

Key findings

This summary presents the key findings from an independent study undertaken by the Institute for Criminal Policy Research (ICPR), Birkbeck, University of London and Professor Ben Bowling from the School of Law, King's College London, in support of the Fugitive Investigation working Group and harm reduction Task Force (FIGHT). The FIGHT project was led by Her Majesty's Revenue and Customs (HMRC) and the Serious Organised Crime Agency (SOCA). It also involved UK partners from the Metropolitan Police Service (MPS) and the National Offender Management Service (NOMS), together with specialist law enforcement agencies (LEAs) and related professionals from six European Union (EU) Member States (France, Holland, Ireland, Italy, Poland and Spain), Interpol and CrimeStoppers.

The project was funded for a two-year period via a European Commission '*Prevention of and Fight Against Crime (2008)*' action grant. It consisted of a series of four Working Group meetings at which delegates met to share and exchange knowledge, understanding, experiences and good practice in tracing, locating and apprehending absconders and fugitives from the law. A central focus of these activities related to the use of the European Arrest Warrant (EAW).

Since there was no legal definition of an absconder we employed the classification used by the Ministry of Justice in England and Wales and described an absconder as any prisoner who absents themselves from 'open' prison custody "*without lawful authority and without overcoming physical security restraints such as that provided by fence, locks, bolts and bars, a secure vehicle, handcuffs or direct supervision of staff*". Fugitives, by contrast, are those suspects, defendants or convicted offenders residing in one country whose arrest and extradition is requested and sought by the authorities in another national jurisdiction.

Research questions

The general aim of the study was to increase knowledge and understanding of absconding behaviour and fugitive criminology, and the work of specialist LEAs and related professionals in this area. Key questions which the study aimed to answer included:

Fight or flight? Absconders, fugitives and European law enforcement responses

1. Who is most likely to abscond or become a fugitive from the law?
2. What are the motives of suspects, defendants and convicted offenders when absconding?
3. What are the methods and strategies employed by absconders/fugitives to facilitate their escape and evade capture by LEAs?
4. How do LEAs operate and co-operate to prevent, detect and apprehend absconders/fugitives?
5. How can the work of LEAs in this particular area be refined and improved upon?

Our approach

All data used to inform the study were derived from four main sources:

- A rapid review of the international research literature on the nature and extent of absconding and how LEAs respond to it.
- Analysis of administrative correctional services' data in an effort to profile the characteristics of those presenting an absconding risk in England and Wales and identify any demographic, offending, situational and needs-related factors associated with and predictive of this risk (N=99,835).
- Surveys of and in-depth interviews with 34 specialist LEA and related professionals from seven EU countries (to identify effective approaches, barriers to joint working and examples of best practice).
- In-depth interviews with 21 apprehended absconders (N=15) and fugitives (N=6) imprisoned in England and Wales (to explore in more detail their experiences, motives and methods)¹.

Results

A profile of absconders and related risk factors

Using data from the joint prison and probation Offender Assessment System (OASys) in England and Wales during 2008/09 (N=99,835), the table below summaries the key findings relating to statistically significant correlates and predictors of being identified as posing an abscond risk² (n=2,312 or 2.4%) during this period. (By contrast there were 362 recorded absconds from establishments in England and Wales during 2008/09.)

¹ This is equivalent to 31 per cent of the 67 potential respondents identified by HMRC, MPS and NOMS as suitable and in custody at the time of fieldwork (50 absconders and 17 fugitives).

² The specific wording within the OASys assessment instrument refers to both escape and abscond risk.

