Institution: University of Strathclyde
Unit of Assessment: 20
Title of case study: Influence on judicial decision making and increased public understanding of sentencing practice through implementation of Sentencing Information System in Republic of Ireland

1. Summary of the impact (indicative maximum 100 words)
In 2010 a Sentencing Information System (ISIS) for the Republic of Ireland was launched. Its development was partly based on an earlier system developed for use in Scotland, and the ISIS project was informed by the research which underpinned the Scottish system. The experience of this Scottish-based research informed advice given by Tata to the Judiciary and Court Service of the Republic of Ireland; a key recommendation was the need for public accessibility of the system to ensure maximum utility. The Irish system was launched in 2010 is now in use by judges and other practitioners as well as the wider public. ISIS assists judicial decision-making through the provision of meaningful, systematic information about sentencing; and its public availability has helped to shape and inform public discourse about sentencing and wider issues of justice.

2. Underpinning research (indicative maximum 500 words)
Context: Judicial sentencing is one of the most central and sensitive areas of criminal justice policy. From 1995 to 2002 theoretical research detailed below, was used to develop a prototype Sentencing Information System for High Court judges in Scotland. The aim of the system was to help judges during the process of sentencing by providing access to a database (a Sentencing Information System or SIS) containing sentencing information.

Key research findings: In most jurisdictions, information about sentencing is unsystematic, of variable reliability, fails to deal adequately with multi-offence cases and previous convictions, and can easily lead to spurious implications (Tata 1997; 1998b). Therefore, trying simply to feed ready-made administrative data into an information system will not provide the kind of high quality sentencing information which judges and others are seeking. The origination of a sentencing taxonomy for the recording and retrieval of information is therefore vital (Tata 1997; 1998b; 2000).

- Public access to an SIS can inform the understanding of sentencing and penal policy among legal and other criminal justice practitioners, policy-makers and the wider public and so lead to a more productive policy discourse. Rather than posing a threat to judicial independence, properly managed public access to an SIS offers potential to shore up collective judicial independence and public confidence (Tata and Hutton 2003).
- Precisely because of its emphasis on description, (rather than explicit prescription), and on use being non-mandatory, the authority and institutionalisation of an SIS are key issues. The use of an SIS by lawyers is a crucial mechanism by which an SIS can become embedded into everyday routine practices (Tata 2000).
- How to conceptualise and represent case similarity in sentencing meaningfully is a fundamental conceptual challenge, which some consider insurmountable. The SIS in Scotland showed that it is possible to do. It developed two main ways of conceptualising and representing the similarity of cases. One of these approaches was particularly novel and sought to overcome a long-standing problem in previous academic and official attempts to research sentencing (see Tata 1997, 1998a, 1998b, 2007). This was the attempt to capture and explicate the holistic and intuitive ways in which judges think about sentencing cases.
- An artificial intelligence approach is highly unlikely to gain support (Tata 1998a, 1998b). Judges and other users greatly value flexibility in the ways in which information can be retrieved, not least to view information statistically and textually. This flexibility means, however, that the task of measuring the effect of an SIS on sentencing practices is more complex than it might first seem and that a multi-dimensional approach to examining the effects is required (Tata 2000).
- Data recording is not a simple technical matter. The experience of Scotland emphasises the importance of consistent and accurate recording of SIS data, overseen by a quality control system. Such an on-going process is more assured where the SIS has a judicial institutional home Tata 200; Tata and Hutton 2003).
- An SIS has no hope of being a point-of-sentence tool unless it is constructed together with its

judicial users and in a way meaningful to them (Tata 1998a, 1998b).

- Delegation of an SIS to the courts' IT department will lead to failure. A partnership between judges, sentencing scholars, court managers, and IT specialists is necessary (Tata and Hutton 2003).
- The development of an SIS cannot be understood apart from the legal and political environment. Judicial leadership and corporate vision are of the highest importance (Tata 2000; Tata and Hutton 2003).

Key researchers: The research was conducted in School of Law, University of Strathclyde from 1993-2003 by Neil Hutton Senior Lecturer; Alan Paterson Professor of Law; Cyrus Tata Research Fellow/ Lecturer/Senior Lecturer; in collaboration with John Wilson, Lecturer Department of Computer Science, University of Strathclyde, who contributed research to the design and structure of the Scottish database.

