
Book Review: Diarmuid Griffin, *Sentencing Serious Sex Offenders: How Judges Decide when Discretion Is Wide* (Bristol University Press 2025)

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Sentencing is often described as a very complex area of the law and therefore not easily accessible for ordinary members of the public. Diarmuid Griffin's book on the sentencing of serious sex offences in Ireland adopts a clear, almost conversational tone, de-mystifying complicated legal concepts such as discretion and guideline judgments in a very accessible way that provides great clarity and insight for legal practitioners and ordinary members of the public alike.¹ The focus of the book is an in-depth analysis of sentencing outcomes in 108 serious sexual offence cases over the period of 1985 to 2022 by the Central Criminal Court and the Court of Appeal in Ireland.² The analysis examines the most serious sexual offences dealt with by the courts, including rape, rape under section 4, aggravated sexual assault and defilement of a child, where long custodial sentences were imposed ranging from 15 to 21 years and up to life imprisonment. The cases examined can be broken down into two further sub-categories: sexual offences committed against adult females (45 cases) and sexual offences committed against children (63 cases).³

Although the focus of the book appears relatively niche, Griffin's analysis provides valuable insights into how sentencing operates more generally in Ireland. It also provides an important opportunity for us to reflect on how the courts have responded to some of the most serious and damaging forms of sexual offending in Irish society. Before highlighting some of the more general insights that emerge from the analysis of the sentencing of these cases, this review will first briefly explore the book's

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¹ Diarmuid Griffin, *Sentencing Serious Sex Offenders: How Judges Decide when Discretion Is Wide* (Bristol University Press, 2025).

² *ibid* 2.

³ *ibid* 10.

structure and the methodology underpinning the study it reports. For context, the review will then provide a summary of the main characteristics of sexual offence cases examined, as well as the general trends observed in terms of sentencing outcomes. The review then turns to a brief exploration of some of the major insights the book offers from this reader's perspective.

Outline of the structure of the book

Chapter One sets the scene by describing the main aims of the book and what Griffin hopes to achieve by deconstructing the sentencing outcomes of very serious sexual offences. The primary aim Griffin pursues is to 'broaden and deepen the discourse on sentencing'⁴ by shining a light on the serious sexual offences that rarely make their way through the criminal justice system to be sentenced. These offences have some of the highest levels of non-disclosure and of attrition thus leading to a significant 'justice gap'.⁵ Griffin hopes to shed light on how judges identify the most serious and aggravated versions of these offences and thus provide society with an opportunity to reflect on the cultural significance of the 'hierarchy of harms in sexual offending'.⁶ Chapter One then provides a brief outline of the prominent features of the Irish sentencing system followed by an overview of the types of serious sexual offence cases the study examined, as well as context for some of the key sentencing patterns. In Chapter Two, Griffin takes us through the mechanics of how judges approach the sentencing decision, the evolution of the superior courts' approach to the issuing of guideline judgments and a brief overview of the international sentencing guidelines movement. The chapter also deciphers the last decade of sentencing guidance jurisprudence whereby sentencing bands have been identified for most major criminal offences. Griffin then closely examines the most relevant sentencing guideline judgments in Ireland in relation to the sentencing of serious sexual offences. The study's methodological approach is outlined in Chapter Three, which also deconstructs the selection of determinate and life sentences to understand why one is chosen over the other in relation to very serious sexual offence cases. Chapter Four is devoted to an in-depth exploration of the sentencing patterns and trends that emerged in relation

⁴ *ibid* 2.

⁵ *ibid*.