Fight or flight? Absconders, fugitives and European law enforcement responses

Correlates and predictors of being assessed as posing an abscond risk	Key points
Demographic-related correlates	<ul style="list-style-type: none"> • Male*** • British national (nationality data available for prisoners only)** • White*
Offending-related correlates	<ul style="list-style-type: none"> • Convicted for burglary, robbery or theft and handling offences*** • A greater number of previous court appearances/convictions (17.5 vs. 8.4)*** • Acquired convictions across a broader range of offences (5.5 vs. 3.5)*** • A longer known offending career (14.1 years vs. 9.9 years)*** • Served more previous custodial sentences (6.5 vs. 2.1)*** • A high likelihood of reconviction (60% vs. 20%)*** • A history of previously breaching statutory supervision (85% vs. 50%)***
Need-related correlates	<p>Significantly more likely to have been assessed with a need in each of ten criminogenic areas addressed by OASys***:</p> <ul style="list-style-type: none"> • thinking and behaviour; • education, training and employment; • lifestyles and associates; • attitudes; • relationships; • accommodation; • drug misuse • emotional; • alcohol misuse; and • finances
Correlates most predictive of abscond risk	<ul style="list-style-type: none"> • Having served an above average (mean) number of previous custodial sentences (i.e. two or more)[^] • Being assessed with needs relating to attitudes^{^^} • Serving a sentence for a robbery offence^{^^^} • Having an above average (median) length of offending career (i.e. 7 years or more)^{^^^^}

*p<0.05; **p<0.01; ***p<0.001

[^]Exp(B) = 2.8; CI = 1.7 – 4.9; ^{^^}Exp(B) = 2.4; CI = 1.6 – 3.9; ^{^^^}Exp(B) = 2.1; CI = 1.3 – 3.2; ^{^^^^}Exp(B) = 1.8; CI = 1.1 – 3.0

Absconders: their motives, methods and experiences

This group of apprehended absconders interviewed for the study were all males. They ranged in age from 21 to 43 years (mean age of 33). With the exception of one respondent (who self-identified as black British), all described themselves as white British. They reported being imprisoned prior to their abscond attempt for 20 main types of offence, ranging from aggravated assault to armed robbery and murder. The sample had been sentenced to a total

Fight or flight? Absconders, fugitives and European law enforcement responses

of 101 years (range 2-14; median 5) and reported having collectively served more than three-quarters of their combined sentences (i.e. 78.8 years) at the time of their abscond.

The **motives** given for absconding were varied. Most commonly this was a reaction to bullying, intimidation or threats from others, or because of concerns about the prevalence of drugs in 'open' prison (this was particularly true was those who had taken steps to tackle their dependency issues whilst in 'closed' conditions). For some absconding was a response to a 'crisis at home' (i.e. the death or illness of a significant other) or as a consequence of the difficulties reportedly encountered when adjusting to the transition from 'closed' to 'open' prison conditions. Grievances about aspects of prison decision-making/disciplinary procedures were also noted. Others absconded having been caught with contraband in custody (e.g. a mobile phone) or were anxious about the repercussions of a failed drugs test.

The most common **destinations** reported by absconders included their partners and child(ren), partner only, a friend, or other family members (i.e. parents/siblings). One absconder left prison with the intention of handing himself in at the nearest police station (which he reportedly did).

The **process** of absconding was often described as impulsive and 'spur of the moment'. There appeared to be little pre-planning or resources required given the minimal physical barriers encountered in 'open' prison conditions. Intentions to abscond were discussed with few, if any, beforehand. The abscond was typically made on foot and completed using public transport. However, interviewee accounts indicated that maintaining a 'low profile' whilst 'at large' became increasingly difficult as performing even basic routines and functions became problematic (e.g. signing on for welfare benefits or accessing medical care).

The length of time that this group of absconders was reportedly 'at large' for ranged from one hour to 18 months - or an average (median) of 13 days (range 0-547 days). The absconders reported being **apprehended** in one of three ways: either surrendering themselves voluntarily to the police (n=7), being apprehended proactively by the police (n=7) or as part of a routine/reactive 'stop and search' (n=1). The sentences imposed in response to an escape/abscond were equivalent to an average (median) of 213 days in custody. For more than half the sentence imposed was 37 times greater than the length of time 'at large'. These **punishments** were deemed by the interviewees to have been particularly excessive.

Fight or flight? Absconders, fugitives and European law enforcement responses

When asked to identify what might have **prevented** them from absconding two key themes were raised: a more sympathetic/constructive response from prison authorities to requests for assistance (n=7) and a perceived need for greater consistency in the application of prison rules/regulations (n=5). Better support for and management of 'lifers' was also identified as a form of prevention by those serving life tariffs.

