t see without them which I can’t. They says “you don’t need them”. They threw me in the cell then left me for a few hours took me back out, charged me and while they were charging me I asked for my glasses loads of times and they wouldn’t give them to me. They wanted me to sign papers. I says “how can I sign something I can’t see”. They still wouldn’t give me my glasses until I was walking out of the jail, out of the Gardaí station that same night.” [8]

Having to save up and pay a lump sum can present problems.

“You get three months to pay it. I know their attitude is you should be saving up £20 per week on your own steam but its doesn’t work like that. When you have money there your not inclined to – well I better put that aside for my fine. If you can just go down to the police station, go down to the fines officer and just pay it off week by week as if you were paying and ESB bill, or phone bill or something like that. You could pay it like that. But if you’re trying to hold on to it . . . you’re not going to hold on to it, it doesn’t work like that. Everybody knows that.” [22]

## 5.11 Arrest and Committal

There is a pattern of contact and avoidance of contact with the Gardaí who are pursuing offenders on foot of bench warrants.

“So I was basically avoiding them. If I was out in the front with the dogs I’d duck if I see’d a squad car coming. And they called up several times but I wouldn’t answer the door ‘cos I knew they were going to take me away.” [6]

From the offenders perspective the fines officer’s actions and role can be important in affecting how event proceed. Interviewees recounted how they successfully or unsuccessfully negotiated an informal payment by instalment arrangement with the local Garda station.

“So I offered £50 a week – when I got the FÁS course £50 would have been hard but I offered it. But the guards said they wanted £100. I said I couldn’t afford it. So I went down one week and paid £50 in the local Garda station. And I was told he wasn’t there [the fines officer] and I was told by the other Garda that if you come down you have to have £100. So I didn’t go down again because it was impossible.” [6]

“No . . . you have to pay the whole lot together. They’re talking about £220 [per week] and I have to pay it by a certain month. They gave a stretch maybe of a month to pay it. But there’s no way I’m going to pay a thousand pounds in a month. There’s no way I’m going to get near it.” [13]

This interviewee had actually being paying £50 per week while he was working. But when he was out of work he stopped paying. He then explained that when he was committed the amount he had paid in to the fines officer was given back to him.



“No, they gave that back to me. Ah, they had to give it back to me ‘cos I came in to do the sentence. I gave it straight to the girlfriend ‘cos she was sitting in the station waiting for me.” [3]

This is presumably because only complete payment of fines could officially be accepted.

One offender explains that he thought he was making payments to the fines officer to pay off a large fine.

“Listen, the guard came knocking on the door three or four months ago and I thought he was coming for the big fine – for £575 – and like I gave him a hundred pounds and told him I’d give him £50 a week after. The next week I sent down £50, then the next week I met him outside my house and I was sayin’ “I’ll drop more money down next week” and he says there’s two fines down there for me, one for £100 and one for £50. So I thought I was paying off the big fine I didn’t worry about the small ones if you understand me, the £150, I didn’t worry about that ‘cos if it all came to all that £150 would go towards the £575 that I owe now because the small ones run into the big ones.” [10]

But it transpired that the amounts he had paid in were being used only to pay the two smaller outstanding fines:

“On the big fine I was thinking, a few months ago, that I was paying it off and it ended up that I wasn’t and he [the Garda] came yesterday morning then. I answered the door to him, told him to go into the front room and sit down. And he says you have to come with me. I says “what’s wrong with the agreement we had last time. Why can’t I pay off £50 a week?” and he just said he wouldn’t and we had to go.” [10]

Arrest and committal happens in various ways. Several interviewees recalled that they had come to a decision to serve the time in lieu of the fine.

“The police were banging me ma’s door down looking for me so I didn’t think it was nice that the police were knocking at me mother’s door looking for me so I decided to hand myself in and stop them knocking at me mother’s door – simple as that.” [3]

“So I didn’t do anything about it at all . . . for a about a year. And then the guards came along looking for £300. So I says what do you want to do about it? I was saying where are we going to get £300? So he came back to me on Monday night there and he says we fix a date for when you can go into Mountjoy. Here was I thinking the place must be overcrowded that he was going to make a phone call and book me into the place. He comes back to me on Wednesday then and he says X are you right and ready to go to Mountjoy? And here I am.” [4]

“But I came down myself and handed myself up this morning and said “look I just want to get it over and done with.” [5]

“I got a letter out a couple of weeks afterwards. Last Sunday week ago a guard rang my mother’s house and asked me was I going to pay or not. And I says I’m sorry I can’t and he says will you be able to go and do a couple of weeks in prison. I said fair enough. So Monday week ago I called down to the police station and they took me up to Castlereigh. I spent 3 days there and here I am now.” [8]

“They kept knocking to arrest me, then they sent a letter. So I went down and seen them, I volunteered. I said I’d come in the Monday.” [16]

In some cases the time and place of arrest were arranged with the arresting Garda.

