

Annex B

Problem-solving justice in Northern Ireland

This case study on problem-solving justice discusses Northern Ireland's experience with the Domestic Violence Listing Arrangements (DVLA) based on an assessment of a pilot project conducted in the Magistrates' Court and Family Justice Centre in City of Londonderry. This case study explores the feasibility of broadening the scope and ambition of a problem solving justice within the judiciary of Northern Ireland. The findings and recommendations of this case study form part of the overall recommendations of the Northern Ireland Public Governance Review.

Introduction

This case study is one of five being carried out under the terms of reference of the OECD Public Governance Review (PGR) of Northern Ireland (NI). It aims to provide a review of the Domestic Violence Listing Arrangement (DVLA) in the Londonderry Magistrates' Court and an analysis of the establishment of a Family Justice Centre in Londonderry, by the case study's own terms of reference. More generally it aims to explore the feasibility of broadening the scope and ambition of a problem solving approach within the judiciary of Northern Ireland. The case-study findings will be integrated into the final PGR report and inform the PGR's overall recommendations to the NI Executive on its public-governance reform agenda.

Courts in many OECD countries are doing an impressive job: they play a crucial role in upholding fundamental rights, they resolve countless disputes, adjudicate criminal offences and by doing so provide an important contribution to the rule of law and to the equal treatment of all under the law. This reflects on economic performance as well: a high score on the Rule of Law Index¹ is clearly linked to economic growth.²

Yet, courts and justice systems in general are often criticised for being too slow and expensive and not producing desired outcomes. The latter is especially true for the criminal-justice system that has fallen short of its ambition to reduce crime and provide public safety. Over the last few decades the understanding that the traditional working methods of the criminal justice system do not produce desired outcomes³ has sparked initiatives to develop, experiment with and implement better ways of enforcing justice.

Some OECD countries have established problem-solving courts. These courts use the authority attached to courts “to address the underlying problems of defendants, the structural problems of the justice system including jail and prison overcrowding by diverting certain offenders from incarceration and custody, and the social issues of communities” (Berman, 2000, p. 78). These courts apply a holistic view and the “judicial case processing is partnered with treatment providers and community groups to provide follow-up and support for victims and offenders alike in order to reduce recidivism” (Bakht, 2005, p. 225).

Most OECD countries have streamlined problem-solving principles in certain fields of their criminal justice, i.e. without introducing a full-fledged court. In this context, the case-management process or track is differentiated according to the circumstances of the case or of the defendants (e.g. juvenile offenders). These diversion schemes embody a problem-solving approach outside of a problem-solving court.

Problem-solving principles

While problem-solving methods and courts differ in practices across types of courts and countries, some of the key principles of problem-solving justice according to different studies (Berman and Feinblatt, 2002; Berman and Feinblatt, 2005; Administrative Office of the Courts and Center for Court Innovation, 2004) include (Figure B.1):

- **Creative partnerships:** Problem-solving courts work closely with other criminal justice agencies. The community is often involved in the judicial process alongside social services and treatment providers. The services of the latter can be

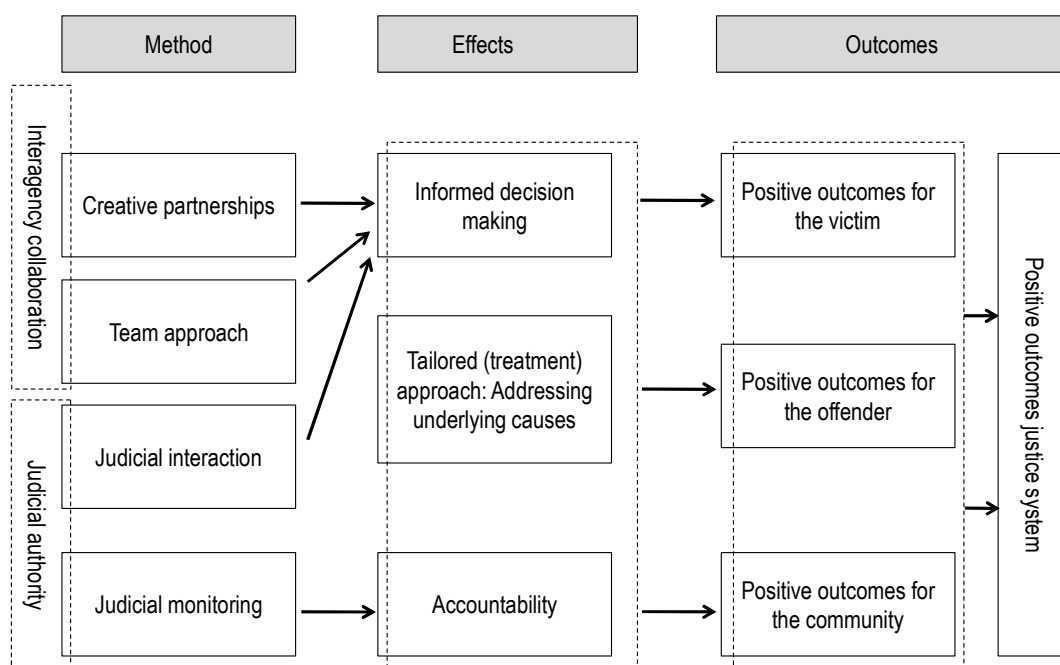
included in the sentencing options. Problem-solving courts also seek to “re-engineer” how government systems respond to social problems as these courts engender reforms outside as well as inside the courthouse.

- **Team approach:** In problem-solving courts all parties are asked to unite behind the same goal: rehabilitation of the offender with the objective of reducing re-offending and crime. This requires a non-adversarial approach where the role of the judge, of the prosecutor and of the defence lawyer evolves and adjusts to the specificities of the problem-solving approach. Judicial decisions are reached in collaboration with the members of the team (including social workers and treatment providers) although the judge has the final say.
- **Judicial interaction:** Whereas in a mainstream court in certain countries and jurisdictions the role of the judge is that of a detached arbiter, the judge in a problem-solving court actively tries to build a relationship with the defendant. The judge fosters a dialogue and speaks directly with the defendant on a frequent and long-term basis. His or her role is not unlike that of a coach, as the judge tries to motivate and empower the defendant to have him or her make progress with the treatment programme and to stay on the right track.
- **Judicial monitoring:** In problem-solving courts the authority of judges is used to alter the behaviour of defendants by staying involved even post-adjudication. Defendants are required to account for their behaviour on a regular basis during status hearings. Prior to these hearings it is not uncommon for judges to discuss the progress of each defendant in conference meetings with other members of the problem-solving team.
- **Informed decision making:** Problem-solving courts enhance the knowledge of judges both of the defendant and the individual cases before them (e.g. through reports of social services and treatment providers) and of underlying causes of criminal behaviour by educating judges on substance abuse and addiction, domestic violence dynamics, crime patterns in certain neighbourhoods, etc. The interaction with the defendants also facilitates better-informed judicial responses.
- **Tailored approach:** Problem-solving courts reject the “one-size-fits-all” approach to criminal cases where judges may merely act as ‘case processors’. Instead, decisions in a problem-solving court try to meet the specific needs of each case and address the underlying causes of the criminal behaviour.
- **Accountability:** Judicial monitoring is one of the most distinct characteristics of problem-solving courts and emphasises the accountability of offenders and effectivity of the problem-solving justice approach. Judges supervise how offenders are completing their treatment programme or community service (“compliance-monitoring”) through regular reporting or check-ups. Holding offenders accountable for noncompliance to their treatment programme is important and sends the message to offenders, the justice system and the public “that courts mean business”. This supervision can take place either prior to sentencing (pre-plea sentencing model) or after a verdict (post-plea sentencing model).
- **Focus on results:** Problem-solving courts measure their results by assessing the effects of case processing on victims (safety), offenders (recidivism) and communities (perceptions of neighbourhood crime). They also aim to generate

positive outcomes for the justice system by saving costs, reducing prison and jail overcrowding and increasing public trust and confidence.

As shown in Figure B.1, interagency collaboration and judicial authority are key determinants of a successful problem-justice initiative leading to positive outcomes in the justice system. More specifically, creative partnerships, a team approach and judicial interaction generate an informed decision-making process on the circumstances of the case leading to positive victim-focused outcomes. Moreover, a problem-solving approach will produce the conditions for better rehabilitation of the offender by addressing the underlying causes of the criminal behaviour (e.g. through treatment). Judicial monitoring will create the necessary accountability mechanisms to meet the community’s security needs and reduce criminal and disruptive social behaviour.

Figure B.1. Problem-solving principles



Source: Author’s own work, based on Berman, G. and J. Feinblatt (2002), “Problem-solving courts: A brief primer”, Center for Court Innovation, New York; Berman, G. and J. Feinblatt (2005), *Good Courts. The Case for Problem-Solving Justice*, The New Press, New York; Administrative Office of the Courts and Center for Court Innovation (2004), “Opportunities and barriers to the practice of collaborative justice in conventional courts”, Judicial Council of California, Administrative Office of the Courts, San Francisco.

Main types of problem-solving justice approaches

Offender-focus: Drug courts

Drug courts bring treatment and care into the courtroom (Boxes B.1 and B.2). Offenders whose criminal behaviour is linked to drug addiction are offered treatment programmes instead of punishment. The judge oversees the rehabilitation process during regular court hearings where the participants (as the defendants are called) have to

account for their progress in treatment and other areas of their lives (i.e. housing, employment). In between hearings the participant is subject to randomised drug testing. Drug courts have put the adversarial nature of the criminal process largely aside in favour of a team approach. The judge acts as the leader of a team which includes the prosecutor, the defence lawyer, social workers, treatment providers and often probation services.

Box B.1. Drug courts in England and in Scotland

In England the Drug Testing and Treatment Order (DTTO), a probation-based court order, was introduced under the Criminal Justice Act of 1998. DTTOs required that “courts regularly review offender progress on courts orders and conduct drug tests” (Bowen and Fox, 2015). In 2003, the Drug Rehabilitation Requirement (DRR) replaced the DTTO. Judicial supervision appears very limited in those criminal cases in England that are handled by a panel of lay judges. Because they serve in a panel of three on a rotating basis they cannot provide continuity in the management and oversight (Nolan, 2009, pp. 47-49).

In 2005, the first dedicated drug courts (DDCs) opened their doors in West London and Leeds. These courts resemble the contemporary drug court model including the central role of the judge. Furthermore, these courts promote “increased cooperation and information-sharing among court staff and partners, including community based treatment providers” (Bowen and Whitehead, 2013, p. 12).

Scotland introduced a drug court in Glasgow in 2001 and in 2002 also one in Fife (the latter closed in 2013) after a lengthy process of planning and deliberation (Nolan, 2009, p. 113). Under the Scottish model supervision is based on a DTTO and/or probation imposed for between six months and three years and the regular drug court principles are applied: offenders are linked to treatment service, are seen regularly by their supervising social worker and addiction worker, are subjected to regular drug testing and have to report to the courts on a regular basis. The Sheriff can impose short prison sentences or short periods of community service as a sanction (McIvor, 2010).

There are a few salient differences between the English and the Scottish experiences.

- **Review process:** In the Scottish drug courts pre-review meetings are organised in the morning prior to the review hearings in the afternoon. In these pre-review meetings, the team members (including criminal justice social workers, medical officers, nurses and addiction officers) discuss the progress of the offender in the presence of the Sheriff. In the English courts the judges have to suffice with written reports prepared by the supervising probation officer and presented in court.
- **Frequency of review meetings:** In England review hearings take place every four to six weeks whereas in Scotland they are scheduled at least every month and often every fortnight (especially during the early phases of the order).
- **Response to non-compliance:** The Scottish Sheriffs can impose short prison sentences or short periods of community service as a sanction whereas their British counterparts do not have the option of such intermediate sanctions.

Source: McIvor, G. (2010), “Drug courts: Lessons from the United Kingdom and beyond”, in Huckelsby, A. and E. Wincup (eds.), *Drug Interventions in Criminal Justice*, Open University Press, Maidenhead.

Box B.2. Family drug treatment courts in Australia

The first Family Drug Treatment Court in Australia opened its doors in Victoria in May 2014 as a three-year pilot. Emphasis is placed on protecting children of substance-abusing parents and reuniting families. “The court delivers a holistic and accelerated approach to child protection cases where parental substance abuse is an issue, and is designed to have the child or children reunited with their parents – or placed in permanent alternative care – within a brisk 12 months” (Marshall, 2015).