⁶ *ibid* 3.

to 45 cases of serious sexual offences involving adult women. Chapter Five examines how the courts have sentenced the most serious crimes of sexual abuse against children. Griffin then turns his analysis to the judges in Chapter Six and provides an interesting exploration of the nature of the environment of sentencing – both micro and macro influences – including the composition of the Central Criminal Court which is tasked with sentencing these very difficult and extremely serious offences, the role of the guidance emerging from the appellate courts and the influence of judges' own practical or experiential wisdom. Concluding the book in Chapter Seven, Griffin draws together the key insights from the study, noting that an important driver of sentencing in these types of cases is the sheer multiplicity of offending they involve, and the role of wider social and cultural factors in determining the types of cases that make it to the sentencing stage at all.⁷

Methodology and sources of data

The methodology employed is both a strength of the study and a reflection of a weakness in our current sentencing system — the failure to collect accurate and examinable data that would allow ongoing analysis, reflection and accountability. Griffin diligently collected and rigorously compared as much available data as possible on the 108 cases examined from two key sources. Appeal court decisions provided the main source of data for 45 cases and details on the remaining cases were sourced from the media. The dearth of official sentencing data undoubtedly makes it almost impossible to examine any sentencing matters in evidenced informed ways and Griffin is to be commended for collecting so much information about so many truly egregious cases over the three-decade period. He constructed a 93-item scale⁸ to harvest information on each case yet certain gaps in data were unavoidable. For example, information on the headline sentence imposed was only available for one third of the 108 cases examined. Pre-sentence reports were available for some cases but not others. Indeed, Griffin notes that pre-sentence reports (or pre-sanction reports, as they are also known as) first became available to the courts in 1999,⁹ whereas courts have

⁷ *ibid* 126-127.

⁸ *ibid* 40

⁹ *ibid* 24.

been availing of these reports as sentencing aides at least since the 1970s,¹⁰ with risk assessments included in reports from 2005¹¹ onwards. Although risk is identified as an important factor for judges sentencing these cases, Griffin did not have access to these reports and had to rely on information on risk contained in sentencing remarks when available. Apart from the 45 cases where an appeal was lodged, Griffin's main source of information is drawn from the sentencing remarks of sentencing judges as recorded by journalists who attended the sentencing hearings. Analysis of these remarks allowed Griffin to identify which factors were associated with which sentencing outcomes. Indeed, he notes the enormous detail provided by court reporters on cases with excerpts not only from judicial remarks explaining their sentence and reasons for the sentence but also on victim impact statements. It reminds us of the important contribution made by court reporters without whom we would truly be in the dark about most of the decisions examined in this study.

Arguably access to the Digital Audio Recording ('DAR') for the whole data set would have provided Griffin with a much more complete and reliable set of data on the decisions in question. The Courts Service has a procedure for accessing DAR which involves making an application before the judge who heard the case in question (the court in which the case was decided) on a sworn affidavit¹². The judge has discretion to decide which elements of the proceedings may be released and applicants must pay the transcription fee which is €200 per hour of audio recording. This seems an unnecessarily restrictive approach to apply especially when procedures have been simplified elsewhere (see the procedure in England and Wales which requires filling in a form and submission of a small fee).¹³ DAR have been used by Judicial Researchers in the past when analysing a body of sentencing decisions and it would appear that they could be very usefully employed in the future to replicate studies like Griffin's in areas that are particularly understudied.

¹⁰ Niamh Maguire and Nicola Carr, *Individualising Justice: Pre-Sentence Reports in the Irish Criminal Justice System* (The Probation Service 6 July 2017).

¹¹ *ibid.*

¹² Courts Service, Access to court Recordings (DAR) and transcripts (Courts Service, 18 September 2025) <<https://courts.ie/guides/access-to-court-recordings-and-transcripts>> accessed 26 March 2026.

¹³ HM Courts & Tribunals Service, 'Form: Order a transcript of court or tribunal proceedings: Form EX107' (GOV.UK, 1 June 2017) <www.gov.uk/government/publications/order-a-transcript-of-court-or-tribunal-proceedings-form-ex107> accessed 19 March 2026.