“So, the fines Garda is alright down there, he’s grand, you could talk to him. So I said before I served I’d have to go up and see the family in Cork before I do go up to the jail. He says “fair enough” and I rang him from my mother’s house in Cork and I told him I’d meet him up here in the church. He met me in the church and he brought me in.” [11]

“There’s a guard there where we live and he calls me and he tells me like that he has summonses. So he picked me up on a certain day at a certain time.” [24]

One interviewee expressed relief that he no longer had to avoid the Gardaí.

“It’s a relief to know in one sense – if it is fourteen days for what I done. All I done was drink a legal drug called alcohol – homeless. The only comfort I could find out there was alcohol. I’m talking about the winter.” [13]

On the other hand for other interviewees the arrest came more unexpectedly.

“They just asked was I there and when I came out they just grabbed me and put me straight into the back of the car and brought me straight over here. Explained in the car why on the way over . . . they just told me there were outstanding fines and “you’re going to Mountjoy”. In here they told me it’s 15 days.” [14]

“They just got me in the area, in X, I was just talking to a few people and they came over and just said there was a warrant. They didn’t tell me what it was for so I didn’t believe them I says “I beg you pardon there couldn’t be.” He grabbed me over to the car and read out the warrant. So they just brought me to X Gardá station and to here.” [15]

“Two days later I got picked up in the street that night. They kept me overnight and brought me here the next morning.” [12]

On committal to prison some interviewees were still attempting to raise money to pay the fines.

“Well, actually they’re very helpful here to be honest with you. A lot of them are, they made phone calls for me ‘cos I get my phone card. He rang my father and said is there any news on it or anything, he said “yes” he had the money but he just couldn’t get off work, he’d be in, in the morning. Which puts me in hock ‘cos I didn’t even ask him to lend me the money.” [19]

“My girlfriend is running around trying to get £200, ‘cos I’ve got £50 up in the office. So that’d be £250.” [10]

In this case it emerged that the interviewee was already in debt to a moneylender.

Finally, some interviewees were unclear about the number of days they had to serve until after they were committed to prison.

“Forty-five days . . . I was told it was 15 days coming in. I thought I only had to do 15 days and then when I came here I was told 45. It’s for no insurance, that’s just one of them. Like there’s 45 days one of them other have 15 days, and one 10 days. That’s why I thought it was only 15 days on the summons. When I got here the copper turns around and says to me “look, you’ve got to do 45 days”. [17]

## 5.12 Consequences of Imprisonment

For those interviewees who had been living on the streets, or who were intermittently homeless, there were some positive aspects to being in prison.

“But the prison is fine and they’re looking after me. I’m getting the best food. It’s grand. I don’t have to cook myself. I love cooking. I cook for my family and my grandkids and all that but cooking for yourself . . . takes you half an hour to cook it, five minutes to eat it and another half an hour to clean up after.” [6]

“It’s good in one way, stay off the drink, regular food every day but besides that I’d still rather be out there.” [12]

“It’s a regular meal and hot place to stay.” [15]

Apart from the deprivation of liberty being in prison may have other negative consequences. Several interviewees mentioned that they would have to reapply for their state benefits:

“No, I’ll have to start all over again. It’s going to be stopped now and everything isn’t it? It’s just like the dole. It took me nearly six weeks to sort that out. Now I have to go and start all over again.” [8]

“My dole is discontinued . . . I’ll have to make a new claim.” [13]

Employment may also be perceived to be at risk.

“So I explained to the Governor here that I was willing to pay £50 a week, which I was, because I knew if I went to prison I’d lose this FÁS thing [CE scheme employment] I have. I’m actually on holidays now. I’m due back next Monday. I’ll probably lose that now. It’s working in the convent like – like a part-time care-taker – painting and sweeping the floors. When the kids are on holidays now I’m painting classrooms.” [6]

“I don’t know, ‘cos they’ll ask where I was and I’m kind of going to have to tell them, ‘cos they’ll find out anyway ‘cos I work with two good friends of mine and one not so good friend, so they’re going to find out I was in Mountjoy and I’ll probably going to get the sack when I come in tomorrow at five o’clock if I’m out by then.” [19]

“. . . if I had my job still I’d lose it now. I’d have lost my job ‘cos I’ve been in here . . . even for the fact of been in here I’d say I would have lost my job.” [16]

But this last interviewee, who was separated from his partner, was even more concerned about access to his children.