3. References to the research (indicative maximum of six references)

1. C. Tata 'Conceptions and Representations of the Sentencing Decision Process', *Journal of Law & Society*, Vol. 24 No. 3, September 1997, pp. 395 – 420.
   Notes on quality: Published in prestigious peer review journal; submitted for RAE 2001; 23 known citations

2. C. Tata (2007) 'Sentencing as Craftwork and the Binary Epistemologies of the Discretionary Decision Process' *Social & Legal Studies* Vol 16 No 3 pp. 425-447.
   Notes on quality: Published in prestigious international peer reviewed journal using ESRC-funded research; Highly favourable reviewer comments. Submitted to RAE 2008. 23 known citations

3. Tata, C and Hutton N. (2003) Beyond the Technology of Quick Fixes: Will the judiciary act to protect itself and shore up judicial independence? Recent experience from Scotland. *Federal Sentencing Reporter*, vol. 16 no 1 October pp.1-9.
   Notes on quality: Peer Reviewed American journal; draws on funded research; included in ISIS website

4. C. Tata (2000) 'Resolute Ambivalence: Why Judiciaries Do Not Institutionalise Their Judicial Decision Support Systems' *International Review of Law, Computers & Technology* Vol. 14 No.3: 287- 316
   Notes on quality: Published in international Peer Review Journal; Included in RAE 2001; included in ISIS website

5. C. Tata (1998a) "Neutrality", "Choice", and "Ownership" in the Construction, Use, and Adaptation of Judicial Decision Support Systems' *The International Journal of Law and Information Technology* 1998 Vol.6 No.2. 143-167
   Notes on quality: Peer review international journal; Based on funded research; submitted for RAE 2001;15 known citations; included in ISIS website

6. C Tata (1998b) 'The Application of Judicial "Intelligence" and "Rules" to Systems Supporting Discretionary Judicial Decision-Making' *Artificial Intelligence and Law: International Journal* 6:203-230
   Notes on quality: Peer review international journal; submitted for RAE 2001; 22 known citations; republished as a chapter in book; included in ISIS website

Other evidence for quality of research: The Scottish SIS research was funded over four grant periods by the Scottish Office and the Scottish Courts Administration/Service between 1993 and 2002. It gave rise to various peer-reviewed publications (see above).

4. Details of the impact (indicative maximum 750 words)

Process from research to impact: The Irish Sentencing Information System (ISIS) project aimed "to develop a computerised information system, on sentences and other penalties imposed for offences in criminal proceedings, which may inform judges when considering the sentence to be imposed in an individual case. The sentencing information system enables a judge, by entering relevant criteria, to access information on the range of sentences and other penalties which have been imposed for particular types of offence in previous cases." [Source A]. The project was overseen by a Steering Committee of judges, "which conducted a survey of similar systems in other countries and found that in Scotland to be most relevant. A study was then undertaken of the Scottish system [Source B,E], which had been developed by researchers at the University of

Strathclyde. Cyrus Tata had previously contributed to the legal research underpinning the content of the Scottish database, and John Wilson (UoA11) was the computer scientist involved in the design and construction of the Scottish database.

From 2005 Tata "provided considerable assistance, guidance and advice" to the ISIS Steering Committee and Tata's "in-depth knowledge and experience of the Scottish SIS was invaluable in developing ISIS" [Source E]. He addressed and met with members of judiciary, the Steering Committee (including its chair, Justice Denham, now Chief Justice), senior management and staff of the Irish Court Service [Source E]. The research articles of Tata and colleagues were circulated, and some have been placed on the ISIS website. Chief Justice Denham has stated that "ISIS has proven to be a significant improvement over previous paper-based record systems in Ireland, and was developed with the helpful advice and assistance of Professor Cyrus Tata based on his prior research and development of the Scottish Sentencing Information System" [Source E].Key issues on which Tata advised were: public access and institutionalisation, data quality and recording, case taxonomy, politics of sentencing reform, and accordingly in some key respects the Irish approach improves on that of Scotland. Unlike the Scottish SIS, the Irish system is publicly available. Contemporaneous data is recorded by those trained for the task. ISIS continues to be directed by a steering committee chaired by the Chief Justice, (rather than delegated to court/IT managers), and is expected to be taken over by a Judicial Council [Source E].

An initial data collection phase of the project ran between 2007-9 in Dublin, Cork and Limerick Circuit Criminal Courts, Dublin District Court (29993 cases) and the Court of Criminal Appeal (305 cases). The ISIS website was launched in 2010 by which point it contained information on over 1000 cases [Source C]. In January 2013 funding was secured to enable further expansion and development of ISIS [Source A]. Announcing this development, the Chief Justice of Ireland said ISIS "…gives a practical overview and a snapshot in time of how our courts treat various offences, who committed them and the circumstances in which they took place. It is also a hub for keeping up with the latest judgments and academic thoughts on various crimes and sentencing".

Types of Impact:
1. Introduction of new technology to aid awareness of sentencing: Prior to ISIS, public access to legal records was virtually non-existent. Although paper-based records were sometimes available they did not permit a meaningful picture of sentencing practices. As a web-enabled database, ISIS provides quick and easy access to sentencing patterns, individual cases and other relevant knowledge about sentencing, according to a flexible range of search criteria. ISIS aims to provide flexibility so that information is available at aggregate and individual case levels and including both first instance and appealed and data collection is ongoing. ISIS has international reach. Over 8900 user visits in 2011 originated in 50 different countries with the bulk coming from Ireland, the USA, the UK and the Netherlands. Search phrases used indicate that users are looking for information about specific cases as well as more general information about sentencing in the Irish Republic. By 31st December 2012 there had been 32,544 hits on the ISIS website with over 8500 user visits, and in the first quarter of 2013 alone there were 18,193 hits from 48 countries.