Characteristics of sexual offences cases and main sentencing trends

A full account of Griffin's findings is beyond the scope of this review, but a summary is provided for context. As noted earlier, of the 108 cases examined, 45 related to serious sexual offences committed against adult females, and the remaining 63 cases involved sexual offences committed against children.¹⁴ In relation to the cases involving adult victims, all were female, mostly young adults, all perpetrators were male and most were strangers to the victims, and most offences occurred in public spaces. Griffin notes that many cases in the adult victims data set of his study are consistent with the 'real rape'¹⁵ myths stereotype and the significance of this is explored in some detail in Chapter Four.¹⁶ Two thirds of the 63 cases involving child victims were females with one third males and all perpetrators were male.¹⁷ The perpetrator in almost half of these cases was identified as a father or step-father or trusted friend of the family.¹⁸ Almost all of the 108 cases (94 per cent), involved multiple offences, and some exceeded 100 offences.¹⁹ Half of the cases examined involved multiple victims of sexual violence and 63 per cent involved multiple incidents. In total, 230 victims were involved in the 108 cases examined.²⁰

In terms of the main sentencing trends, custodial sentences ranging between 15 and 21 years were imposed in most cases examined. A small number of cases attracted 15-year sentences and 20 per cent of cases received life sentences.²¹ Most sentences were imposed concurrently and judges imposed suspended sentences as part of the custodial sentence in just over half of the determinate sentences as a way of reducing risk on release.²² Life sentences were reserved for exceptional cases where offenders were identified as a danger to the public.²³ Unsurprisingly, the main form of mitigation was the guilty plea although this did not always lead to a reduction in sentence. While

¹⁴ Griffin (n 1) 10.

¹⁵ Susan Leahy, 'Bad laws or bad attitudes? Assessing the impact of societal attitudes upon the conviction rate for rape in Ireland' (2014) 14(1) *Irish Journal of Applied Social Studies* 18.

¹⁶ Griffin (n 1) 83.

¹⁷ *ibid* 12.

¹⁸ *ibid* 12.

¹⁹ *ibid* 8.

²⁰ *ibid* 8.

²¹ *ibid* 55.

²² *ibid* 9.

²³ *ibid* 8.

there was an overlap in terms of the important aggravating factors between the two groups of cases, the level of violence and the multiplicity of offences, a previous record was more relevant in relation to sexual offences committed against adults than children because in the latter cases the offending behaviour typically took much longer to come to the attention of the authorities.²⁴ Sentences were appealed in 43 per cent of cases examined and 50 per cent of appeals resulted in sentence reductions.²⁵

Consistency in sentencing

Griffin notes that there is considerable consistency in how these cases were sentenced by the Central Criminal Court over the period of the three decades examined. This is not surprising given the homogeneity of the cases and their extreme level of seriousness. Similarly, as he observes, judges sentencing these types of cases do so in a type of 'echo chamber'²⁶ created by a combination of *inter alia* sentencing guideline judgments and oversight by the appellate courts. Indeed, the practical impact of appellate oversight in these cases is illustrated by the finding that almost half of the cases sentenced were subject to review and of those, half resulted in sentence reductions. In these circumstances, a high level of consistency would be expected. Indeed, socio-legal research that has empirically examined the exercise of discretion in legal decision-making has concluded that legal discretion is usually exercised in a much more orderly, patterned and predictable way than might be expected.²⁷ The level of consistency in relation to the sentencing of cases of this gravity is not really as big a concern for the public as issues stemming from the lack of ordinal proportionality between different types of criminal offences. Public attention tends to be focused on the seemingly inexplicable variations in the sentencing of offences that at least from the layperson's perspective may appear to be very different in terms of seriousness. For example, much newspaper wordage has been devoted to public disquiet about why property offences get punished with relatively long prison sentences when

²⁴ *ibid* 13.

²⁵ *ibid* 15.

²⁶ *ibid* 121.

²⁷ Keith Hawkins, 'The Use of Legal Discretion: Perspectives from Law and Social Science' in Keith Hawkins (ed), *The Uses of Discretion* (Oxford University Press 1992) 11, 38.

possession of child abuse material is met with relatively light sentences including suspended sentences.