Support, treatment and comprehensive access to services is offered to the entire family and include: residential treatment, drug and alcohol counselling, mental health counselling, parenting and housing programmes. In a family drug court, the purpose is not so much to avoid incarceration (which is the case in regular drug courts), as it is to obtain family reunification. If parents meet the goals set out in their Family Recovery Plan as part of the Family Drug Treatment Court, the magistrate can decide to return the child or children in the care of the parent on a full-time basis.

Source: King, M. et al. (2014), *Non-Adversarial Justice*, Chapter 9, The Federation Press, Sydney; and Children’s Court of Victoria (n.d.), “Family Drug Treatment Court”, www.childrenscourt.vic.gov.au/jurisdictions/child-protection/family-drug-treatment-court (accessed 20 June 2016).

Offender-focus: Mental-health courts

A substantial number of criminals and offenders suffering from mental illness navigate the criminal justice system (Denckla and Berman, 2001). Correctional facilities act as *de facto* mental hospitals yet they experience a severe shortage of medical treatment for mentally-ill individuals and “many ex-offenders with mental illness find themselves back in the criminal-justice system again in short order” (Denckla and Berman, 2001, p. 4). Mental-health courts have been established to stop this revolving door. They focus on offenders who have committed (in most instances) minor offences and whose major problem is mental illness or disorder rather than criminality (Winick, 2003, p. 1059).⁴ In this context, “rules of evidence, procedure and court-room etiquette are often relaxed to facilitate the participation of the mentally-ill offender” (National Judicial Institute, 2011, p. 10). Participation in a mental-health court programme is voluntary and once a treatment plan is in place, mental-health courts function similarly to drug courts. The court ensures the participant is engaged in treatment and attends the appropriate treatment sessions, is medication-compliant and is getting the services to which the participant is entitled (Hora, 2011, p. 15). Court monitoring is thus mainly focused on treatment-compliance and not necessarily on offending behaviour.

Box B.3. The Nova Scotia Mental Health Court

The Nova Scotia Mental Health (NS MHC) has been in business since November 2009. Prior to that an implementation team met for a full year. The active involvement of many stakeholders was part of the planning process. The steering committee consisted of representatives from the Prosecution (national and regional), Legal Aid, the Department of Health and Wellness, the Department of Community Service, the Police (national, regional and municipal), the Department of Justice and the Nova Scotia Judiciary. The mental health court team works together with community partners and government agencies related to mental health and addictions, housing, income assistance, employment, education, vocational training, policing, and victim services. To explain the functioning of the court, team members regularly engage in public education sessions.

“The goal of the NS MHC is to treat Nova Scotians with mental disorders who commit criminal offences with fairness and compassion while helping them improve their mental health and thereby reduce their risk to public safety.” Participation in the mental health court team is voluntary, all participants have legal representation and to enter the programme participants must accept responsibility for their offence. Review hearings are held once per week. When a participant successfully reaches the end of the mental health court programme, this is marked by a graduation. Upon successful completion of the programme the charges are usually withdrawn or graduation marks the end of a community-based sentence.

Some statistics for the Nova Scotia Mental Health Court 2010-13 (four years):

- “687 individuals were referred to the Court.
- 232 people (34%) were deemed eligible to participate in the programme.
- 199 participants (86%) successfully completed the programme and graduated.
- The majority of the people referred were men (67%).
- The age range for all the people referred was 18 to 86 years, 38% of those referred were 18 to 30 years.
- The most common diagnosis was schizophrenia for men and bipolar disorder or major depression for women.
- Criminal offences varied from fairly minor mischief, theft, and breach offences to more serious charges involving assaults, weapons and threats.”

Source: Provincial Court Nova Scotia (2014), “Nova Scotia Mental Health Court Report: Celebrating Five Years”.

Offender-focus: Diversion schemes

The term is sometimes used for “programmes whereby a person is brought before a court, but is then redirected, usually temporarily, into a programme for some form of intervention, to be then returned to courts for a decision about a final disposition.” (King et al., 2014, Chapter 10). Diversion programmes are available in certain OECD countries for mental health, alcohol and substance abuse and domestic-violence cases. This referral mechanism resembles the so called pre-plea model of problem-solving courts where upon entering the treatment programme the judicial process is put on hold and sentencing is deferred until after completion or ending the programme (although without regular judicial monitoring).

The ambitions of diversion programmes echo the objectives of problem-solving courts as they seek to reduce recidivism improve health and social outcomes for offenders, cost-saving for the community and enhance the perceptions of the justice system. (King et al., 2014, Chapter 10) But diversion schemes take less time from the courts and may therefore be “considerably less expensive” (King et al., 2014, Chapter 10). Some diversion schemes could qualify as a “light” version of problem-solving court (with shorter programmes and less judicial supervision) (e.g. Box B.4.)

Box B.4. Court Integrated Services Programme (CISP) at the Magistrates’ Court of Victoria (Australia)

The CISP was established in 2006 and operates at three different courts. The programme “offers a co-ordinated, team based approach to the assessment and treatment of defendants at the pre-trial or bail stage.” It further provides offenders with support services (e.g. accommodation, mental health, alcohol treatment). More specifically:

The objectives of the CISP are to:

- provide short term assistance before sentencing for accused with health and social needs
- work on the causes of offending through individualised case management
- provide priority access to treatment and community support services
- reduce the likelihood of re-offending.

The CISP provides:

- a multi-disciplinary team-based approach to the assessment and referral to treatment of clients
- three levels of support based on the assessed needs of the client
- case management for up to four months for medium and high risk clients
- referrals and linkages to support services including drug and alcohol treatment, acquired brain injury services, accommodation services, disability support and mental health care.

Any party to a court proceeding can access the CISP by way of referral, including applicants, respondents and accused from all jurisdictions of the Magistrates’ Court, such as the Family Violence Division.

A 2009 evaluation found that CISP:

- had achieved or exceeded its targets for the engagement and retention of clients
- was able to match the intensity of intervention to the risk and needs of clients
- achieved a high rate of referral of clients to treatment and support services.

Other key findings were:

- A study of CISP clients’ health and well-being showed they had much lower levels of mental health than comparable community groups and that their mental health improved during their period on the programme.
- Magistrates and other stakeholders showed a high level of support for the programme and its outcomes.
- Compared with offenders at other court venues, offenders who completed CISP showed a significantly lower rate of re-offending in the months after they exited the programme.

Source: Extracts from DOJ (2009), “Court Integrated Services Program Economic Evaluation – final report”, Department of Justice, Melbourne, www.magistratescourt.vic.gov.au/publication/court-integrated-services-program-economic-evaluation-%E2%80%93-final-report.

Victim-focus: Domestic violence courts

Domestic-violence courts exclusively deal with cases related to intimate abuse. Although they function under the umbrella of problem-solving courts, they are different in the sense that protection of the victim rather than treatment and recovery of the offender has priority (Hora, 2011, p. 14). Victims are provided with extensive services such as counselling, shelter and advocacy. Offenders are commonly required to participate in batterers' intervention programmes and report to the judge about their compliance. Yet, most domestic violence courts still emphasise the offenders' accountability over his or her rehabilitation (Berman and Feinblatt, 2005, p. 8). Using a "carrot and stick" approach, the offender will receive a suspended sentence (probation) depending on his or her treatment or protective-order compliance. However, domestic-violence cases qualify for diversion programmes under certain court models.

Box B.5. Specialist Domestic Violence Courts in England and Wales

Specialist Domestic Violence Courts (SDVCs) are led by the public prosecution service of England and Wales. SDVCs' primary concern is with the victims of domestic violence. Lay magistrates preside the court sessions. SDVCs are characterised by multi-agency information sharing, fast-tracking of cases and they offer comprehensive and immediate victim services. Safe courthouses and facilities are features of this innovation (Bowen and Whitehead, 2013, p. 9). Review hearings are not part of the court procedure. (Nolan, 2009, p. 60). An exception to that rule is the Croydon court where a defendant's compliance with community rehabilitation orders is reviewed after three months (Nolan, 2009, p. 62).

Different types of domestic-violence court models exist. An important distinction is the one between dedicated courts and integrated-court systems. In an integrated domestic-violence court one judge handles criminal cases related to domestic violence as well as the accompanying civil matters including custody, visitation, civil protection orders and matrimonial matters. These courts work with the principle "one family, one judge". In non-integrated courts the family court judge might be uninformed of a protection order issued during criminal proceedings. Similarly, a criminal court judge might be unaware of relevant family-court proceedings relating for example to divorce or child-protection. The objectives of an integrated family domestic-violence court are: "1) a more holistic and multi-disciplinary approach to family problems; 2) more effective judicial monitoring to increase accountability for the offenders and compliance with court orders; 3) improved judicial decision making as a result of the judge having more information about the family; and 4) better access to and co-ordination of support services (i.e. legal and social services) for the victims and children" (Birnbaum, Bala, and Jaffe, 2014).

Box B.6. Operational practices in US domestic violence courts

In an attempt to portray a national picture of the functioning of domestic violence courts a survey was held among all these courts (Labriola et al., 2009). The following results give a good overview of the working methods of these courts:

- About 80% of the domestic violence courts work with dedicated victim advocates (often employed by the prosecution) practising at, or in conjunction with, the court. Victim advocates accompany victims to the court proceedings, provide varying services (e.g. safety planning, counselling, housing referrals), explain the criminal justice process, and facilitate prosecution and counselling.
- The vast majority of the domestic violence courts, in approximately nine out of ten cases, issue a temporary protection order or a restraining order at the first appearance of the defendant at the court. Batterer programme mandates are used by all courts and are the primary response of approximately one third of the courts. Nearly all courts also offer treatment related to alcohol and substance and to mental health issues. In certain models, this approach serves under a diversion scheme.
- Almost two-thirds of the courts often or always order offenders to probation. Just over half of them often or always require offenders to return to the court post-disposition for monitoring. When confronted with noncompliance, about three-quarters of the courts impose often or always a sanction. In almost a third of the cases this sanction involves jail.
- Even though considered to be a major concern, the courts do not consistently provide safety measures.

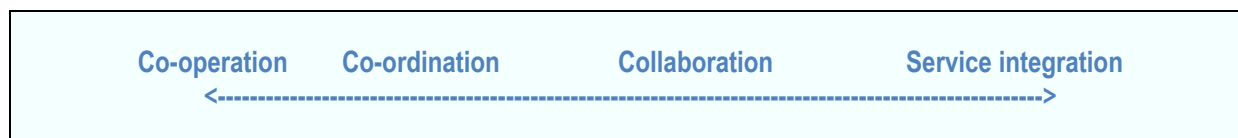
Source: Labriola, M. et al. (2009), “A National Portrait of Domestic Violence Courts”, report submitted to the National Institute of Justice, p. v-viii, Center for Court Innovation, New York.

Victim-focus: Family-Justice Centres

Family-Justice Centres are initiatives that also aim to improve the position of domestic-violence victims. Although not a problem-solving court, they share the ambition of domestic-violence courts to help victims and hold offenders accountable. Family-Justice Centres provide co-located, one-stop, multidisciplinary services to victims of family violence. A Family-Justice Centre may “offer comprehensive medical and legal services, counselling to victims and children, links to the court system, as well as access to on-site professionals providing civil legal services, job-training and placement assistance, public-benefits assistance, advocacy, and safety planning” (Cleveland Municipal Court, 2010).

Family-Justice Centres aim to fill the gap between collaboration and service-integration by creating collaborative service arrangements (Figure B.2) leading to enhanced services for clients through specifically created partnerships. This continuum as envisaged in Family-Justice Centres links together various steps e.g. co-operation, co-ordination, and collaboration leading to the creation of integrated, wrap-around services.

Figure B.2. Continuum of collaborative service arrangements



Source: Author’s own work, based on Sandfort, J. and H.B. Milward (2008), “Collaborative service provision in the public sector”, in Cropper et al. (eds.), *The Oxford Handbook of Inter-Organizational Relations*, Oxford University Press.

Box B.7. Family-Justice Centres in selected OECD countries

The first US Family-Justice centre was established in San Diego in 2002. Upon its initial success, President Bush in 2003 launched the President’s Family-Justice Initiative, making 20 million of federal dollars available to set up similar centres elsewhere in the US. The San Diego model is “hailed as a national and international model of a comprehensive victim service and support centre” (US Department of Justice, 2007).

In 2013, with EU funding under the Daphne 3 project, six pilot projects with five Family Justice Centres were set up in Europe (in Belgium, Germany, Italy, the Netherlands and Poland) (European Commission, 2014).

