



PROMOTING PROBATION INTERNATIONALLY



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Crime and Justice Research Institute



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Crime and Justice Research Institute**



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**Proceedings of the
International Training
Workshop on Probation
(2-5 July 1997, Valletta, Malta)**

**Edited by
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Preface

The United Nations Interregional Crime and Justice Research Institute and the Commonwealth Secretariat have a longstanding relationship based on issues of common interest in the area of crime prevention and criminal justice, which has resulted in a series of joint activities.

Among the various issues of common interest or concern, non-custodial sanctions in general and probation in particular attracted the attention of both entities.

The Commonwealth Secretariat is interested in probation because many developing Commonwealth countries face difficulties with the administration of criminal justice, while UNICRI's interest lies in its long-standing experience in research related to alternatives to imprisonment, and its commitment to continue activities in this area.

Despite the fact that imprisonment is still considered the most appropriate sentence for a number of crimes and offenders, experiences in countries in which probation is an option have indeed demonstrated that it is far less costly and far more humane than imprisonment.

Non-custodial sanctions remain an area of interest and hope for a more rehabilitative, less punitive and less costly way of controlling and preventing crime.

The importance of non-custodial sanctions was stressed during the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, Cuba 27 August - 7 September 1990). The Congress adopted the UN Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) and a resolution on Principles and Directions for Research on Non-custodial Sanctions.

Both documents call for the promotion of non-custodial measures highlighting the need for presentation, research and training on the use and effectiveness of non-custodial sanctions in order to facilitate informed decision-making and administration¹. In the framework of the Congress, UNICRI organised the Research Workshop on Alternatives to Imprisonment.

The material of the workshop from which the aforementioned resolution emerged was then published in 1994². Subsequently, UNICRI, jointly with the UK Home Office, carried out research in 10 countries which resulted in a publication entitled 'Probation Round the World'.³

1 Report of the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 17 August - 7 September 1990 (A.Conf.144.28/Rev.1)

2 Zvekic, U. (ed.) (1994) *Alternatives to Imprisonment in Comparative Perspective*. Chicago: Nelson-Hall Publishers.

Zvekic, U. and Alvazzi del Frate, A. (eds.) (1994) *Alternatives to Imprisonment in Comparative Perspective: Bibliography*. Chicago: Nelson-Hall Publishers.

3 Hamai, K., Villé, R., Harris, R., Hough, M. and Zvekic, U. (1995) *Probation Round the World*. London: Routledge.

It was therefore natural for the Commonwealth Secretariat and UNICRI to join efforts to organise and hold an International Training Workshop on Probation for practitioners and managers from around the world. Since 'Probation Round the World' was among the first international comparative studies on probation, the International Training Workshop on Probation was probably the first international event of this kind ever to be organised.

It was the intention of the Commonwealth Secretariat and UNICRI to involve as many countries as possible in order to maximise the exchange and dissemination of information, to create the bases for contacts among probation practitioners and managers from around the world, to internationalise the issues facing probation services, and to promote probation internationally.

Participation in the International Training Workshop on Probation should be seen as having represented an important opportunity (i) for collecting information on the probation system in those countries in which probation exists; (ii) for facilitating its effective implementation in countries where it exists only on the books; and (iii) in providing useful information on how to go about introducing probation when it does not exist. Indeed, some countries which do not as yet include probation as a sentencing option, but are considering introducing it, were represented.

The International Training Workshop on Probation was a gratifying experience for four main reasons: (i) because it was attended by some 60 participants representing more than 30 countries; (ii) because of its focus on both strategic as well as practical issues; (iii) because of its outputs such as the present volume as well as the forthcoming 'Handbook on Probation Services: Guidelines for Probation Practitioners and Managers'; and finally (iv) because the participants urged similar exercises to be organised either at the international or at the local level. The set of recommendations serves the purpose of promoting probation internationally.