In terms of **deterrence** there appeared to have been little or no consideration of potential consequences at the time of the abscond. Similarly, many acknowledged that they had failed to consider the immediate impact and consequences of their actions for significant others. One often noted consequence of having been apprehended was the limited visits from family members as a result of the inevitable move back to 'closed' prison conditions in establishments often far from home.

Fugitives: their motives, methods and experiences

The six apprehended fugitives interviewed as part of the study were all males. Their ages ranged from 32 to 68 years, with an average (median) age of 37. They were British (n=3), Irish (n=2) and Polish (n=1) nationals and reported being sentenced for seven main offences, including: fraud and duty evasion (n=2); money laundering (n=2); importation of a Class A drug (one ecstasy, the other cocaine); and importation of cannabis (n=1).

There were a range of **motives** and reasons reported by the respondents to account for why they had become fugitives from the law. These included a desire to pursue ongoing business interests overseas and evade justice; being unable/unwilling to travel to the UK for a trial; caring for/visiting a sick parent overseas; and being unable to cover barrister's fees at an imminent trial. One respondent had absconded after receiving death threats warning him against pleading not guilty at trial and testifying against co-defendants.

France, Holland, Ireland and Poland were the **destinations** chosen by the interviewees because they already had existing property and/or business links there or an established family and friendship network. In terms of the **processes** involved most had fled while on bail awaiting trial (n=5); one already lived overseas. Two reportedly had no travel restrictions imposed upon them as part of their bail conditions. One in three reported using clandestine methods to leave the UK using established links. A minority (one in three) reportedly made any attempts to conceal their identities having reached their destination.

Fight or flight? Absconders, fugitives and European law enforcement responses

Most (n=5) were employed in their destination country: gaining new jobs, moving a business operation to this location or continuing a pre-existing enterprise there. Opportunities for accommodation, work and relocation alternatives also presented themselves via new and existing contacts. However, maintaining discrete forms of contact with others became increasingly difficult for those running a legitimate business or trying to maintain a relationship with family members.

This group had evaded capture for between 18 and 60 months – or an average (mean) of 36 months. All were **apprehended** by local LEAs executing an outstanding EAW. For most the arrest process was swift and unexpected. One reported being forewarned and aware that police were in the process of executing a warrant. Once arrested two respondents described how they had mounted (and lost) a legal challenge to the EAW and extradition proceedings. The others remarked upon how they were reluctant to prolong the process once they had been apprehended. All described feeling a sense of relief following their arrest.

The interviewees offered few insights on **preventing** absconding. They instead perceived there to be a certain inevitability that the risk of absconding greatly increases for those given the opportunity, and with the means and resources to evade justice. Two respondents stressed the importance of receiving accurate legal advice and appropriate representation at court.

Total sentences imposed against the six interviewees totalled 42.5 years (ranging from 2-13 years; average (median) of 6.3 years). The custodial **sentences** imposed against this group of fugitives in response to their abscond ranged from three to six months. There was some surprise at the leniency shown by the courts (but an acknowledgement too of the variability in sentencing responses).

Leaving aside the obvious inconveniences of a prison sentence, there was perceived to be minimal **deterrent** effect from existing penalties imposed for absconding. Instead there was a far greater emphasis placed by respondents on the emotional difficulties of maintaining the fugitive lifestyle which could adversely affect quality of life and damage relationships.

Fight or flight? Absconders, fugitives and European law enforcement responses

The views and experiences of specialist LEA and related professionals

Particular countries were identified as being considered by fugitives as suitable destinations (and perhaps even safe havens) for three main reasons:

- the difficulty LEAs are likely to face in extraditing fugitives from these locations;
- having strong family and cultural ties there making it easier for fugitives to reintegrate and evade capture; and
- the existence of well established and developed criminal networks providing both a degree of perceived safety and further opportunities.

There were a range of strategies and tactics that might be deployed by LEAs, subject to legal restrictions/approval, to assist them in proactively locating such fugitives. Once located there were formal systems and mechanisms in place to alert LEAs in other countries about a fugitive being sought, most notably EAWs issued via the Schengen Information System (SIS), Europol and Interpol. (Though the absence of Britain and Ireland from SIS was noted as a problem by respondents from these countries.) By contrast, informal means of direct communication between LEAs to relay and exchange this information were rarely used.