Community-focus: Community courts and partnership

Community courts deal with quality-of-life crimes such as prostitution, illegal vending, graffiti, shoplifting, fare-beating and vandalism. In these types of misdemeanour cases in mainstream courts, offenders are often sentenced to a few days in prison or they are simply sent away. Community courts respond in a more meaningful way by pressing the offender to repair the damage done to the community for the crime or offence he or she has committed. The offender is offered concurrently specific help to address the underlying issues that influenced their criminal behaviour. Sentences reflect this dual strategy and consist of community-restitution projects along with short or longer-term treatment.⁵

Community partnership and community involvement are important principles of problem-solving justice, most notably in community courts. Yet, community engagement can also be a part of other justice initiatives. For instance, community members can be asked to identify problems or issues that they want the justice system to care about, such as in Community Advisory Boards. In addition, members of the public can also be involved in administering justice, such as in justice panels.

Box B.8. Swindon Neighbourhood Justice Panel

The Swindon Neighbourhood Justice Panel (United Kingdom) brings offenders and victims together in a hearing that lasts 40 minutes in order to engage them in “a process of meaningful dialogue, structured around a restorative justice script.” Agencies such as the police, housing and social services may be present as well. The discussion ends in a “problem-solving contract” that lasts for six months. During the term of the contract the offender is asked to attend “progress panels”. If the offender is not making good progress, the panel has “the option referring the case on for further action, such as formal prosecution”. Cases that are heard involve antisocial behaviour and low-level crime. The members of the Panel are volunteers.

Source: Bowen, P. and S. Whitehead (2013), *Better Courts: Cutting Crime through Innovation*, p. 7, NEF and Centre for Justice Innovation.

Box B.9. Community Advisory Boards

Community Boards members of the public interact with justice agencies by providing an opportunity to voice concerns about public safety and other community problems. Their input might also be used to inform and co-design justice policies. Not only can this deliver new perspectives, community boards also “send a strong symbolic message about accountability” (Center for Court Innovation and Bureau of Justice Assistance, 2014).

Creating a community board cannot only be rewarding but also a challenge. The following questions should therefore be answered by the justice agencies (such as the police, prosecution and the courts):

- Is a community advisory board the best way to engage the community or are there other, more appropriate outreach activities?
- Will the board complement the mission of the justice organisations involved?
- Are the participating justice organisations prepared to dedicate the time needed to operate a community board?
- Are the participating justice organisations capable of balancing the differing views, interest, skills, and commitment levels of community members with the needs and limitations of the justice system?

Source: Center for Court Innovation and Bureau of Justice Assistance (2014), “How Community Advisory Boards Can Assist the Work of the Justice System”, US Department of Justice.

Effectiveness and efficiency

Recidivism-reduction and rehabilitation

Drug-court evaluations and other evidence show that problem-solving courts may reduce recidivism substantially. Drug courts are successful in reducing recidivism during the time of the programme and this positive effect tends to continue in the following years (Box B.10). Similarly, studies show that mental-health courts and community courts can be successful in reducing recidivism⁶ (e.g. Cross, 2011; Sarteschi, 2009; Lee et al., 2013). Such findings are inconclusive with regard to domestic-violence courts, however, due to their great operational diversity and potentially to their main victim-focused approach.

Box B.10. Combined effects on recidivism reduction: The Multi-Site Adult Drug Court Evaluation (MADCE)

In a 2011 study the Urban Institute found that 18 months after baseline the reported recidivism rate of drug court participants was 49% vs. 64% of the comparison group. Drug court participants were also half as likely to reoffend. Official re-arrest rates at 24 months after baseline were 52% vs. 62%, but this difference was not statistically significant (Rossman et al., 2011, pp. 78-79). The evaluation did not demonstrate different effects for different sub-categories of offenders, although “offenders with a violent history saw a relatively greater reduction in criminal behaviour stemming from drug court participation” (Rossman et al., 2011, pp. 79-80).

These studies seem to support one of the main assumptions of problem-solving justice that rehabilitating the offenders will discourage their criminal behaviour (aside domestic violence courts) yet further analysis is needed in this area especially for mental health courts and community courts.

Community benefits

Community courts especially may yield positive effects for the community as a whole, including community engagement and participation in the justice system, as well as due to community work (see for example, Lee et al., 2013, p. 5).

Cost-effectiveness

While requiring major initial investments, problem-solving courts can be cost-effective, mainly due to reduced costs for incarceration and detention. Studies on drug courts show that every US dollar spent results in a gain of more than two dollars (see Table B.1). According to certain of these studies drug courts that serve high-risk offenders “returned approximately 50% greater cost benefits to their communities than those serving low-risk offenders” (Marlowe, 2013, p. 121; Carey et al., 2006; Carey, Macklin and Finigan, 2012).

Table B.1. Cost effectiveness of drug courts: Comparison of different studies

Meta-analyses/ comparative study	Investment	Revenue
Aos, Miller and Drake (2006) 57 drug courts	USD 1	USD 2.10
Logan et al. (2004) 3 drug courts	USD 1	USD 2.71 (all participants) USD 1.13 (unsuccessful participants) USD 3.83 (successful participant)
Carey et al. (2006) 9 drug courts	USD 1	USD 3.50

Source: Author’s own work, based on Aos, S., M. Miller and E. Drake (2006), *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*, Washington State Institute for Public Policy, Olympia; Logan, W. H. et al. (2004), “Economic evaluation of drug court: Methodology, results and policy implications”, *Evaluation and Programme Planning* 27, pp. 381-396; Carey, S. M. et al. (2006), “California drug courts: Outcomes, costs and promising practices: An overview of Phase II in a statewide study”, *Journal of Psychoactive Drugs*, SARC Supplement Number 3, pp. 345-356.

In the context of community courts, the evaluation of the *Red Hook Community Justice Center* showed that the savings exceed the costs by a factor of nearly 2 to 1. For each adult misdemeanour defendant, the Court estimated to save approximately USD 4 800 per defendant in avoided victimisation costs. Total net benefit is estimated at USD 6.8 million. While comparison data are unavailable, the evaluator concluded that it is “highly likely that the Justice Centre produces a net benefit to society” (Lee et al., 2013)

While the overall evidence is inconclusive and robust analysis needs to be undertaken, examples of problem-solving justice approaches highlight their cost-saving effect for the justice system while generating positive outcomes in other sectors (e.g. socio-economic areas).

Working ingredients

Interagency collaboration

The importance of inter-agency collaboration is corroborated by a study of 69 US drug courts. Findings show that collaboratively working as a team and strong co-operation between law enforcement as participant and treatment providers attending staff meetings and court sessions were more successful in reducing recidivism (Carey, Macklin and Finigan, 2012, pp. 25-27). Dedicated prosecutors and public defenders seemed to produce better results (Cissner et al., 2013).

The role of the judge: supervision and sanctions

The judicial role as an authority figure in the drug court model is crucial in the success of problem-solving justice. This is often related to the assumption that judicial monitoring promotes compliance. For judicial supervision to generate the desired results, frequent status hearings are an important success factor.

Table B.2. Judicial status hearing and successful programme completion

High risk participant (N=82)		Low risk participant (N=186)	
Hearing every two weeks (N=32)	Hearing every four to six weeks (N=50)	Hearing when necessary (N=91)	Hearing every four to six weeks (N=95)
75%	56%	75%	72%

Source: Marlowe, D.B. et al. (2007), “Adapting judicial supervision to the risk level of drug offenders: Discharge and 6-month outcomes from a prospective matching study”, *Drug and Alcohol Dependence*, S4-S13.

Sanctions are essential for the effectiveness of a problem-solving approach. Such courts often use graduated sanctions, i.e. sanctions that vary in their severity and become more severe after continued non-cooperative behaviour or in response to more serious breaches of the programme conditions. Graduated sanctions have been associated with reduced recidivism (McIvor, 2010). A formal system governing the punishments is seen to stimulate sanction effectiveness and when punishments follow immediately upon the infraction (Koetzle Shaffer, 2006, pp. 185-187).

Treatment

Treatment oriented towards rehabilitation tries to motivate, guide and support constructive change in factors leading to criminal or offending behaviour or preventing pro-social behaviour. Treatment has proven to be more successful than deterrence-oriented correctional interventions (Lipsey and Cullen, 2007). Research on problem-solving courts and more specifically drug courts has shown that success is related to the duration of the treatment programme (Koetzle Shaffer, 2006, pp. 182-185; Carey et al., 2006). In addition, starting the treatment soon after arrest improves the chances of finishing the first phases of the treatment programme successfully (Rempel and DeStefano, 2002). The use of single treatment provider is also associated with reduced recidivism (McIvor, 2010).

Procedural justice

There is growing evidence in some OECD member countries (e.g. Australia, Canada and the United States) that high levels of procedural justice contribute to the success of problem-solving courts. This is mainly related to the interaction of the defendant with the judge but also with other agencies and institutions within the justice system (Rempel, 2014).

Institutional and other considerations

Research on problem-solving courts has shown these courts can be successful. Yet in order to be effective, they must operate within certain institutional and policy frameworks including the following elements:

- Problem-solving initiatives need to be a good fit with the strategic policy framework and can benefit from a supporting legislative framework.

Problem-solving courts in the United States were judge led-initiatives that followed a grass-roots development process and which was later sanctioned by a supporting legislative framework. In England and Wales and to a certain extent in Australia and Canada, problem-solving courts followed a more centralised top-down development trajectory (Nolan, 2009) as local court administrations were centralised in the hands of the Executive (Bowen and Fox, 2015). This structural difference between the two systems may explain the divergence in judicial leadership in problem-solving reform (Bowen and Fox, 2015). Attention is required to balance central control over problem-solving courts to limit regional disparities in problem-solving court administration while ensuring that their development is tailored to reflect local specificities.

- Necessary resources need to be secured at the start of the planning process which will require political support.

Resources are a crucial determinant in the establishment of problem-solving courts (e.g. Australia, Canada, England and the United States). Although once in operation these can be cost-effective, the investments made in Canada and the United States show that the development of problem-solving courts including drug courts and Community-Justice Centres require substantial amounts of money. These financial resources require political support. Problem-solving courts have been shown to generate support across the political spectrum and transcend conventional political categories (Nolan, 2004, p. 9).

- Problem-solving initiatives need to be adapted to local legal culture.

Operational practices of problem-solving courts differ significantly: while in some US drug courts, the courtroom may become a stage or “theatrical” (applause and cheering for staying clean and sober and judges hugging participants), in other countries judges may show more restraint in accordance with traditional court-room etiquette. Countries also present greater reluctance in breaking away from the adversarial approach, when applicable. Moreover, whereas in US drug-treatment programmes complete abstinence is the norm, other countries emphasise the need for harm-reduction.

- A careful planning process including a thorough needs assessment and commitment from all stakeholders.

Careful planning is crucial in establishing a successful problem-solving court. It is essential to secure the co-operation of key justice partners as well as community-based organisations, treatment and service providers. An informed estimate of the project

volume (e.g. number of defendants/participants or services provided) is essential, when funding needs to be secured and staff trained accordingly.⁷ The influx of potential defendants should be assessed to warrant investments. Commitment and enthusiasm among judges and representatives of other participating organisations is crucial as is the availability of high quality treatment and sufficient capacity to provide treatment and other services. (cf. McIvor, 2010)

- A monitoring and evaluation system needs to be in place at the onset.

High-quality evaluations of problem-solving courts are scarce. A sound monitoring system will register both policy actions (inputs and processes) as well as policy outcomes (outputs and impacts). While monitoring is concerned with gathering factual data, evaluation aims to appraise policy performance in relation to the problem being addressed. Criteria may include effectiveness, efficiency, adequacy, equity, responsiveness and appropriateness. Evaluations are all important as they can lead to continuation (with or without small adjustments) or termination and also may give cause to redefine goals, objectives and potential solutions (Dunn, 1981, p. 339).

- Problem-solving courts have to ensure due process of rights of the defendants

While problem-solving courts tend to effectively reduce recidivism and promote rehabilitation, to connect with communities, and improve experiences of victims with the justice system, the enhanced role of the judges in a problem-solving court is often criticised (e.g. stepping into the shoes of social workers; no longer being impartial due to their close connection with defendants or lack of independence due to collaboration with professional partners or the community). These concerns need to be taken seriously in the planning phase as well as during the operation of these courts to ensure due process. Another important issue is the non-adversarial approach that characterises most problem-solving courts. This causes some to fear that defence lawyers might effectively represent their client by dismissing and not fully upholding their legal rights.⁸

The Government of Northern Ireland has recognised that three main social challenges could benefit from a problem-solving approach in the country (DOJ, 2014):

- **Drug and alcohol abuse:** In Northern Ireland drug and alcohol abuse is generally recognised as a high contributory factor to crime (especially violence against persons), both for adults and juveniles. It is also costly for society and weighs on public finances: it is estimated that alcohol misuse alone costs Northern Ireland up to GBP 900 million every year (almost GBP 250 million for health and social care; GBP 103 million for courts and prisons; GBP 280 million for police and fire services) (DOJ, 2013a, p. 35). Treatment for drug-addicted offenders is already part of the system. The Probation Board for Northern Ireland (PBNI) and the Youth Justice Agency have programmes in place to that effect. Treatment needs are identified via so-called Pre-Sentence Reports (see below).