The 20-year threshold for determinate sentences

Griffin's analysis of the sentencing outcomes of the most serious sexual offending over three decades leads him to identify that Irish courts have informally arrived at approximately 20 years as the current threshold of determinate sentences in Ireland, after which the appropriate sentence is then considered to be life imprisonment.²⁸ He speculates that the reason the threshold is set at 20 years is most likely related to the fact that life-sentenced prisoners typically serve approximately 19 years (up from 12 years between the period 1985-2000) in prison before being released.²⁹ One should not expect, therefore, to see determinate sentences of 25 years or 30 years imposed in Ireland because sentences of this length would make a nonsense of the sentence of life imprisonment.³⁰ Sentences of longer than 20 years – like the recent 30 year sentence for multiple rapes imposed in the Central Criminal Court – may be the exception that proves the rule.³¹

Nevertheless, the observation that the courts have identified a maximum determinate sentencing threshold is noteworthy as it allows us to reflect on what this means for sentencing and punishment more generally in Ireland. One point of reflection is the extent to which this threshold interacts with informal sentencing thresholds that have emerged in relation to other criminal offending. In other words, if a 20 year determinate prison sentence is the maximum sentence that judges feel should be imposed on the most serious level of sexual offending before a life imprisonment is appropriate, how does this compare with the maximum levels of punishment imposed on other offences (for example manslaughter, property offences or subversive

²⁸ Griffin (n 1) 7.

²⁹ *ibid* 51.

³⁰ While this logic makes perfect sense, it also understates the qualitative differences between life imprisonment and determinate sentences: life sentenced prisoners are never fully free, even after release, and may be returned to prison at any point through the remainder of their natural life.

³¹ 'DRCC welcomes 30-year jail term for rapes' (*The Law Society of Ireland Gazette*, 25 July 2024) <www.lawsociety.ie/gazette/top-stories/2024/july/drcc-welcomes-30-year-jail-term-for-rapes#:~:text=Trend,lengthy%20imprisonment%2C%E2%80%9D%20she%20added> accessed 19 March 2026.

offences) and how does it compare to informal maximum thresholds for similar offences in other countries? While these observations are not necessarily relevant to sentencing judges, they are highly relevant to penal policymakers, penologists and, one would assume to the Judicial Council, whose function it is to issue sentencing guidelines and to be concerned with ordinal proportionality. On the other hand, the consistently long custodial sentences imposed on the most serious sexual offences that come before our courts also serve to indicate that the criminal courts in Ireland regard serious sexual offending amongst the most serious forms of harm that can be committed against citizens, a point which undoubtedly reflects public opinion and should provide some level of reassurance for victim-survivors.

Global sentencing and multiple offences

A key finding from Griffin's analysis is that in the majority of the 108 cases sentenced, judges faced the task of sentencing multiple offences in one sentencing hearing. The approach adopted in most cases, in line with Irish sentencing law, is that judges imposed concurrent sentences. In some cases, this inevitably led to a bulk sentencing discount.³² Acknowledging this, Griffin notes that a practice has emerged whereby judges look at the totality of offending and impose a sentence that adequately reflects the overall gravity of the offence. He notes that although it is 'not the preferred approach, it is possible for a judge to select a global headline sentence that reflects the offending as a whole before working backwards to determine the headline sentence for each individual offence.'³³ However, the law regarding the global sentencing approach has since been updated by the Supreme Court case of *DPP v Faulkner*,³⁴ in which Charleton J officially endorsed the global offence as the preferred approach to sentencing without any indication of the appropriate methodology to be applied in the totality of punishment calculation.³⁵ As Griffin rightly asserts, judges must always ensure that the final sentence is proportionate to the gravity of the offending having considered the totality of offending and adjusting the sentence accordingly. How judges should go about this in practice has not yet been fully worked

³² Griffin (n 1) 45.

³³ *ibid* 46.

³⁴ [2024] IESC 16.

³⁵ Niamh Maguire, 'Sentencing Multiple Offences: How Much is Too Much?: *The People (DPP) v Faulkner*' (2025) 7 Irish Supreme Court Review 191.

out by the appellate courts and thus the legitimacy of the global sentencing approach is arguably undermined.