We would like to express our thanks to the Government of Malta for having hosted the International Training Workshop on Probation, as well as the Foundation for International Studies for its organisational support. Our special appreciation goes to His Honour Mr. Justice Lino Agius, without whose devotion it would not have been possible to organise the ITW in a such a short period of time. Obviously, the ITW is the result of the involvement of numerous persons at various stages and all of them deserve our gratitude.

We hope that this volume will serve to promote probation world wide and that follow-up activities will fully justify the energy spent on it and fulfil the expectations created.

HERMAN F. WOLTRING
Director
UNICRI

Rome, Italy
December 1997

RICHARD C. NZEREM
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Affairs Division
Commonwealth Secretariat

London, England
December 1997

Editors' notes

To promote probation internationally is a long process composed of research, such as 'Probation Round the World', training, such as the International Training Workshop on Probation (ITW), and networking including communication and dissemination of information. It is in the latter context that the present publication finds its *raison d'être*.

The general objective of the ITW was to promote probation as a credible and effective alternative to imprisonment by increasing exchange of information, improving contacts at the international, regional, national and local levels, preparing a 'Handbook on Probation Services:

Guidelines for Probation Practitioners and Managers', examining the possibility of establishing an international website as well as the potential for an International Probation Association, and by furthering training, technical co-operation and research work on the international plane.

The meeting had an interactive character; a large part of the programme was assigned to working groups following a key presentation. This resulted in a good balance between transfer of knowledge and practical exchange of information and experiences among the participants.

The present publication follows, to the extent possible, the programme of the ITW, and is divided into ten chapters.

The first chapter is composed of the opening and introductory statements made by representatives of UNICRI, the Commonwealth Secretariat and the host Government of Malta, which afforded great importance to the event as witnessed by the statements delivered by the Prime Minister and the Minister of Justice.

The second chapter contains the three key note addresses aimed at providing the framework for the subsequent deliberations and highlighting issues of importance to them.

The next four chapters present the contributions of the various sessions, each of which commenced with a key lecture followed by working groups on related issues. It should be noted that the working group reports highlight only the key issues that were discussed during the working groups.

The subsequent chapter includes presentations of the activities of two international entities: The Council of Europe and the European Permanent Conference on Probation and Aftercare, as well as of the draft Handbook on Probation Services: Guidelines for Probation Practitioners and Managers.

The General Report by Professor Robert Harris provides an analysis of the issues debated and the results achieved at the ITW. It is accompanied by an analysis of technical co-operation needs and an evaluation of the Workshop.

We hope that this volume will contribute to the promotion of probation internationally and that the International Training Workshop on Probation, as well as the present proceedings, will serve to stimulate research, training and technical co-operation activities.

It was with this spirit that the participants to the ITW produced and adopted a set of recommendations aimed at promoting follow up activities. The 11 recommendations are listed immediately following these notes, and it is hoped that at least some, if not all, of them will be practically implemented.

In closing, we would like to express our gratitude to all the participants, contributors, various rapporteurs and logistic support staff for their active involvement, without which neither the International Training Workshop on Probation nor this publication would have been possible. Our special thanks go to the Commonwealth Secretariat for its past and, hopefully, future co-operation and assistance.

RENAUD VILLÉ
UGLJESA ZVEKIC
JON F. KLAUS

*Rome, Italy
December 1997*

Recommendations

The participants to the International Training Workshop on Probation held in Valletta (Malta) from 2 - 5 July 1997 recommend:

1. That the organisers (UNICRI and the Commonwealth Secretariat) publish and widely distribute the papers presented and the proceedings of the meeting, including the reports of the various working groups and these recommendations.
2. That the organisers publish the Handbook on Probation on the basis of the comments made by the International Training Workshop and further comments to be made by 1 September, with a view to the Handbook ultimately becoming a United Nations document available in all official UN languages.
3. That governments translate the Handbook into their respective languages enabling it to be used either in the introduction or enhancement of probation as a humane and effective alternative to incarceration.
4. That national governments be asked to note the achievements and potential of probation systems, especially but not exclusively in the light of their commitment to the Tokyo Rules, and also in the light of the high financial and social costs and relative ineffectiveness of prisons as compared to probation, and to take action accordingly.
5. That national governments be invited to note the progress made in a number of countries in developing National Standards - including codes of conduct and ethics and charters of rights of probationers - and to consider whether such standardisation would enhance the credibility and utilisation of probation in their own countries.
6. That national governments be invited, in particular, to review the statutory basis of probation in their countries, and, where outdated or based on colonial models which are no longer relevant, to review whether it accurately reflects their contemporary expectations of probation systems.
7. That national governments, supranational bodies, professional associations and relevant probation organisations be invited to note the significance and success of this historic Training Workshop, and to consider whether and in what form follow-up events might take place.