Box B.11. Social issues related to offending: PBNI risk assessments

The statistics as collected by PBNI in the context of risk assessments of individuals subject to a probation order confirm the relevance of the aforementioned social issues for explaining criminal behaviour. The table below summarises the results for 2 985 persons that have been subjected to a risks assessment in 2013/14. Only those problems which for more than 10% of the offenders constitute a large offending related problem have been included in the table. In addition statistics on mental health are shown. As the table shows mental health constitutes a large offending-related problem in 2% of the offenders with a probation order. However, one in four experience large offending related problems with “reasoning/thinking”. This seems to imply that the line between problems with mental health and reasoning/thinking cannot always be clearly drawn.

Prevalence of offending related problems		
Social domain	% L	% S, M, L
Finances	12%	43%
Family and personal relations	11%	57%
Individual domain: Substance misuse and addiction		
Alcohol	28%	63%
Drugs	18%	43%
Personal domain: Health		
Mental health	2%	26%
Personal domain: Personal skills		
Reasoning/thinking	24%	94%
Individual domain: Individual characteristics		
Aggression	11%	56%
Impulsiveness/risk taking	25%	95%
Responsibility/control	16%	88%
Offending domain: Lifestyle and associates		
Lifestyle put offender at risk of re-offending	14%	78%

Source: PBNI (2014a), “Statistical brief”, September.

- Mental-health challenges:** In an extensive 2010 report the Criminal Justice Inspection of Northern Ireland (CJINI) concludes that mental health provision is deficient across Northern Ireland and argues for the need to establish more effective partnerships between the justice system and Health Services.⁹ In addition, CJINI argues that given the high prevalence of mental-health issues which are not exclusive to a specific area of criminal justice, all courts should *de facto* act like mental-health courts. CJINI recommends for pre-trial hearings that a judge specialised in the field of mental health determine the mental state of the defendant based on medical reports. It also suggests that “the Northern Ireland Court Service (NICtS) should arrange for judges to have access to expert advice in interpreting psychiatric reports and handling cases involving mental-health issues” (CJINI, 2010, p. 20).
- Domestic violence:** More than one in ten offences is domestic-related. About one-third of recorded crimes result in criminal proceedings. Of the convictions recorded in 2012, over 5% concerned a primary offence with a domestic-violence motivation. The economic costs of domestic violence are estimated to have risen from GBP 610 million in 2010/11 to GBP 674.3 million for the year 2011/12 (Table B.3).

Table B.3. Estimated costs of domestic violence and abuse in Northern Ireland for 2010/11 to 2011/12
(in GBP millions)

	Adult females		Adult males		Children		Total	
	10/11	11/12	10/11	11/12	10/11	11/12	10/11	11/12
Health and social care services	21.9	23.7	7.3	7.9	17.5	18.6	46.7	50.2
Criminal justice services	59.8	61.6	19.9	20.5	-	-	79.5	82.1
Housing support services	4.1	4.1	-	-	-	-	4.1	4.1
Lost economic output	51.9	57.5	17.3	19.2	-	-	69.2	76.7
Intangible human costs	307.5	345.9	102.4	115.3	-	-	409.9	461.2
Total economic costs	445	492.8	146.9	162.9	17.5	18.6	609.4	674.3

Source: DHSSPS and DOJ (2013), “Domestic and sexual violence and abuse in Northern Ireland 2013-2020”, public consultation document.

The Strategic Framework for Reducing Offending

The Government of Northern Ireland recognises that the concept and practice of problem-solving is a good fit within the current strategic and operational environment (DOJ, 2014, p. 47). In particular, as analysed below, the Strategic Framework for Reducing Offending¹⁰ provides a solid basis for the introduction of problem-solving justice in Northern Ireland.

Launched in 2013, the Strategic Framework for Reducing Offending has two main objectives: “Promoting timely interventions across government to support people in achieving positive outcomes in their life, thereby reducing the risk that they become involved in offending behaviour; and where people do offend, holding them to account for their actions, whilst providing the systems and support to bring them to the point where they can move on and do not reoffend in the future” (DOJ, 2013a, p. 7).

In the Strategic Framework several elements can be distinguished that correspond to the principles of problem-solving justice (see above). Similar to a problem-solving justice approach, the Framework is:

- **Outcome-focused:** The ultimate goal of the Strategic Framework is long-term and sustained reduction in offending in Northern Ireland.
- **Collaborative:** In order to reach the objective of reducing offending, effective partnerships are regarded as pivotal: “reducing offending behaviour requires effective partnership working between Government departments, statutory agencies, the private sector, the voluntary and community sector and wider society”. (DOJ, 2013a, p. 18)
- **Based on addressing underlying issues of criminal behaviour:** The Strategic Framework recognises that criminal behaviour is often linked to broader societal and individual problems (e.g. unemployment, poverty, housing circumstances, education). The implication for offenders at the level of the individual is that attention to their often complex needs is required. In other words, the underlying issues contributing to the offending behaviour should be addressed.

- **Offender-accountability focused:** Offenders must be held accountable for their behaviour and receive appropriate punishment. However, a purely punitive approach is not regarded as being successful over the long term. A full range of responses including prison or community sentences and, where appropriate, diversion is required.
- **Community- and victim-inclusive:** Community views and support should be solicited in both developing and implementing local solutions. For crime victims their experience with the justice system should be as positive as possible. Community and victim-inclusive policies will improve public confidence in the criminal-justice system.

Other Executive Strategies aligning with problem-solving principles are the Delivering Social Change Programme (the subject of another case study under the Terms of Reference of the NI Public Governance Review) and the project for Public Sector Reform by the Department of Finance and Personnel that emphasises the need for collaboration and partnerships similar to principles described above.

Current practices

A number of operational practices are found in Northern Ireland which tends to align with problem-solving principles.

Probation practices

- **Pre-Sentence Reports (PSRs).** To assist the court in crafting sentences tailored to the circumstances of the offender the Probation Board Northern Ireland (PBNI) prepares a pre-sentence rapport. PBNI bases its report on the information available on the individual involved and on one or more interviews with the offender. The impact of the crime on the victim and the personal circumstances of the offender are important topics of conversation during the interview.

Box B.12. **Pre-Sentence Report definition**

“A report in writing, prepared in accordance with Northern Ireland Standards and Service Requirements and submitted by a probation officer or qualified social worker of a Board or authorised Trust with a view to assisting the court to determine the most suitable method of dealing with a defendant and which imposes a restriction on liberty commensurate with the seriousness of the offence(s).”

Source: PBNI (2013), “Pre-Sentence Report for the Court”, leaflet, www.pbni.org.uk/wp-content/uploads/2015/02/NewPSR-29.10.13.pdf

- **The Assessment, Case Management and Evaluation System (ACE)** has been used by PBNI since 2 000. This tool helps the probation officer to assess the likelihood of reoffending within a two-year period. The ACE assessment has the following three sections: Social Domain, Personal Domain, and Offending Domain (see also Box B.11). Of the offenders who in 2013-14 underwent an ACE assessment, PNBI assessed the probability of re-offending as low in 20%, as medium in 51% and as high in 29% of the cases (PBNI, 2014b).

- **Enhanced Combination Orders (ECO)** are developed by PBNI at the request of the Lord Chief Justice and without the need for legislative change. They represent a community-based alternative for the increasing number of custodial sentences of up to 12 months. ECO offers an alternative to custody “with a focus on rehabilitation, reparation, restorative practice and distance, with the added benefit of being considerably less costly to the state than custody”. Of particular interest is the fact that the ECO provides for the possibility of judicial monitoring (PBNI, 2015a).

Box B.13. Operating principles of Enhanced Combination Orders

Victim focus: Victims registered with the PBNI Victim Information Scheme are updated on sentence details and supervision by PBNI

Desistance and “what works”: ECOs focus on issues as accommodation, substance misuse, health issues, attitudes and behaviour, employment, education and training, finance, social relationships and lifestyle.

Sentencer engagement: ECOs can be subject to Court reviews and adjustments to the supervisory requirements which can be made.

Enforcement: Enforcement standards are strictly adhered to.

Collaborative working: PBNI works closely with PSNI and the Community and Voluntary Sector.

Source: PBNI (2015a), “Enhanced Combination Order (ECO): Pilot Proposal”.

An ECO can be ordered when the court is considering a custodial sentence up to 12 months, if the lifestyle of the offender can be described as unstructured and the offender has a range of needs and is motivated to change. Participation of offenders who are heavily dependent alcohol and drug users are excluded. Community service (between 40-100 hours) is a compulsory requirement of the ECO as is its supervision by the probation officer. A curfew may be part of the ECO. The pilot will commence in October 2015 in two pilot areas: Ards and Armagh and South Down (PBNI, 2015a).

Collaborative partnerships

Several collaborative partnerships are in place in Northern Ireland, including:

- Reducing offending partnership

DOJ, PSNI, PBNI, Youth Justice Agency (YJA) and the Northern Ireland Prison Service (NIPS) work together in the so-called Reducing Offending in Partnerships (ROPs). ROPs focus on priority offenders involved in high level of criminal behaviour within the police district. ROPs specifically pay attention to robberies, burglaries and thefts, crimes that have a strong impact on the community. ROPs were first piloted in Ballymena and Coleraine. An evaluation of the pilot in Ballymena has shown that ROPs are successful in reducing crime and making communities safer.¹¹

Box B.14. Three strands of Reducing Offending in Partnerships

Prevent and deter: Reduce crime and anti-social behaviour through early identification and intervention.

Catch and control: Close monitoring of those who persist in their offending.

Rehabilitate and resettle: Joint approach to provide support and assistance to provide a way out of crime.

Source: DOJ (2013b), “Reducing offending partnerships to be rolled out across Northern Ireland”, 23 May.

- Multi-Agency Risk Assessment Conferences

Multi-Agency Risk Assessment Conferences (MARACs) were specifically developed in the context of domestic abuse. The key organisations present at a MARAC include PSNI, Health and Social Services, Education, NI Housing Executive, PBNI, Women’s Aid, Victim Support Northern Ireland and Men’s Advisory Project. The different agencies discuss the risk of serious harm to people experiencing domestic abuse. Each case is discussed for up to 15 minutes. Actions are agreed and taken by the agencies present to reduce the risk of further and recurring violence. Only high-risk cases are considered during a MARAC. After the meeting the participating organisations each implement their own actions (PSNI, DHSSPS and DOJ, n.d.). Based on the policing districts 14 MARACs have been established since the start in 2010. In the year 2013 1 641 cases were heard. In 95% of the cases the victims were female and in 5% of the cases male. PSNI referred the most cases (1 179) followed by women’s aid (286) and health and social care (146) (PSNI, DHSSPS and DOJ, 2014).

Youth justice initiatives

- Youth conferencing

Youth conferences are carried out under the responsibility of the YJA. The purpose of youth conferencing is to discuss what can be done to make amends for the harm done and prevent future reoffending. The intended participants include a juvenile offender, his or her family, the victim, the police, the community, and supporters of both the victim and the offender.

Box B.15. The youth conference process

“At a youth conference, the young person is invited to give an account of the offence and the victim, and if present, is encouraged to ask the young person questions about what has been said and how they have been affected by the crime. Others in attendance are also invited to give their views on the crime and its effects. A critical element of the conference is the collaborative development of a youth conference plan which sets out actions to be taken by the young person to make amends for the offence and reduce the likelihood of further offending”.

Source: Jacobson, J. and P. Gibbs (2009), “Making Amends: Restorative youth justice in Northern Ireland”, p. v, Prison Reform Trust, www.prisonreformtrust.org.uk/uploads/documents/making_amends.pdf.

In over half of the cases (52%) the youth conference is a diversionary measure with the Public Prosecution Service (PPS) referring the juvenile to a conference, and in the other half (48%) the conference is court-mandated following a conviction. According to the most recent statistics, in 2013/14 1 846 young people were referred to a youth conference. Over the years in three out of four cases the conferences resulted in a ratified plan. The average number of working days from a referral to a ratified plan in the year 2012/13 was 33 days (which is an improvement of 10-20 working days compared to the years before). The average number of working days from plan ratification to the completion of the plan is 127 days. Around 40% of referrals involve juveniles who are looked after in the care home system (CJINI, 2015).