“I’ve explained the fine is serious but my kids are more important, if I get my kids on Wednesday. So he says “you’ll be out in a night”. So it’s now hitting Wednesday and if I don’t take them tomorrow that goes against me. It fucks up a lot of things. . . . I could be sent to prison for not picking the kids up tomorrow because that would be me breaking a court order that they issued me with.” [16]

## 5.13 Why or How Might Imprisonment be Avoided

Some interviewees could point to their life circumstances at the time as having a major bearing in the offence and in the way they coped with its consequences.

“There’s only one way . . . not to drink and I know that and I’ve been off the drink before for 13 years, didn’t even have a bloody parking ticket in that time. And I was out in New York where there is traffic. I was in America for 22 years . . .” [20]

“I suppose not to have been driving the car in the first place.” [10]

“I’m not a criminal. I was never in trouble other than that. I thought £50 would have been sufficient. I don’t know what it’s going to cost them to keep me here. If I had a long record with the law or something like that . . . but I never done anything like that. It was just when I left my wife or when she left me the shit hit the fan kind of. Everything went kind of haywire after that.” [6]

“Yea . . . the guard told me yesterday that’s it, I’d nothing more [no more fines]. So I’ll just try and keep it at. I have a kid and all coming on the way. So I have to keep the head down.” [14]

But, in the context of fairly modest incomes, the absence of any provision for payment of fines by instalment severely limited options available to offenders.

“But I offered to pay so much a week like. They wouldn’t have it. . . . Well, I knew myself I’d probably do time for it.” [7]

## 5.14 Alternatives to Imprisonment

When asked about alternatives to imprisonment interviewees most frequently mentioned the option of paying fines in instalments with the amount being paid each week being related to their income.

“Basically to come to an exact circumstances of payin’ the money like. Something agreed with me and the person who has to be paid. It couldn’t be too much. Like it has to be a certain amount that they could afford and still be able to look after their other people as well.” [3]

“Well, if I could so much a week. You could live with it. £50 a week would be reasonable enough. I could manage that.” [7]

“. . . they should be able to take the money out of the dole or else do community work instead of into jail for it. It is only a fine. It’s not really a criminal offence when you can’t pay a fine, when you haven’t got the income. . . . I could have paid it a tenner a week if it came out of my dole. I wouldn’t mind that.” [11]

“Yea . . . do it by instalments that would be much easier. Look at your income first and then cut it down to instalments. Work out what you can pay a week. I mean they’re not in a rush for the money and if they are then why did they send me into prison. It’s costing so much to keep me in here.” [16]

“So it would have been a lot easier if the judge had just said “right, we’ll put a thing on your bank account and take £150 out a week. It would make a lot more sense to me than putting me in here – like how am I supposed to get the money around here?” [19]

“I said to the fine officer before, and I told everybody but no one seems to care. If I could pay £20 a week that fine would be paid long ago and I wouldn’t be here wasting my time and their time . . .” [22]

Community service was also mentioned as an option:

“If I got an option of community service I would have took it.” [5]

## 5.15 Conclusions and Issues to be Addressed

Persons committed for fine default tend not to be representative of the general population. The relatively high proportion of persons who are unemployed or not in the labour force because of disability is atypical. A significant minority are living in poverty. It is clear from their own accounts that in many cases these are individuals who have troubled family backgrounds with life problems that overshadow the offences and fines at issue. In general, offenders in these circumstances do not have the capacity to pay the fines, especially if they must be paid in full or if there has been an accumulation of fines.

Most of the interviewees were committed to prison for non-payment of fine or civil debt in relation to one offence incident.

Awareness and use of the fines appeal process is very low. Similarly, enquiries in the court process about offenders means and capacity to pay fines would appear to be non-existent or at best cursory. Finally, offenders may not have a clear understanding of what fines are outstanding.

Reasons for non-payment of fines relate primarily to changes in employment circumstances. The lack of any provision for payment of fines by instalment is also an obstacle to payment.

For offenders, the consequences of imprisonment go beyond the deprivation of liberty. Concerns are expressed about the impact on social welfare entitlements or benefits and also on current or future employment.

Alternatives to imprisonment suggested by interviewees mainly involve a payment of fines by instalments that would be related to the offenders capacity to pay. Community service was also an option considered.

Equity is a key issue. The impact of a fine is clearly related to the offenders income, wealth and capacity to pay. But there is no scheme to levy fines in relation to the offenders income. Nor is there is a systematic means enquiry in the court process.