A number of ongoing problems relating to EAW, extradition and surrender processes were identified and reported by the FIGHT partners. Prominent amongst these included:

- differences between the legal systems of Member States that often lead to misunderstandings and variable interpretation and implementation of the EAW framework decision (most notably in relation to the issue of proportionality);
- administrative delays resulting from poor information exchange and a lack of communication which persisted between issuing and executing authorities, and LEAs in some countries (often exacerbated by language barriers); and
- administrative difficulties associated with the handover process.

Perhaps inevitably these processes (which had reportedly been made simpler and quicker in relation to extradition, for example, under the EAW) appeared to operate more smoothly between those countries which had similar cultures and legal systems and encountered minimal language barriers.

Interviewees and respondents offered a number of suggestions on how LEAs could operate and co-operate more effectively to prevent, detect and apprehend absconders/fugitives.

Fight or flight? Absconders, fugitives and European law enforcement responses

Perhaps the most common call was for greater speed and consistency in the application of EAW, extradition and surrender procedures within and between Member States. This kind of change could be facilitated in a number of ways: better and quicker forms of communication between issuing and executing judicial authorities; a mandatory proportionality test; and an ongoing programme of training for prosecutors issuing EAWs in all EU Member States.

Conclusions and recommendations

The study has produced two quite distinct profiles of absconders which reflect in large part the ways in which the data were collected: those identified by the correctional services as escape/abscond risks with high levels of 'criminogenic' need and prior records of non-compliance with statutory supervision, and others convicted of fraud, money laundering and drug importation offences largely brought to justice by agencies like HMRC. The latter tended to have both the means and capacity to abscond: they had legitimate business interests as well as their criminal connections, were generally mobile, affluent and well connected in the countries to which they fled.

The decision to flee tended to be a spur of the moment one for both groups, however, with little consideration of the potential consequences, or appreciation that attempting to live clandestine lives would present its own unique difficulties and stresses. Existing legislation and sentencing therefore failed to act as an effective deterrent for either group.

The findings from our research suggest that the challenges for future work in this area are two-fold. On one hand, there is an obvious pragmatic demand amongst LEAs for faster and more efficient sharing of information, direct communication among relevant authorities and especially police officers on the ground to undertake more effective pursuit of absconders and fugitives. On the other hand, there is a principled need for consistency, transparency and accountability required by any policing system, especially one that extends beyond the boundaries of the nation state.

We think there are at least two kinds of risks associated with any move towards more informal systems of information exchange. First, since errors are an inevitable part of policing, as they are in any other activity, untested and unchecked information being shared in real time has the potential to result in mistaken identity, miscarriages of justice and unwarranted intrusion into liberty and other human rights and freedoms. Second, since corruption has been a problem throughout the history of policing, informal systems have the

Fight or flight? Absconders, fugitives and European law enforcement responses

potential to enable corruption that has hitherto been confined to local policing to become globalised. Serious organised crime groups are intent on compromising any such systems and informal networks clearly provide no protection against this.

Specific recommendations arising from the research include:

- Better information, awareness and risk assessment³ to more accurately and consistently identify those posing an abscond risk
- Training for judicial and prosecutorial actors involved in EAW, extradition and surrender processes
- Developing mechanisms to promote greater transparency, accountability and trust in more informal systems of working between LEAs
- Improved prison processes and procedures to address those issues highlighted by our research which trigger absconds from custody
- More comparative European research on the methods and motives of serious organised criminal absconders apprehended using the EAW⁴
- Engagement of experts from other fields (such as law and academia) and civil society organisations, and wider public discussion about the development of fugitive apprehension processes and its attendant dilemmas.

³ Though clearly the scope to develop and implement a validated system of routine and comprehensive screening of absconding risk needs to be balanced against the overall resources available for such a task.

⁴ We think that our study has shown that research of this sort is feasible with the necessary support and buy-in from relevant LEAs.