For the year 2010-11 the rate for reoffending following a youth conference order is 54% compared to 63% for individual receiving a probation or supervision order. The recidivism rate for those juveniles receiving a diversionary disposal is on average 19% (CNJNI, 2015).

- Youth engagement clinics

In the fall of 2014 the Department of Justice announced a national rollout of Youth Engagement Clinics following a successful pilot in Belfast. The primary objective of Youth Engagement Clinics is to reduce the processing time in youth cases. The clinics were developed by PSNI, YJA and PPS. As part of the clinics, juvenile offenders (between 10 and 18 years) whose cases are deemed suitable for diversion are offered help to make an informed decision about their options. The clinics are led by Youth Diversion Officers from PSNI all trained in restorative practice. In presence of the parent or guardian and solicitor the decision of PPS is explained to the young person. According to the Department of Justice, “the underlying idea is that when you give the youth stronger support earlier in the process and help them to make a properly informed decision about the offer of a diversion”, less cases arrive before the courts. In turn, they hope to “create capacity in the youth court and allow the judiciary and the wider system to focus more effort on cases that are not suitable for diversion” (Northern Ireland Assembly, 2013). Some 95% of young people who attended a Clinic in 2014/15 accepted a diversionary disposal. In 2014/15 the average time taken in a Clinic case was 51 days. In comparison, the average processing time in youth charge cases was 100 days, with youth summons cases taking on average 183 days.

Lesson learned in the current problem-solving approaches in Northern Ireland

Recognition of interaction between social issues and offending behaviour. Most of the stakeholders in Northern Ireland acknowledge that drug and alcohol abuse, mental ill health and domestic violence are linked to offending behaviour. The relationship between alcohol and substance abuse and criminal behaviour is specifically considered strong. It is recognised that addiction and mental health problems often co-occur (the so-called dually diagnosed) and that both drug and alcohol abuse and mental health problems are not seldom a contributory factor in the occurrence of domestic violence. Domestic violence, in terms of numbers of cases, appears to be less of an issue than addiction and mental-health problems. Due to the close link between social issues and criminal behaviour, some individuals find themselves navigating the criminal justice system when their situation (and underlying social issues) could be addressed more effectively outside the justice system.

Varying support towards problem-solving courts. In view of these challenges, the Government of Northern Ireland is exploring the possibility of strengthening the application of problem-solving justice principles. There is broad support for the more holistic approach that characterises the response to crime in problem-solving justice among a wide range of stakeholders in Northern Ireland. The notion of judicial oversight is well received, particularly in cases of alcohol and drug abuse and domestic violence.

Strong support for diversion. Most stakeholders are keen to support stronger diversion of cases and stressed that court interventions should be reserved for the most serious cases. Currently, not enough distinction occurs and, according to a stakeholder: “all cases are thrown into the same pot”. Early intervention and a triage system focused on diversion are seen as ways to realise tailor-made solutions and to reduce pressure on the court system. Some mention that decisions about diverting cases away from the courts should be an interagency decision. This would require further knowledge on timely intervention, responses and the type of external expertise available (outside of the justice system). While awareness is present, this calls for building and refining knowledge of justice agencies on social issues, individual problems and efficient and effective interventions.

Diversion would not only reduce the number of cases going to court; the number of individuals incarcerated or in custody would also decrease. The ineffectiveness of short prison sentences is a recurring theme among stakeholders: although the victim and the society deserve a clear response to criminal behaviour, short prison sentences seem to foster rather than resolve the situation and underlying issues. Short prison sentences are seen disruptive and create problems with employment (individuals lose their jobs when sent to prison) and relationships. At the same time, because of the relatively short time spent in prison, meaningful rehabilitation while confined is absent. Therefore, alternatives to custody including ECO, curfew and electronic monitoring appear as viable options. To provide assistance to individuals leaving custody PBNI set up a mentoring programme to assist offenders in their transition from custody to community. The mentoring starts 4 weeks prior to release and lasts a maximum of 12 weeks after release. The mentors are volunteers or belong to community organisations (PBNI, 2015b and 2015c).

Support for restorative justice is equally strong. Connected to the diversion practices, increasing restorative practices in the administration of justice could support the application of problem-solving principles in Northern Ireland. Current initiatives within the administration of juvenile justice e.g. victim offender conferences could serve as good practice to extend to adult offenders. Restorative justice could also support the creation of a more conciliatory administration of justice to “The Troubles”, given that in a post-conflict situation justice needs to be transformative, moving away from the past. Yet the application of restorative justice principles in the context of domestic violence seems to be more problematic, given the dynamics of power imbalance in these cases.

Collaboration is of crucial relevance. Any meaningful response to crime needs to involve a strong collaboration of organisations within the justice system as well as sound working relationships with external organisations (e.g. service providers). This is key in any innovation in the justice system. Well-functioning collaborations are operating in Northern Ireland. One described successful example refers to the Multi-Agency Risk Assessment Conferences (MARACs) in the context of domestic violence cases. Common goals are seen as a determinant factor while defining realistic short and longer term deliveries is essential. Yet the majority of stakeholders consider collaboration at the national government level to be inadequate. National government is felt as

compartmentalised, with the different departments referred to as silos. In particular, the successful application of problem-solving principles will require stronger, deeper and sounder co-operation between the Department of Justice and the Department of Health, Social Services and Public Safety and the Department of Education.

Community involvement is a key factor. Similar to inter-agency collaboration, community involvement is considered to be a vital condition for a well-functioning justice system. Given that government and society in Northern Ireland still bear the consequences of “The Troubles”, community involvement appears to be particularly important. Linked partly to cultural and religious divisions, citizens feel mainly attached and loyal to their own local communities,¹² and often less so to the government.¹³ The past political situation has generated a general mistrust toward the government, from which the justice sector (courts, police, prosecution) still suffers nowadays. To build trust of the community in justice policy, it is therefore crucial to engage with them and integrate their views (e.g. co-designing and co-producing and co-delivering justice policy). It is equally important to adapt justice policies to local circumstances. An example of local partnership already in place in Northern Ireland to be highlighted includes the Policing and Community Safety Partnerships (PCSPs).¹⁴

Momentum and opportunity. A momentum for change and innovation is felt among most stakeholders in Northern Ireland: “There is an appetite for doing things differently”. Most stakeholders are united behind a vision of better outcome-oriented justice interventions and a more holistic approach towards offenders. The relatively small jurisdiction of Northern Ireland (e.g. one police organisation, a Public Prosecution Service consisting of four regions) coupled with a PBNI delivering high quality services are highly seen as strong factors conducive to innovation. Yet for this the “new ways of doing justice” vision to be implemented, the position of the Minister of Justice in the interdepartmental force field needs to be strengthened in order to be able to provide the necessary leadership and steering capacity to the rest of the stakeholders.

In focus: Responding to domestic violence in Londonderry

The Domestic Violence Listing Arrangement

Table B.4. Incidence and prevalence of domestic violence in 2013/14 in Northern Ireland

Domestic abuse cases reported	27 628
Murder with a domestic motivation	7 (41% of all murders)
Sexual offences with a domestic motivation	394

Source: DHSSPS and DOJ (n.d.), “Stopping Domestic and Sexual Violence and Abuse in Northern Ireland: A Seven Year Strategy”.

Domestic violence is a serious social problem with severe consequences for its victims in Northern Ireland and in other OECD countries. Its high costs both at the human and economy levels are references. In the draft seven-year strategy to tackle domestic and sexual violence and abuse which has yet to be finalised and published, one of its five strands is to improve the protection and justice available to the victims¹⁵ (victim-focus measures).

The Londonderry Magistrates’ Court introduced the Domestic Violence Listing Arrangement (DVLA) with the same ambition. Since November 2011 all domestic-violence cases in the Londonderry jurisdiction are clustered in specific court settings and the same judge hears all cases. This judge also took the initiative to set up the DVLA, which then became a collaborative effort of NICTS, PPS, PSNI, DOJ, Victim Support, Foyle Women’s Aid (FWA) and the Men’s Action Network.¹⁶

Through the DVLA domestic violence cases are clustered and heard on specifically assigned days.¹⁷ Victim Support and FWA liaise with each other to provide monitoring, moral and practical support. A specially trained prosecutor represents the PPS. The cases are heard by a district judge in the seat of the Crown Court as it is easier to reserve this courtroom for domestic violence cases alone on a regular basis.

Fast-tracking of cases is an important objective of the DVLA, and the overall purpose is to make the victims feel safe, secure and confident to attend court and give evidence. The listing arrangement is seen as a first step to create a more victim-friendly court environment. Victims can enter the court via a separate entrance and special measures are taken when necessary (including the possibility to testify via a video conference). The services by Victim Support and FWA are seen as all important to assist the victims with court proceedings as well as with other (social) needs.

The DVLA has resulted in a reduction (albeit modest) in the number of victims not attending or refusing to give evidence. Before the pilot, 52% of contested hearings did not proceed due to lack of victim co-operation, nonetheless during the pilot this has dropped to 47% (Table B.6).

Table B.6. Domestic violence contests prior and during DVLA pilot

	1 December 2010 – 30 November 2011		1 December 2011 – 8 July 2014	
# contests	69		230	
Injured party did not attend court	29	(42%)	75	(32%)
Injured party attended court	40	(58%)	155	(67%)
Gave evidence	13	(33%)	33	(21%)
Refused to give evidence	7	(18%)	32	(21%)
Guilty pleas	16	(40%)	55	(35%)
Withdrawn	1	(3%)	11	(7%)
Convicted in their absence	3	(8%)		
Not attending/ refusing to provide evidence	29 + 7 = 36 (52%)		75 + 32 = 107 (47%)	

Source: McElholm, B.P. (2014), “Domestic Violence Pilot Listing Arrangement”, September.

Overall, there is strong support for the DVLA among key stakeholders. The agencies collaborating in the DVLA feel that the listing arrangement has significantly improved the positions of victims. They stress the importance of complainants and victims appearing in court. Although the number of cases withdrawn by victims has not decreased as anticipated, representatives of collaborating agencies find that victims are better informed and the level of services available to them has increased. To address the needs of men and women victims of domestic violence, a holistic approach was required by stakeholders. The wrap-around services provided by FWA are thus a crucial element to the DVLA and such initiatives could be extended to Men’s Advisory Project.

Collaboration between all organisations involved is considered to be an important success factor, the MARACs being a good example and consistent with international practice. The process of organising collaboration is characterised as piecemeal, and better

structural organisation could have taken place from the onset of the project. To improve the position of victims further and prevent domestic violence, the health sector should become more involved and furthermore raising the level of education is needed. Young people should be taught about sound and healthy relationships between men and women, and more general issues related to violence, control and gender should be discussed in school. Specifically related to court proceedings an integrated court hearing both for criminal and family cases (the one court, one judge model) would be an improvement to the current separate handling of these cases which is seen as costly, morally draining and inefficient. This was also confirmed by some of the women victims in Ashleywood house.

The DVLA does not specifically target the offender and the current model does not address the causes of violent behaviour by the perpetrator. Importantly in the Londonderry DVLA initiative, stakeholders appear to be open to the option of treatment programmes for perpetrators and willing to explore how stronger offender accountability can be put in place by means of judicial supervision. This would strengthen the problem-solving principles of the DVLA. Among the collaborating agencies there is a willingness to turn the DVLA into a full-fledged Specialist Domestic Violence Court including judicial monitoring. The judge is ready to explore this measure, especially if Probation could offer intensive programmes to the offenders of domestic violence. Currently, only in the context of a severe breach of the probation order are cases brought back before the court. Judicial monitoring on a regular basis is seen as a lever to prevent those breaches while providing a more meaningful response when they occur.

The success of the Londonderry DVLA appears to depend strongly on personalities with both the judge as the driving force and the very active involvement of Foyle's Women Aid. It would be important however, to further institutionalise this model to ensure that it can be replicated in other areas and address other social challenges.

In conclusion, the DVLA clearly applies problem-solving principles. The main objective of improving the position of the victim is compatible with the ambitions of domestic-violence courts. A bottom-up approach with a judge taking the initiative to improve court practices resembles the active position of judges in problem-solving courts. Still, the DVLA is not a specialist domestic-violence court, mainly due to its exclusive focus on the victim. Although the offender is held accountable through court proceedings this does not stretch to include the model of judicial supervision, which is common in domestic violence courts. Yet, should a full problem-solving court be contemplated, it is important to guarantee sufficient caseload to merit a special docket, which would most likely imply that it would be placed in Londonderry or Belfast. Some stakeholders voiced the concern that problem-solving courts can be very labour- and resource-intensive and introducing different procedures for different type of cases bears the risk of fragmenting the system. The public might also view these courts as “soft on crime”, particularly in view of a high level of distrust in the justice system.