In particular the relevant bodies are invited to consider the desirability of holding regional as well as interregional meetings in order to enhance the capacity of probation services in countries whose social and economic development is at different stages.

8. That active support be given to the creation by UNICRI of a Website on probation whose mission is to enhance communication, improve knowledge, and disseminate and enhance standards of professional performance; and that UNICRI in particular give careful thought to the integration of this website with other relevant sites, not only in probation but in criminal justice generally.

9. That notwithstanding the desirability of this, UNICRI and the Commonwealth Secretariat note the concern expressed at this Training Workshop, at the danger of excluding developing nations where technological availability may be limited, and make alternative information sharing mechanisms available.
10. That, given the increasing world-wide emphasis on effective risk management, UNICRI and the Commonwealth Secretariat be invited to seek support for a major international conference on this subject, and, prior to that conference taking place, to seek funds for research to study and develop methodologies for enhancing effectiveness on an international and comparative basis.
11. That UNICRI be asked to take the initiative in exploring the potential for the development of an International Association of Probation to complement the work of organisations already active in this field, noting that other agencies and professions within the criminal justice system already have such international associations (e.g. International Commission of Jurists, International Association of Judges and International Association of Prosecutors).

Opening and introductory statements

Alfred Sant Prime Minister of Malta

It is with great pleasure that I welcome you all to this first joint United Nations and Commonwealth Secretariat International Training Workshop on Probation. This same venue at the site of the old University of Malta was also the scene of past fruitful collaborations between the government of Malta and UNICRI.

In 1993 Malta hosted the organisation of a meeting on Cross-border Crime and International Co-operation in an Euro-Mediterranean Perspective, and in 1995 it again hosted the meeting on Crime and Criminal Justice in the Mediterranean Area: Promotion of Informed Decision Making and International Co-operation.

Today our horizon is further expanded with the generous support of the Commonwealth Secretariat, enabling us thus to welcome also participants from Commonwealth countries.

In Malta the Probation Offenders Act, enacted exactly forty years ago with little amendments to its basic structure since then, is the main foundation for probation services in Malta. Despite its age it remains a good piece of legislation, but, as with everything in life, it needs reviewing to improve it further and update it with the times.

The stated aims of the probation officer is to visit or receive reports from the probationer at such reasonable intervals as may be specified in the probation order issued by the court; to see that the probationer observes the conditions of the probation order; to report to the court as to his behaviour; to advise, assist, and befriend the probationer, when necessary, and to endeavour to find him suitable employment.

It is also the duty of the probation officer to inquire, in accordance with the directions of the court, into the circumstances or home surroundings of a probationer with a view to assisting the courts in determining the most suitable method of dealing with his case.

The first probation order was actually awarded in 1961. Generally the probation order can be used for a person who is convicted for a crime that carries a maximum of 10 years imprisonment, except where the law precludes such a provision. Furthermore, the term of a probation order cannot be less than a year or longer than three years.

Section 5, subsection 2, of the Probation Offenders Act, 1957, states that the court in issuing a probation order may:

require the offender to comply during the whole or any part of the probation period with such requirements as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition by him of the same offence or commission of other offences.

The courts have used this section to experiment with various alternatives to imprisonment, such as community service and victim offender reconciliation.

In 1978 the Department of Welfare was established and its director became the principal probation officer in terms of the act and thus responsible for the organisation and supervision of the probation services.