Legislative proposals for attachment of earnings of fine defaulters may be of little use for those who end up in prison. In the first place it is unlikely that many of these offenders will be in the type of permanent employment that has an administrative capacity to allow attachment to be implemented. Secondly attachment of social welfare entitlements and benefits is problematic given that persons dependent on these may be living in or close to the poverty line.



# Bibliography

---

Bacik, I. (1997) *Crime and Poverty in Dublin* in Irish Criminal Law Journal 1997, Round Hall Ltd.: Dublin

O'Donnell, I. (1998) Crime, Punishment and Poverty in *Crime and Poverty in Ireland*, (Bacik, I and O'Connell, M (Eds.) Round Hall Sweet and Maxwell Ltd.: Dublin

Ireland, Department of Justice (1994) *The Management of Offenders – A Five Year Plan*, Stationery Office: Dublin

Ireland, Department of Justice (1997) *Tackling Crime – Discussion Paper*, Stationery Office: Dublin

Ireland, Department of Justice, Equality and Law Reform (1998) *Strategy Statement 1998-2000*, Stationery Office: Dublin

Ireland, (1998b) *Final Report of the Expert Group on the Probation and Welfare Service*, Stationery Office: Dublin

Ireland (2000a) *Alternatives to Fines and Uses of Prison, Report of the Sub-Committee on Crime and Punishment of the Joint Committee on Justice, Equality, Defence and Women's Rights*, Stationery Office: Dublin

Ireland (2002) *Building an Inclusive Society*, Stationery Office: Dublin

Ireland, Comptroller and Auditor General (2000b) *Report on Value for Money Examination – Collection of Fines*, Department of Justice, Equality and Law Reform: Dublin

Ireland, The Law Reform Commission (1991) *Report on the Indexation of Fines*, Author: Dublin

Moxon, D. and Whittaker, C. (1996) *Imprisonment for Fine Default*, Research Findings No. 35, Home Office Research and Statistics Directorate: London

O'Mahony, P. (1997) *Mountjoy Prisoners – A Sociological and Criminological Profile*, Stationery Office, Dublin

Whittaker, C. and Mackie, A. (1997) *Enforcing Financial Penalties*, Home Office Research Study 165, Home Office Research and Statistics Directorate: London

Flood-Page, C. and Mackie, A. (1998) *Sentencing Practice: An examination of decisions in magistrates and the Crown Court in the mid 1990's*, Home Office Research Study 180, Home Office Research and Statistics Directorate: London

- Connolly, R. (1997) *The Legal System in Ireland: Its Impact on those in Debt*, in Debt and Money Advice: A Partnership Approach – Report of the National Money Advice Conference, Cousins, M. (Ed), Department of Social Welfare
- Kavanagh, A. (2000) *Complimentary Issues*, in Debt – whose problem is it anyway? Conference Report of MABS National Conference 2000, Department of Social Welfare
- Callan, T., Nolan, B., Whelan, B.J., Hannan, D.F. and Creighton, S. (1989) *Poverty, Income and Welfare in Ireland*, Dublin: Economic and Social Research Institute
- Callan, T., Nolan, B., Whelan, B.J., Whelan, C.T., and Williams, J. (1996) *Poverty in the 1990s; Evidence from the 1994 Living in Ireland Survey*, Dublin: Oak Tree Press
- Elliot, R., Airs, J. and Webb, S. (1999) *Community Penalties for Fine Default and Persistent Petty Offending*, Research Findings No. 98, Home Office Research and Statistics Directorate, London
- Flood-Page, C. and Mackie, A. (1998) *Sentencing Practice: an examination of decisions in magistrate's courts and the Crown Court in the mid-1990's*, Home Office Research Study No. 180, Home Office Research and Statistics Directorate, London
- Layte, R., Maitre, B., Nolan, B., Watson, D., Whelan, C.T., Williams, J., Casey, B. (2001) *Monitoring Poverty Trends and Exploring Poverty Dynamics in Ireland*, Policy Research Series Number 41, Dublin: Economic and Social Research Institute
- Money Advice and Budgeting Service (MABS) West and North-West Region (1999) *Submission to the Department of Justice, Equality and Law Reform; Subject: Response to proposed Attachment of Earnings Bill and appraisal of the legal system for debt recovery*, unpublished
- Moxon, D. and Whittaker, C. (1996) *Imprisonment for Fine Default*, Research Findings No. 35, Home Office Research and Statistics Directorate, London
- Whittaker, C. and Mackie, A. (1997) *Enforcing Financial Penalties*, Home Office Research Study No. 165, Home Office Research and Statistics Directorate, London