Overall the current DVLA experience provides a strong foundation for the Government of Northern Ireland to celebrate the success of the current initiative, strengthen it and explore the possibilities of replicating it in Belfast and with regard to other pressing social challenges in the country.

One Safe Place: Plans for a Justice Centre

Foyle Women’s Aid (FWA) is a charity organisation based in Londonderry with the purpose of preventing and stopping domestic violence and domestic abuse. The organisation has served the community for the past 35 years and offers a wide range of services to women who have experienced domestic violence, such as social services, accommodation and court support services. FWA also provides training to professionals working with families that are subject to domestic violence. FWA collaborates closely with the Londonderry Magistrates’ Court in supporting the victims whose case is heard before the DVLA.

FWA plans to expand its activities and wants to establish a Family Justice Centre “One Safe Place” in the near future. It is the ambition of FWA not only to make this the first Centre of its kind in Northern Ireland, but also to be the “first comprehensive European effort” towards a co-located, multidisciplinary Justice Centre and Training Academy.

Two broad objectives of FWA with the Justice Centre can be distinguished:

- **Supporting the victims of domestic violence: housing and co-location of services.** The Centre is foreseen to provide housing for the victims of domestic violence (especially older women and vulnerable adults) in 14 units catering for one or two people. FWA is working in partnership with APEX Housing to achieve this, thereby responding to the immediate demand for suitable housing across the region for this specific target group. The Centre will co-locate several agencies providing legal, judicial and social services in order to provide wrap-around services for victims of domestic abuse, sexual violence, elder-abuse, and for vulnerable families. Representatives from a total of twenty external agencies will be housed at the Centre.
- **To save and regenerate a landmark building in the historic area of Londonderry.** The building in which the Centre will be housed will be reverted back to use thereby avoiding the risk of dereliction of the historic building. The building has been empty over the past 15 years and is in dire need of restoration. In addition to housing units and co-location of services the One Safe Place is planned to house a Student/Research Reference and Learning Centre, create a social enterprise coffee shop and exhibition facilities and to be home to a permanent exhibition to honour the contribution of women to the history of Londonderry. One Safe Place aims to become the European Centre of Excellence that will provide training to all new Family Justice Centres in Europe. The social enterprise initiative will provide local employment and training. The permanent exhibition will be part of the women’s history project and will create a comprehensive collection of women’s stories and memories of life in the city of Londonderry.

Yet, it is not fully clear through which mechanisms these objectives will be achieved. Establishing a logic model would help to clarify links between the Centre’s activities and outcomes.

Box B.16. Benefits attributed to the Centre by FWA

Improved access and confidence in the delivery of justice; improved support for victims and witnesses; improved facilities for victims and families; improved working environment; improved working between agencies and sharing of information; financial savings in respect of building provision and maintenance services; meeting national strategies for delivering local joined up justice; providing a safe and secure environment for staff; increase options to victims of violence and abuse; provide culturally sensitive services encouraging access by all communities; reduce violence crime figures/incidents; reduce the number of domestic/family violence, serious incidents and murders; reduce child abuse; reduce the incidents of elder abuse; reduce homelessness caused by domestic violence; hold abusers accountable by co-ordinated monitoring; reduce anti-social behaviour, youth crime and school exclusions.

Source: FWA (2015), “The Justice Centre One Safe Place”, presentation to the OECD, 2 March.

The costs to purchase the property, renovate and equip it fit for purpose are estimated to be a little over GBP 4.8 million (Brown, 2014). A large part of this money has already been committed. As for the operational costs, it is anticipated that income will be generated by the rent paid by the co-located agencies and by the money generated through the social enterprise initiative. Yet, the sustainability of the model needs to be further evidenced.

Over the years FWA has provided numerous services to many victims of domestic violence and is acknowledged for the accomplishments. The establishment of the Justice Centre in Londonderry would represent a logical next step in fighting domestic abuse. Yet achieving the Centre’s objectives would require moving forward in a structured and evidence-based manner and extend to male victims.

Conclusion and recommendations

Recommendation 1: On the approach being taken in the Domestic Violence Listing Arrangement in Londonderry Magistrates’ Court and how this might be further developed: Celebrate success and expand selectively.

Celebrate. The DVLA is a good example of establishing successful collaboration within the justice sector and between the justice sector and communities. The initiative helps improve the experiences of victims of domestic violence throughout the healing process (judicially and socially). The listing arrangement delivers the message to the public that the justice system prioritises the needs of society and victims. Furthermore, it proves that through judicial leadership important justice innovations can be realised.

Strengthen monitoring and evaluation. A thorough system documenting the results of the DVLA is not in place. Current evaluation scheme primarily focuses the number of victims not providing evidence in court. Anecdotal information is gathered on victim experiences. This information is portraying a favourable picture (e.g. “the DVLA process is better organised”, “domestic violence cases are taken seriously and handled quicker”), but a more structured inventory of the experiences is recommended, and not the least to

find out where the system can be improved. The monitoring system could include criteria related to case processing times, conviction rates, court-mandated probation and qualitative indicators. In addition, a workshop could be initiated with all the parties in the current collaboration to highlight success and achievements, discuss improvements and consider potential new goals and related practices for the DVLA. This can be viewed as an informal evaluation of the DVLA that possibly may lead to (some) readjustments of the current goals and practices including an offender focus and stronger diversion measures.

Expand court practices including judicial supervision and creating a criminal and civil justice interface. As experiences in other OECD countries show, reducing offending in the context of domestic violence is not straightforward. There is no conclusive evidence that as a whole domestic violence courts are successful in that regard. However, a study in the state of New York involving 24 domestic violence courts did find that courts which prioritise deterring re-offending and sanction non-compliant behaviour are more successful (Cissner, Labriola and Rempel, 2013).

To this end, Northern Ireland may consider introducing judicial supervision for a select number of offenders in those cases where it is expected that judicial oversight has the greatest impact. Selection criteria should be decided with all the organisations currently part of the collaboration and specifically with probation officers and persons in charge of the current Integrated Domestic Abuse Programme. An experiment over the period of a year with roughly 20-25 perpetrators which is rigorously monitored and evaluated should be able to provide insight in the added value of judicial oversight as part of the DVLA. Depending on the results of the evaluation a decision can then be made to either stop or continue with judicial monitoring.

In addition, it is recommended that the Londonderry Magistrates' Court explore the feasibility of experimenting with the "one family, one judge" concept, by having the judge hearing the DVLA cases also handle the family law proceedings of these people. Although limited studies are available there is indication that such an integrated approach improves the experiences with the court. Logistically this is not an easy undertaking (e.g. jurisdictional challenges), yet in light of the relatively modest number of DVLA cases, this does seem feasible. A careful planning process with all stakeholders involved should precede this initiative. The advantage is that strong working relationships are already established, although new parties (e.g. family) should enter this newly designed collaboration.

Implementing these recommendations would make the current DVLA move towards a more fully developed integrated domestic court, with judicial supervision of a select number of perpetrators participating in a batterers intervention programme. The effects should be closely monitored and evaluated, and the expectations for reducing offender recidivism be made realistic.

Explore expanding geographically and dealing with other offending behaviours. Conditional upon the outcome of a broad needs assessment and prioritisation of actions (see above), Northern Ireland may consider exploring the feasibility of a DVLA in the Laganside Magistrates Court in Belfast. Stakeholders felt the DVLA model to be replicable. To achieve the necessary caseload, an urban area, and therefore Belfast, seems to be the logical choice. The first step would be to organise a meeting with stakeholders in Belfast to discuss the willingness to contribute in this type of listing arrangement. Although the support and enthusiasm of all stakeholders are required, this applies all the more to the judiciary. From the onset a district judge should be identified to take the lead

in shaping collaboration with Women and Men’s Aid organisations. The lesson that can be learned from Londonderry is that the collaborative structure should be firmly put in place from the beginning and the roles of each participant clearly defined. A rigorous monitoring and evaluation system should also be functioning from the start. Establishing a DVLA in Belfast would provide information on the transferability of this model. It would also provide insight in the viability of introducing such an innovative practice in a court without the initiative coming directly from the court. It is recommended to limit the ambitions in Belfast to introducing a DVLA focusing on streamlining the process for the victim in expectation of the results with (possibly) more far-reaching innovations in Londonderry.

Heavily dependent alcohol and drug users are currently not included in problem-solving approaches in Northern Ireland especially those dealing with domestic violence. Given the prevalence of these social challenges in the country, it is recommended to expand the current DVLA pilot to deal with this particular group (either in Londonderry or Belfast). In view of the evidence on judicial supervision of offenders with serious drug addiction, it would be important to organise court reviews at regular intervals. The results of this additional pilot could then be compared with the pilots in Ards and Armagh and South Down. This would provide insight on the effectiveness of judicial oversight in the context of ECOs for different target groups, including high-risk offenders.

In terms of extending this model to mental health issues, a number of stakeholders see this as problematic and stigmatising. Yet, as noted by several stakeholders, in the current situation, the Mental Health Order, which stipulates that personality disorders are insufficient ground for treatment,¹⁸ appears to hamper a meaningful and adequate response to mental health issues as people clearly in need of treatment do not receive the help they need. As such, while establishing special listing arrangements for mental health issues seems premature in the context of Northern Ireland, a careful look at the current regulatory system related to mental health issues is warranted.

Recommendation 2: “One Safe Place” Justice Centre proposal from Foyle Women’s Aid and whether this is compatible with the problem-solving justice approach: Moving forward with a structured approach

Define success. The business plan of the proposed family justice centre states: “The ‘One Safe Place’ model works and has been successful in the USA and Europe”. However, the business plan does not specify what exactly constitutes success and what would be the contributing factors. Success should be clearly defined (in measurable units of analysis). The FWA should be as specific as possible in this regard. This also relates to the number of clients it wants to reach and the specific services provided to these clients. In the business model it is estimated that 500 to 1 000 clients per month will request the services of the Centre. How was this number evaluated? What is the so-called catchment area? And as not all clients will have the same needs: What target groups can be distinguished for which particular services?

Once the Justice Centre is in place it is expected to reduce crime (and thereby) costs. According to FWA this will be achieved, by a reduction in serious assaults and murders, a reduction of repeat use of health services and a reduction in police investigation time, a reduction in repeat offenders and therefore court time, and finally by preventing homelessness. Yet there is a need for a clear logic model to establish the robust links between the proposed activities and expected outcomes.

Co-locate and collaborate. Co-location of services is a concept with great potential in the Northern Ireland context. Co-location needs to result in strong collaboration or more importantly service integration. When service integration is realised organisations work together to provide new services to their clients. Yet, co-location on its own will not automatically improve information sharing and communication or create good working relationships. It is a necessary condition to achieve these ends but not a sufficient one. It is therefore recommended that the collaborating organisations/agencies clearly define the specific issues and client needs, their means and how to tailor them to the client needs and define operations and work processes. What are the steps needed to get from co-location to co-ordination, to collaboration and possibly service integration? Are there any trust issues/tensions between the organisations involved?

Strengthen planning. The image envisioned by FWA to place the client at the centre of a circle made of all organisations and projected services requires stronger planning based on a sound business model and clear indicators.

Disentangle multiple objectives. Proper accommodation will be critical for an effective Justice Centre. But the two objectives of setting up a “One Safe Place” to support the victims and saving and refurbishing a landmark building, seem to be very ambitious. While they are not irreconcilable, achieving both of them demands great management skills – with different skills for each individual enterprise. It is therefore recommended to ensure the proper management and governance structures in place, which will require a team of experts with clearly defined individual roles and responsibilities. It is also recommended to focus on ensuring functionality of the Centre prior to engaging in discussions on becoming a European Centre of Excellence. Based on the international experience, the focus should be on first realising the collaboration (and where possible service integration) in order to realise improved services to the victims of domestic violence.

Model sustainability. Clear indicators will soundly inform the sustainability of the model. As mentioned above, capital and resources need not only to be committed but secured and based on a strong business model. This includes identifying clear revenue to sustain operational costs.

Recommendation 3: Looking ahead: Strong point of departure to expand problem-solving principles in the justice chain

Internationally, two important drivers behind the establishment of problem-solving courts are identified: the recognition that the justice system should address underlying social issues in the context of criminal behaviour in courts and the need to connect the justice system with the community. These drivers are clearly found in Northern Ireland. In addition, the problem-solving principle of collaboration is deemed to be of crucial importance for a successful operation of the justice system.