In 1994 government faced with an unprecedented increase in the prison population and inadequate prison facilities decided to deal with crime, punishment and treatment through a system-wide approach that would include probation as an integral part of the new Department of Correctional Services.

At the same time the University of Malta started to organise diploma courses in probation. These courses, organised under the auspices of Professor Nancy Grosselfinger, a US full-bright scholar assigned to the university, were highly successful and enabled the Department of Correctional Services for the very first time to recruit fully qualified probation officers. The courses attracted also a small number of students from abroad.

The new unit within the Department of Correctional Services, although still very small, is now completely run by trained specialists who are adequately and academically equipped to deal with the delicate and demanding problems associated with persons placed under a court probation order.

The presence of newly trained, specialised probation personnel is meant to offer the possibilities of extending alternatives for the judiciary and at the same time deal with the problems of overcrowded prisons. The new probation unit will continue to be consolidated as new diploma holders in probation leave the university thus reinforcing existing resources and thereby relieving the stress and cumbersome workloads of social workers presently assigned duties as probation officers.

The positive effects of having a professionally run probation service cannot be overstressed. It has been noted that the judiciary making use of these services has increasingly resorted to probation after experiencing the improved quality of pre-sentence investigation reporting by these qualified probation officers.

Hopefully, as these services are further strengthened the supervision process would also be improved with the availability of new qualified intakes in the probation unit.

In this way a dream born in 1957 would at last prove to be the practical option to imprisonment, at least in respect of those offenders who are considered as good candidates to benefit from serving their sentence in the community.

There is no doubt in my mind that probation is an appropriate criminal policy instrument and presents effective alternatives to the old notion of imprisonment which, to my view, wrongly regarded punishment as an end in itself.

In 1990, at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Cuba, Mr. Justice Agius who is also well known to UNICRI represented Malta during the adoption of the United Nations Standard Minimum Rules for Non-custodial Measures known as 'the Tokyo Rules'.

As already explained earlier, in adopting the new policies on corrections my government is in practice putting into effect some of the more important principles enunciated in the Tokyo Rules. We believe, for example, that alternatives to imprisonment can be an effective means of treatment within the community to the best advantage of both the offender and society. We are also conscious that the deprivation of liberty is mainly justified only for reasons of public safety, just retribution and as a deterrent.

The main purpose of prisons should, therefore, be both punitive and reformatory, the ideal to be aimed at being the rehabilitation of the prisoner so as to turn him into a useful member of society on release. This is also consistent with what Mc Williams and Pease wrote in 1990 on probation. These authors discussed rehabilitation as implying the re-establishment of a degraded person to a former standing with regard to rank and legal rights, and the attempt to ensure those rights are maintained in time.

The job of probation is, therefore, to ensure that the offender is punished only to the extent imposed, not more, and to facilitate his/her renewed participation in society.

Another important point recognised in the Tokyo Rules, and to which I already made reference earlier, is the increase in prison population. Today our prison is closely approaching full capacity.

Government is dealing with the problem in a two-pronged manner. On one part the physical aspect of the prison has to be improved with great urgency. For this purpose government has prepared a master plan and capital investment increased. For example, for this year only capital allocations amounted to almost one million Malta pounds and this is anticipated to be doubled next year.

In this way it is hoped to address the problem of prison accommodation and attendant facilities. On the other part the question of recidivism has to be dealt with and this can only be done by adopting correctional and rehabilitative policies thereby ensuring that ex-prisoners do not find themselves again in prison after the lapse of some time.

Last year our students in the Diploma in Probation Studies at the university prepared a study on the relative costs of incarceration versus probation. Their findings show a surprising contrast. Mainly that it costs LM22.22 (or approximately US\$57) per day to keep an inmate in prison and LM1.74 (or approximately US\$4.50) per day for a person to be on probation. Thus Malta, like any country, has to consider the relative costs and benefits of using both of these types of sanctions.