2. Practitioner Decision-Making: ISIS enables judges, and others engaged in the sentencing process to develop their knowledge and understanding of sentencing practices, so enhancing the pursuit of fairness and consistency in sentencing. This not only assists sentencing practitioners, but also benefits those brought before the courts (e.g. defendants, witnesses including victims), as well as the wider public [Source C]. As well as being a point-of-sentence tool, consistent with Tata's advice, the ISIS project has begun to mine the data to produce occasional published reports about matters of particular legal and public interest, which together with a regular series of sentencing seminars run by the ISIS steering committee, help to inform practitioners. The ability of ISIS to assist the pursuit of fairness and consistency in sentencing and public knowledge without threatening judicial independence and impartiality is widely regarded as a particularly significant development. For example, The Irish Justice and Equality Minister said in the Irish Penal Reform Trust Annual Lecture 16th September 2011 that *"The system [ISIS] informs judges - it does not interfere with judicial independence in sentencing. . . As Minister, I believe the website to be of great assistance in ensuring greater uniformity of sentencing."* [Source D]. Around 500,000 criminal

matters are dealt with by the Irish criminal justice system each year. By 2010 ISIS contained information on over 1000 cases [Source C].

3. Stimulation of Public Discourse: A wide range of Irish media have welcomed the public accessibility of ISIS as an act of transparency in the exercise of justice [Source F,G]. In making the ISIS publicly accessible, the Irish approach contrasts favourably with that of Scotland, as Tata advised the ISIS Steering Committee that the refusal to make the SIS Scotland publicly accessible was one of the key reasons why it lost momentum shortly after full implementation. Public access helps to embed the system into everyday practices, as well as assist the public understanding of sentencing and contributing to confidence in the justice system. ISIS aids knowledge of , and understanding about sentencing and criminal justice, which helps to stimulate more informed public debate. [Source C] In late January 2013, consistent with advice and research of Tata (2000), data in ISIS has begun to be mined to produce occasional 'Sentencing Snapshot' reports which have been prominently reported in the media , thus contributing to public knowledge and understanding, [Sources C,H,I]. ISIS has also been referred to in public discussion and debate about sentencing practices sparked by high profile and controversial cases [Source J]

4. ISIS enables greater predictability in the planning of policy and management of criminal justice services: Beneficiaries also include criminal justice managers and policy-makers including court service managers dealing with the flows of first instance and appeal cases, prosecution, prisons and community justice sectors. Greater knowledge and understanding of sentencing, its dynamics, and the drivers of sentencing trends enhance the ability to plan the provision of services (and the more efficient expenditure of precious resources) and provide a more informed basis for the development of criminal justice policy. For example, a recent White Paper on Crime issued by the Department of Justice and Equality commented : "A development of some significance is the Irish Sentencing Information System (ISIS) website […]. This publicly accessible resource includes statistics on sentencing, synopses of relevant court judgments and a database on sentences imposed in various crimes and cases…. [a] valuable tool not only for legal practitioners and researchers but also for those concerned with the needs of victims and their families." [Source K]

5. Sources to corroborate the impact (indicative maximum of 10 references)
A. http://www.irishsentencing.ie/ ISIS homepage
B. http://www.scotland.gov.uk/Publications/2004/03/19042/34205 information on the Scottish system on which the Irish system was based
C. Houses of the Oireachtas Parliamentary debate 6th February 2013
http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2013020600103
D. http://www.justice.ie/en/JELR/Pages/SP11000177 Irish Justice and Equality Minister 'Squaring the Circle' Penal Reform Trust Annual Lecture 16th September 2011 referring to ISIS
E. Statement from Chief Justice Denham (Chair of the SIS Republic of Ireland) supports claim that Tata advised the ISIS project and the benefits of ISIS
F. Irish Examiner Newspaper report http://www.irishexaminer.com/ireland/website-to-give-overview-of-criminal-sentencing-126823.html
G. http://www.humanrights.ie/index.php/2010/08/03/sentencing-information-website/
Shows positive discussion of the availability of the sentencing data on Human Rights in Ireland
H. Irish Times 21st May 2013 http://www.irishtimes.com/news/sentencing-in-robbery-cases-relatively-consistent-new-report-by-irish-sentencing-information-system-finds-1.1400615 shows ISIS informs public discourse
I. http://www.thejournal.ie/irish-sentencing-information-online-771983-Jan2013/.
J. "Rape Case Plea has Little Bearing on Sentence" *Irish Examiner* 28 January 2013
http://www.irishexaminer.com/ireland/rape-case-plea-has-little-bearing-on-sentence-220874.html
will support the claim that ISIS data informs media debate
K. *The Community and the Criminal Justice System*, Department of Justice and Equality, Government of the Republic of Ireland, June 2011.
http://www.justice.ie/en/JELR/Pages/White_Paper_on_Crime White Paper on Crime.