While there is a concern that problem-solving justice approaches might be seen as a soft-on-crime option, experience in other OECD countries (e.g. United States) shows that problem-solving courts – and specifically drug courts – have received support from the full political spectrum either because of their focus on rehabilitation and perceived compassionate approach towards offenders or because of the demanding nature of the treatment programmes and strong compliance monitoring. Importantly, these approaches are also viewed favourably for the fact that they can be presented as a solution that saves taxpayers’ money.

The devolution of justice has provided a unique opportunity to debate and agree on the approach that Northern Ireland as a society takes to reduce offending (DOJ, 2013a, p. 11). This resulted in a government justice policy that is well thought out, balanced and explicitly takes a non-punitive and humane approach. Crime is not seen as a “justice” topic only, but part of larger societal dynamics. Without diminishing criminal responsibility and accountability for this type of behaviour, it is felt that a meaningful response to criminal behaviour requires addressing the underlying causes of offending. Interventions should also be made as early on as possible. Emphasis would therefore be placed on both prevention and diversion. Furthermore, it is being recognised that reducing offending requires fostering collaboration with other organisations, statutory and non-statutory alike, as well as with the community. In the end, while rehabilitation of offenders is not a goal in and of itself, the overall purpose is to create safer communities and crime prevention.

These basic policy assumptions and objectives echo the values behind problem-solving justice whether it is building creative partnerships or advancing a tailored and team based approach thus providing a high level formal framework for problem-solving practices in Northern Ireland. However, concrete policy initiatives – though certainly not absent – seem to somewhat lag behind the visionary ideas. For the policy objectives to be actually achieved, they need to be put into practice. Robust needs assessment for evidence-based decision making, collaboration frameworks, and sustainable financing decisions will be critical to ensure effective design and implementation of problem-solving justice initiatives.

Needs-assessment. Any concrete policy initiatives related to deepening problem-solving practices in Northern Ireland should be based on a robust needs assessment. While the identified types of social challenges could all benefit from a problem-solving approach, any specific problem-solving initiatives would require a more in-depth assessment of which specific problems, in which geographical areas, and which specific target group would benefit most from a problem-solving approach.

Collaboration. While the policy plans of the Justice and other departments place a strong emphasis on collaboration, stakeholder consultation reveals a strong silo-based approach at the national government level to administering policies and programmes, both in relation to justice and other policy sectors. If problem-solving and other justice innovations are to be successful, better collaboration between departments is required. Since problem-solving justice is strongly connected with public health issues, in particular the co-operation between the department of Justice and the department of Health, Social Services and Public Safety needs to be intensified. Not least because in a business model of any problem-solving initiative the investments and revenues are bound to affect both departments. In addition, a strategic partner in any problem-solving initiative is the judiciary. Since the role of judge is crucial in introducing these kinds of innovations, especially when it comes to judicial supervision and oversight, it is important to ensure that the judiciary is “on board”. It is therefore recommended to organise expert meetings and discussions within the judiciary, with management as well as with other judges.

Resources and finances. In Northern Ireland, similar to many OECD countries, public spending as a whole is under significant pressure. This is particularly the case for the department of Justice, given that difficult funding and prioritisation decisions have been required in light of a budgetary reduction of 15.1% for all DOJ spending for the 2015-16 Budget. Legal aid is one area in particular where the demands exceed the budget

and urgent measures need to be taken (Northern Ireland Executive, 2015). While problem-solving courts can be financially attractive, they would require significant upfront investments which could outweigh the returns. This underlines the importance of the aforementioned needs assessment, as the financial investment decisions need to be made very strategically. This is one of the reasons why an incremental approach with regard to introducing problem-solving justice is sensible. To this end, Northern Ireland may consider embracing a gradual approach to adopting principles of problem-solving justice and strengthen problem-solving elements in different parts of the existing justice chain. More incremental yet meaningful changes can be introduced without creating a heavy financial burden. This would facilitate experimenting and assessing the effectiveness and cost-benefit of different initiatives, which could be introduced on a larger scale.

More broadly, Northern Ireland may consider strengthening the following problem-solving elements in different phases of the criminal justice chain. This implies redefining the systemic and jurisdictional approach of the justice system based on a typology of cases in order to create interoperability between a criminal and civil interface for instance. To deepen the problem-solving approach, Northern Ireland could benefit from strengthening practices which share similar principles with problem-solving justice. Streamlining problem-solving justice methods seem easily adaptable to the current institutional and policy frameworks. They would also not require significant new investments from the already constrained budget. These practices could be expanded overtime to introduce a fully-fledged problem-solving court which would require significant investment of resources (financial and labour) and established institutional mechanisms and collaboration structures. Some of the high-level directions for expanding problem-solving practices may include:

- **Prevention.** Prevention is clearly a domain that can benefit from better collaboration between departments. Investments in education, health and social services can contribute to reduce crime and thereby prevent costs further down the justice chain. All three social domains (drug and alcohol abuse, mental health and domestic violence) might benefit from increasing preventative measures.
- **Diversion.** Problem-solving courts are highly resource-intensive and international trends point to combining these courts (e.g. for mental health, drugs and domestic violence) with diversionary interventions, or placing diversionary interventions at the core of a problem-solving approach. Mental-health problems in particular are seen as one of the fields that are worthy of diversion since mental illness and related criminal behaviour is considered to be broader than a justice issue but also and sometimes primarily a public health one | Similarly this could further be emphasised where alcohol- and substance-abuse is apparent (including in domestic violence cases). In line with the CJINI proposal, it is recommended to identify offenders entering the court system and suffering from mental illness as early as possible. This can be done by creating a triage system in place where courts through pre-trial hearings and assisted by experts from the mental-health sector, decide whether a defendant can and should be diverted from the court process (and receive treatment outside of the justice system). In other instances, cases might benefit from a diversionary approach with continued court involvement. This requires establishing processes to allow for courts to ensure the defendant receives adequate treatment, and to foster close collaboration with treatment providers and sharing responsibility for case management. It is recommended to explore the feasibility of instituting such diversionary schemes if

not to intensify existing initiatives. Strengthening ties with treatment providers and improving the court's knowledge of mental health issues are problem-solving elements that should be part of these diversionary schemes.

- Diversionary schemes can also benefit from direct community involvement, for example by setting up Neighbourhood Justice Panels. It is recommended to explore the feasibility of Neighbourhood Justice Panels in Northern Ireland in one or more pilot projects. These Panels would provide the opportunity to bring victims and offenders of low-level crimes together for a hearing with the purpose of realising a problem-solving contract. The Panel could hold the offender accountable through progress panels. These panels combine two key elements of restorative and problem-solving justice and depend on strong community engagement and participation.
- **Sentencing.** It is recommended to develop more general activities aimed at raising the knowledge of the judiciary (and other justice agencies) on social interventions and other interventions based on best practice. Improving the knowledge base is an important condition for informed-decision making, an important element of problem-solving justice (see above). In addition, in light of the importance of procedural justice in problem-solving initiatives, it is recommended to improve the skills of judges in this field. Training, enhancing procedural justice or for example feedback by experts (psychologists) on judicial behaviour during court sessions could be instrumental.
- **Post Sentencing.** Judicial supervision and monitoring is a key ingredient of problem-solving justice. Northern Ireland is introducing this element in the Enhanced Combination Order (ECO). In this community-based alternative to custodial sentences court reviews can be part of the process. In effect, this means the pilot will experiment with post sentence judicial review and monitoring. In the pilot proposal this court review is presented as optional. It is recommended giving the element of judicial review more emphasis in the ECO and organising at least one court review relatively early at the beginning of the ECO, to use the role of the judge as an authority figure to promote compliance, especially when heavily dependent drug and alcohol users participate in the programme.

Importantly, Northern Ireland could also explore innovative approaches for financing community initiatives to deal with the root causes of crime, for example through a future Delivering Social Change Framework Signature Programme or Justice Reinvestment strategies found in some OECD countries. In particular, the approach of the Delivering Social Change Framework could support the design and delivery of effective (problem-solving) justice services (including health, general social well-being) by bringing together the relevant executive departments in working horizontally with the civil society. Justice reinvestment supports cost effective, evidence based policies projected to generate savings while reducing crime and reoffending and maintaining a focus on public safety by reinvesting into community-based initiatives which aim to address the underlying causes of crime (LaVigne et al., 2014; Smart Justice, 2012).

Overall, strengthening problem-solving justice approaches in Northern Ireland can provide an important opportunity to contribute to the modernisation of the justice system and to resolve pressing social challenges. Further extension of these approaches would need to necessarily entail a strong buy-in from all the relevant agencies and service providers involved, from the public prosecution to housing and employment services and the different communities. An efficient jurisdictional and operational interface between

criminal and civil justice could enable more seamless and victim-oriented approaches in delivering justice services, especially in cases of domestic abuse. The ability of problem-solving justice initiatives in Northern Ireland to achieve their objectives of reducing crime and reoffending behaviour as well as achieving social cohesion, however, would strongly depend on the overall and efficiency of the justice system, including increasing timeliness of case consideration, strengthening case triage approaches, reviewing the legal aid system to respond to citizen legal needs, advancing court performance as well as the quality of legal representation, and creating incentive for horizontal collaboration.

Appendix B.1. List of organisations interviewed

- Committee on the Administration of Justice
- Community Restorative Justice Ireland
- Criminal Justice Inspection Northern Ireland
- Department of Justice
- Derry Solicitors Association
- Domestic Violence Partnership
- Foyle Women’s Aid
- Law Society
- Men’s Advisory Project
- Northern Ireland Alternatives
- Northern Ireland Commissioner for Children and Young People
- Northern Ireland Courts and Tribunals Service
- Police Service Northern Ireland
- Probation Board for Northern Ireland
- Public Prosecution Service for Northern Ireland
- Queen’s University
- University of Ulster
- Victim Support Northern Ireland
- Voices Victim Group
- Youth Justice Agency

Notes

1. Consult the index on line at <http://worldjusticeproject.org/rule-of-law-index>.
2. For more information, see www.economist.com/node/10849115.
3. Building on dozens of meta-studies of hundreds of correctional intervention studies, Lipsey and Cullen conclude that correctional sanctions often do not prevent subsequent criminal behaviour and even that a “significant portion of evidence points in the opposite direction”. According to them “the theory of specific deterrence inherent in the politically popular and intuitively appealing view that harsher treatment of offenders dissuades them from further criminal behaviour is thus not consistent with the preponderance of available evidence” (Lipsey and Cullen, 2007, p. 302).
4. A 2008 nationwide survey of mental health courts in the United States found that 98% accepted misdemeanour offences, 27% accepted felony charges, and 4% accepted violent felony charges (Slinger and Roesch, 2010, p. 260).
5. For more information, see www.courtinnovation.org/project/midtown-community-court.
6. For more information, see www.neighbourhoodjustice.vic.gov.au/home/about+us/results/.
7. See www.courtinnovation.org/sites/default/files/Planning_Checklist.pdf for more information.
8. In response to these criticisms, several principles and guidelines were drafted. They stress the knowledgeable and voluntary entry of participants into a problem-solving court programme while defence attorneys or lawyers should verify that their clients, upon entering a drug court programme, abandon certain rights “knowingly and intelligently”. Lawyers also need to ensure their clients are well informed, especially regarding the repercussions if the client fails to comply with the rules and court order (Freeman-Wilson, Sullivan and Weinstein, 2003). See also, e.g. US National Legal Aid and Defenders Association (2002) and US National Drug Court Institute (2002).
9. Problems with selection of most appropriate cases were foreseen and the judiciary fears delay, inequities and stigmatisation (CJINI, 2010, p. 22).
10. Other strategies and policies mentioned are: Prison Service Reform; Domestic and Sexual Violence and Abuse Strategy; Victims Strategy; and Fairer, Faster Justice.
11. No specific information is given on the level of recidivism reduction. The information available specifies: 68% of priority offenders involved reduced their offending behaviour whilst engaged in ROP during 2011/2012”. See www.pbni.org.uk/probation-central-to-reducing-offending-partnerships/ for more information.
12. Yet there is still a (strong) division between the two communities (also geographically).