Malta also supports the Tokyo Rules with regard to promoting greater community involvement in criminal justice as well as promoting in the offenders a greater sense of responsibility toward security, balancing rights between individual offenders, victims and society's concern for safety and crime prevention.

With regard to probation in particular Malta strongly supports the Tokyo Rules, urging the judiciary to use pre-sentence inquiry reports prepared by competent, authorised officials, as aids in the sentencing decision. Unfortunately probation is still under-utilised, in this regard, in spite of recent efforts to upgrade the quality and number of probation officers through the Diploma in Probation Studies offered at the University of Malta.

I feel that Malta's judiciary could be more disposed in using the probation service, although one can at the same time understand certain attitudes of hesitation on their part given the great responsibility they carry to check personally how well the probation order is working.

With regard to that part of the Tokyo Rules on staff training, Malta unequivocally adheres to the standards of non-discrimination based on race, colour, sex, age, language, religion, political or other opinions, national or social origin, property, birth or other status, hiring persons suitable for such work, and reflective of the diversity of offenders to be supervised.

Similarly, we concur that those staff should be professionally trained, practically experienced, and benefit from continuous professional training. This meeting surely constitutes an outstanding learning experience and our sponsorship of their participation demonstrates our commitment in this regard. In addition they have benefited from a rigorous one year, full-time post-qualification course leading to a Diploma in Probation Studies.

Finally, Malta stands behind the Tokyo Rules emphasis on research, planning, policy formulation and evaluation on a regular basis. The Institute of Forensic Studies has the duty to advise government and conduct research in this area, including linking with local relevant agencies, many of whom are represented here today, as well as co-operating internationally by regular representation at UN and UN subsidiary meetings.

In conclusion, I would like to state that the debate on criminal law has always been characterised by a shift from absolute to relative theories of penology. Certainly, punishment should not be an end in itself. That would be tantamount to advocating revenge. In the past growing scepticism with these ideas had paved the way for the development of alternative ideas to imprisonment.

There is no doubt that a proportion of prisoners are beyond restoration whatever is done to rehabilitate them. However, there is no doubt also that the great majority of offenders can change and become responsible and productive citizens. Probation presents such a promising and exciting alternative.

A well thought court probation plan can, in many instances, do more to protect the public than committing the offender to prison. It should be clearly understood, on the other hand, that the granting of probation must remain within the sole discretion of the court. The working relationship between the courts and the probation officer, however, is also extremely important. For this purpose there must no doubt be trust and frequent communication between the two sides.

Probation is not the sole answer to the problem of crime but it is an important part of the whole solution. There are a number of reasons why probation is to be viewed favourably: over-population of prisoners is one of them, sanitary reasons, age, social conditions, are other reasons; it also greatly reduces the financial costs to the public treasury for an effective control system, it affirmatively promotes the rehabilitation of the offender, and offers the offender an opportunity to redress the community from the harm done by the offence.

Probation work is described as intended 'to prevent relapses into crime by strengthening, to the greatest possible extent, the clients self-confidence and self-discipline and by strengthening his ability to evaluate himself in social and economic contexts and translate this experience into practice'.

I augur a successful meeting which we are happy to host. In the coming days I am certain you will share the accomplishments and difficulties in your own countries as together you strive to improve standards in the profession.

I invite you all to a fruitful dialogue, examining frankly the proposals that will surely come up for discussion, and seeking to concentrate on concrete measures that can easily be adopted to add yet another stone to the construction of a better network of regional and international co-operation in the field of crime prevention and criminal justice.

I look forward to the fruits of your labour, wish you every success in your work, and at the same time hope you will find time to enjoy our country where you are most welcome.

Herman F. Woltring, Director of UNICRI

Let me start by welcoming you and by saying how pleased I am that so many of you are here from all over the world to attend this first ever International Training Workshop on Probation. We have over 60 representatives from all geographical areas representing different legal systems. It is regrettable that the industrialised new world as well as the emerging market democracies are underrepresented.