Protecting the public from risk

Risk of reoffending and the need to protect the public are identified by Griffin as important factors for judges when deciding between a very long determinate sentence or life imprisonment. Judges are aware, Griffin writes, of the greater level of scrutiny and supervision imposed on life-sentenced prisoners and that they are generally not released by the Parole Board until the level of risk has been reduced.³⁶ Yet, since the introduction of the Sex Offenders Act 2001, judges have been keeping the public safe post imprisonment by the imposition of post-sentence supervision requirements, sometimes for long periods of time, on serious sex offenders. Perhaps for this reason, Griffin notes that in the cases in which the risk of reoffending was identified as relatively high, there were few differences between the cases that judges sentenced to very long determinate sentences accompanied by post-sentence supervision requirements and those that they imposed a life sentence on.

Elsewhere,³⁷ Griffin highlights the incompatibility of sentencing aims such as incapacitation or prevention of future crime with the Constitution noting that these considerations (risk of reoffending, incapacitation) may only be considered once the overall sentence imposed complies with the proportionality principle. He notes that this incompatibility has formed the basis of a number of appeals against sentence severity and creates a difficult position for judges considering their genuine desire to protect the public against future harm that may be caused by known sex offenders and the need to comply with the constitutional ban on incapacitation and preventative imprisonment. In Ireland the life sentence has been identified as wholly punitive without any incapacitative element by the Supreme Court.³⁸ Griffin's book highlights that how we manage serious sexual offenders who continue to present risks, even after serving their 'punitive' determinate sentence, remains an unresolved problem in Ireland that was not in any way ameliorated by the introduction of enhanced statutory

³⁶ Griffin (n 1) 58.

³⁷ *ibid* 58.

³⁸ *Lynch and Whelan v Minister for Justice, Equality and Law Reform* [2010] IESC 34, [2012] 1 IR 1.

sentencing powers to impose longer sentences on persons who repeatedly commit sexual offences.

‘Rape myths’ and the sentencing of serious sexual offences in Ireland

Griffin compares the factors noted as important by judges in their sentencing of the 45 cases involving serious sexual offences committed against adult women with what is known from the literature about ‘rape myths’ – including the perception that ‘real rapes’ occur between strangers, in public spaces and involve significant violence.³⁹ He finds that there is some overlap between the description of factors highlighted by judges as important in their sentencing outcomes and those highlighted in the literature. He notes that this might account for why these types of cases make it all the way to sentence whereas the much higher rate of rapes which occur between parties known to each other have a much lower rate of successful prosecution and thus rarely make it through to the sentencing stage. These are useful and important insights that highlight the fact that ‘rape myths’ potentially impact the types of cases that are prosecuted in Ireland and account for the high levels of attrition of cases which do not align with these myths in our system.

Conclusion

Attempts to analyse any empirical aspect of sentencing in Ireland in 2026 face two main challenges. First, the sentencing data that is currently available has ‘profound limitations’.⁴⁰ Second, we are unlikely to rectify these limitations any time soon as ‘substantial data deficits appear at every level and progress linking systems from the different agencies is slow.’⁴¹ This book provides valuable insights into how serious sexual offences were sentenced in Ireland over the last three decades. It will appeal to a wide and varied audience. The explanations of sentencing law and practice are lucid and provide a good introduction to how sentencing in Ireland works for non-specialists. From this perspective, the book will be useful for students, policymakers

³⁹ Griffin (n 1) 83.

⁴⁰ Jay Gormley, Tom O’Malley, Julian Roberts, Cassia Spohn and Cyrus Tata, *Assessing Approaches to Sentencing Data Collection and Analysis* (Judicial Council of Ireland, Dublin, 2022).

⁴¹ Ian O’Donnell, ‘Penal Policy in Ireland: The Malign Effect of Sustained Neglect’, *Studies: An Irish Quarterly Review* 102, no. 407 (2013): 315, 319.



and non-legal sentencing experts. There is also plenty here for legal practitioners to draw upon. The in-depth analysis of sentencing factors provides a very insightful overview of this body of case law that goes beyond the applicable sentencing principles. This book provides a much needed and timely opportunity for victim-survivors, NGOs, academics, judges and policymakers to reflect on how serious sexual offences have been sentenced in Ireland over the last three decades and whether change is needed.