13. This is supported by public opinion research. Notably, Catholics feel very much attached to their local communities. See www.ark.ac.uk/publications/updates/update93.pdf for more information.
14. They are statutory bodies established under the Justice Act (Northern Ireland) 2011 and consult and engage with the local community on issues of concern in relation to policing and community safety (see www.pcsp.org).
15. The other four strands are: driving change through co-operation and leadership, prevention and early intervention, delivering change through responsive services, and support.
16. Foyle Women’s Aid (FWA) is a non-profit organisation providing support to victims of abuse through awareness raising and preventive educational initiatives; Victim Support NI is a non-profit organisation providing support to “people affected by crimes” (victims and witnesses) in Offices, Courthouses and Outreach centres; Men’s Action Network (MAN) provides support services to men through counselling centres, telephone helpline, self-help support groups and advocacy campaigns.
17. Each second and fifth Tuesday of the month a hearing is reserved for contested cases and all adjournments and reviews are listed on each first and third Wednesday of the month.
18. The Order states: “No person shall be treated under this Order as suffering from mental disorder, or from any form of mental disorder, by reason only of personality disorder [...]” The Mental Health (Northern Ireland) Order 1986, Part I, Title 3.

References

- Administrative Office of the Courts and Center for Court Innovation (2004), “Opportunities and barriers to the practice of collaborative justice in conventional courts”, Judicial Council of California, Administrative Office of the Courts, San Francisco.
- Aos, S., M. Miller and E. Drake (2006), *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*, Washington State Institute for Public Policy, Olympia.
- Bakht, N. (2005), “Problem solving courts as agents of change”, *Criminal Law Quarterly* 50, pp. 224-254.
- Berman, G. (2000), “What is a traditional judge anyway? Problem solving in state courts”, *Judicature* 84, pp. 78-85.
- Berman, G. and J. Feinblatt (2005), *Good Courts. The Case for Problem-Solving Justice*, The New Press, New York
- Berman, G. and J. Feinblatt (2002), “Problem-solving courts: A brief primer”, Center for Court Innovation, New York.

- Birnbaum, R., N. Bala and P. Jaffe (2014), “Establishing Canada’s First Integrated Domestic Violence Court: Exploring Process, Outcomes, and Lessons Learned”, *Canadian Journal of Family Law*, 29(1), pp. 117-17.
- Bowen, P. and A. Fox (2015), “Legal adaptation: Is there a problem with English and Welsh problem-solving courts?”, in Herzog-Evans, M., *Offender Release and Supervision: The Role of Courts and the Use of Discretion*, Wolf Legal Publishers.
- Bowen, P. and S. Whitehead (2013), *Better Courts: Cutting Crime through Innovation*, NEF and Centre for Justice Innovation.
- Brown, M. (2014), “One Safe Place: Outline business case”.
- Carey, S.M., J.R. Mackin and M.W. Finigin (2012), “What works? The ten key components of drug court”, *Drug Court Review*, VIII, pp. 6-41.
- Carey, S. M. et al. (2006), “California drug courts: Outcomes, costs and promising practices: An overview of Phase II in a statewide study”, *Journal of Psychoactive Drugs*, SARC Supplement Number 3, pp. 345-356.
- Center for Court Innovation and Bureau of Justice Assistance (2014), “How Community Advisory Boards Can Assist the Work of the Justice System”, US Department of Justice, www.courtinnovation.org/sites/default/files/documents/Community%20Advisory%20Boards%20final%204.pdf.
- Children’s Court of Victoria (n.d.), “Family Drug Treatment Court”, www.childrenscourt.vic.gov.au/jurisdictions/child-protection/family-drug-treatment-court (accessed 20 June 2016).
- Cissner, A.B., M. Labriola and M. Rempel (2013), *Testing the Effects of New York’s Domestic Violence Courts: A Statewide Impact Evaluation*, Center for Court Innovation, New York.
- CJINI (Criminal Justice Inspection of Northern Ireland) (2015), “The effectiveness of youth conferencing”, report.
- CJINI (2010), “Not a marginal issue: Mental health and the criminal justice system in Northern Ireland”, report.
- Cleveland Municipal Court (2010), “Family Justice Center Initiative”, Cleveland Municipal Court and Cuyahoga County Department of Justice Affairs.
- Cross, B. (2011), “Mental health courts effectiveness in reducing recidivism and improving clinical outcomes: A meta-analysis”, graduate theses and dissertations.
- Denckla, D. and G. Berman (2001), *Rethinking the Revolving Door: A Look at Mental Illness in the Courts*, Center for Court Innovation, New York.
- Dunn, W.N. (1981), *Public Policy Analysis*, Prentice-Hall, Inc., Englewood Cliffs.
- DHSSPS (Department of Health, Social Services and Public Safety) and DOJ (Department of Justice) (2013), “Domestic and sexual violence and abuse in Northern Ireland 2013-2020”, public consultation document.
- DHSSPS and DOJ (n.d.), “Stopping domestic and sexual violence and abuse in Northern Ireland: A seven year strategy”.
- DOJ (Department of Justice) (2014), “Problem solving courts: A scoping paper”.
- DOJ (2013a), “Strategic Framework for Reducing Offending, Towards a Safer Society”.

- DOJ (2013b), “Reducing offending partnerships to be rolled out across Northern Ireland”, 23 May.
- DOJ (2009), “Court Integrated Services Program Economic Evaluation – final report”, Department of Justice, Melbourne, www.magistratescourt.vic.gov.au/publication/court-integrated-services-program-economic-evaluation-%E2%80%93-final-report.
- European Commission (2014), “Follow-up of Projects on Violence Against Women Brussels, 20-05-2014”, Family Justice Centers Europe, http://ec.europa.eu/justice/newsroom/gender-equality/files/family_justice_centers_en.pdf.
- Freeman-Wilson, K., R. Sullivan and S.P. Weinstein (2003), “Critical issues for defence attorneys in drug court”, *Monograph Series 4*, National Drug Court Institute.
- FWA (Foyle Women’s Aid) (2015), “The Justice Centre One Safe Place”, presentation to the OECD, 2 March.
- Hora, P.F. (2011), “Courting new solutions using problem-solving justice: Key components, guiding principles, strategies, responses, models, approaches, blueprints and tool kits”, *Chapman Journal of Criminal Justice 2*, pp. 8-52.
- Jacobson, J. and P. Gibbs (2009), “Making Amends: Restorative youth justice in Northern Ireland”, Prison Reform Trust, www.prisonreformtrust.org.uk/uploads/documents/making_amends.pdf.
- King, M. et al. (2014), *Non-Adversarial Justice*, The Federation Press, Sydney.
- Koetzle Shaffer, D.K. (2006), “Reconsidering drug court effectiveness: A meta-analytic view”, PhD dissertation, University of Cincinnati, Cincinnati.
- Labriola, M. et al. (2009), “A National Portrait of Domestic Violence Courts”, report submitted to the National Institute of Justice, Center for Court Innovation, New York.
- LaVigne, N. et al. (2014), “Justice Reinvestment Initiative State Assessment Report”, the Urban Institute, for the Bureau of Justice Assistance (BJA).
- Lee, C. et al. (2013), “A community court grows in Brooklyn: A comprehensive evaluation of the Red Hook Community Justice Center”, National Center for State Courts, Williamsburg, VA.
- Lipsey, M.W. and F.T. Cullen (2007), “The effectiveness of correctional rehabilitation: A review of systematic reviews”, *Annual Review of Law and Social Science 3* (1).
- Logan, W. H. et al. (2004), “Economic evaluation of drug court: Methodology, results and policy implications”, *Evaluation and Programme Planning 27*, pp. 381-396.
- Marlowe, D.B. (2013), “Who should drug treatment courts serve? Maximizing their outreach and potential impact”, in Cooper, C.S. (chief ed.), *Drug Treatment Courts: An International Response to Drug Dependent Offenders*, American University and Inter-American Drug Abuse Control Commission.
- Marlowe, D.B. et al. (2007), “Adapting judicial supervision to the risk level of drug offenders: Discharge and 6-month outcomes from a prospective matching study”, *Drug and Alcohol Dependence*, S4-S13.
- Marshall, K. (2015), “Revolutionary new drug court reuniting parents with children, and saving cash”, *The Age*, 7 June, www.theage.com.au/victoria/revolutionary-new-drug-court-reuniting-parents-with-children-and-saving-cash-20150528-ghbojl.html.

- McElholm, B.P. (2014), “Domestic Violence Pilot Listing Arrangement”, September.
- McIvor, G. (2010), “Drug courts: Lessons from the United Kingdom and beyond”, in Huckelsby, A. and E. Wincup (eds.), *Drug Interventions in Criminal Justice*, Open University Press, Maidenhead.
- National Judicial Institute (2011), “Problem-Solving in Canada’s courtrooms: A guide to therapeutic jurisprudence”.
- Nolan, J.L. (2009), *Legal Accents, Legal Borrowing: The International Problem-Solving Court Movement*, Princeton University Press, Princeton/Oxford.
- Nolan, J. L. (2004), “Therapeutic adjudication: The un-common law judge of America’s drug court”, in Imber, J. B. (ed.), *Therapeutic Culture: Triumph and Defeat*, Transaction Publishers, New Brunswick, New Jersey.
- Northern Ireland Assembly (2013), “Speeding up Justice/Youth Engagement Pilot: DOJ Briefing”, www.niassembly.gov.uk/assembly-business/official-report/committee-minutes-of-evidence/session-2012-2013/january-2013/speeding-up-justiceyouth-engagement-pilot--doj-briefing/.
- Northern Ireland Executive (2015), “Budget 2015-16”, www.northernireland.gov.uk/budget-2015-16.pdf (accessed 16 July 2015).
- PBNI (Probation Board for Northern Ireland) (2015a), “Enhanced Combination Order (ECO): Pilot Proposal”.
- PBNI (2015b), “PBNI is currently seeking a provider to deliver a mentoring scheme for a new project the Intensive Resettlement and Rehabilitation Project”, 3 April, www.pbni.org.uk/pbni-is-currently-seeking-a-provider-to-deliver-a-mentoring-scheme-for-a-new-project-the-intensive-resettlement-and-rehabilitation-project/.
- PBNI (2015c), *Probation News*, Issue 2, March, www.pbni.org.uk/wp-content/uploads/2015/03/Probation-News-Magazine-Issue2-March-2015.pdf.
- PBNI (2014a), “Statistical brief”, September.
- PBNI (2014b), “PBNI ACE Risk and Needs Profile”.
- PBNI (2013), “Pre-Sentence Report for the Court”, leaflet, www.pbni.org.uk/wp-content/uploads/2015/02/NewPSR-29.10.13.pdf.
- Provincial Court Nova Scotia (2014), “Nova Scotia Mental Health Court Report: Celebrating Five Years”.
- PSNI, DHSSPS and DOJ (2014), “Trends and statistics for Northern Ireland Domestic Abuse Multi-Agency Risk Assessment Conferences”.
- PSNI, DHSSPS and DOJ (n.d.), “Northern Ireland Domestic Abuse Multi-Agency Risk Assessment Conference (MARAC): Working together to reduce the risks for domestic abuse victims at risk of serious harm: Guidance for professionals”, booklet, <http://belfastdvp.co.uk/themainevent/wp-content/uploads/MARAC-Professionals-A5-Booklet.pdf> (accessed 20 June 2016).
- Rempel, M. (2014), *Evidence-Based Strategies for Working with Offenders*, Center for Court Innovation, New York and Bureau of Justice Assistance, Washington, DC.

- Rempel, M. and C. Destefano (2002), “Predictors of engagement in court-mandated treatment: Findings at the Brooklyn Treatment Court, 1996-2000”, *Journal of Offender Rehabilitation* 33, pp. 87-124.
- Rossmann, S.B. et al. (eds.) (2011), *The Multi-Site Adult Drug Court Evaluation: The Impact of Drug Courts*, Urban Institute, Washington, DC.
- Sandfort, J. and H.B. Milward (2008), “Collaborative service provision in the public sector”, in Cropper et al. (eds.), *The Oxford Handbook of Inter-Organizational Relations*, Oxford University Press.
- Sarteschi, C.M. (2009), “Assessing the effectiveness of mental health courts: A meta-analysis of clinical and recidivism outcomes”, doctoral dissertation, University of Pittsburgh.
- Slinger, E. and R. Roesch (2010), “Problem-solving courts in Canada: A review and a call for empirically-based evaluation methods”, *International Journal of Law and Psychiatry*, 33, pp. 258-264.
- Smart Justice (2012), “Justice reinvestment: Investing in communities not prisons”, Federation of Community Legal Centres (Victoria), Inc.
- US Department of Justice (2007), “The President’s Family Justice Center Initiative: Best Practices”, Office on Violence Against Women, www.justice.gov/archive/ovw/docs/family_justice_center_overview_12_07.pdf.
- US National Drug Court Institute (2002), “Critical issues for Defence Attorneys in drug courts”.
- US National Legal Aid and Defenders Association (2002), “Ten tenets of fair and effective problem solving courts”.
- Winick, B. J. (2003), “Therapeutic jurisprudence and problem-solving courts”, *Fordham Urban Law Review* 30, pp. 1055-1090.



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