Mr. Prime Minister, I would like in particular to express our gratitude to you and the Government of Malta, The University of Malta and the Foundation for International Studies for hosting this important event. This workshop is just one in a continuing set of collaborative ventures and projects UNICRI has carried out with our Maltese partners in Malta. As a matter of fact, since 1991 when we held a training course in Drug Abuse Prevention, and later on in the same year, one on Human Rights and the Police, we have had a series of joint endeavours. In 1993, there was an international experts group meeting on the Protection of the Environment through the Criminal Law, followed by an impressive International Conference on Co-operation in the Mediterranean Area in Crime Prevention and Criminal Justice in 1995, and the carrying out of the Survey of victims of crime within the framework of the 1996/97 International Crime (Victim) Survey. I was also informed that the UNICRI/British Home Office publication, Probation Round the World is used as part of training material for the Maltese probation officers. Your presence here today is the best testimony of your governments' commitment to international co-operation in crime prevention and criminal justice. Allow me, your Excellency, to pay special tribute to Justice Lino Agius, also the Vice-Chancellor of the University of Malta, for his pivotal role in facilitating our collaborative activities as well as that of Professor Nancy Grosselfinger whose research and teaching contribution is highly appreciated.

I would like to acknowledge the financial support provided by the Commonwealth Secretariat which has enabled over 20 'Commonwealth developing nations' to send representatives to Malta and has allocated funds for the printing of both the proceedings and the Handbook on probation, once finalised by this workshop. Richard Nzerem, Assistant Director of the Commonwealth Secretariat, Legal and Constitutional Affairs Division, has put much time and effort into making this joint venture happen. The Commonwealth Secretariat involvement is appropriate because it was in its member countries that modern probation developed into a more viable and humane sentencing option as opposed to the more costly and certainly less effective reliance on imprisonment.

It is our hope that this international workshop will be the catalyst for similar regional type training workshops and seminars throughout developing and in-transition countries. Kenya and its Director of Probation, Mr. Gitau (who is also with us today) has already made the offer to work with us in promoting and organising such a venture. This is indeed very much appreciated and appropriate given that probation represents one example, through its reparative and integration aspects, of the more traditional way of societal based community healing and 'doing justice' for which African cultures are renowned.

I would also be remiss in not thanking the other various governments and institutions for providing and making available many of the 'experts' that will be addressing you this week. The Government of British Columbia in Canada, the Correctional Service of Canada and the British Home Office have all assisted us greatly through their making possible the participation of key note speakers.

I would also like to acknowledge the representatives here today from our sister institute UNAFRI, the Council of Europe and the European Permanent Conference on Probation and Aftercare. The work of UNAFRI is of utmost importance in Africa and I use this opportunity to call upon the representatives of African countries to give full support to UNAFRI. The work of the Council of Europe in developing regional standards for probation that closely mirror, in both spirit and intent, those promulgated by the United Nations in 1990 known as the Tokyo Rules is to be applauded. The European Permanent Conference on Probation and Aftercare has worked tirelessly and effectively in promoting both training and networking among their members and from all accounts have been highly effective.

On a purely organisational matter, following informal consultations and with your concurrence, I would like to suggest that Professor Robert Harris acts as the general rapporteur for the conference.

It is with great pleasure that I introduce this training workshop, the focus and theme of which is revitalisation, renewal and possible reform of probation as an effective and cost efficient non-custodial option. Probation has proven itself to be a viable alternative sanction within a wide range of criminal justice sanctions. However, for it to work to its full potential, it must be based upon systematic and timely information for policy purposes which then translates into appropriate procedures and practices which must themselves depend upon good 'effectiveness' research especially of a comparative and international nature.

It is our hope that this workshop will give all of you present new insights through the discussions of the major international trends and developments. We hope that this will provide capacity building and training in infrastructure development with the ultimate shared goal directed to collectively improving the credibility of probation in the eyes of the public at large and among criminal justice partners, as well as increasing its power position within the range of sentencing options. It is our sincere wish that this workshop will provide the necessary framework for probation to take advantage of both international trends in sentencing and the growing disillusionment with imprisonment as an effective correctional strategy.

International co-operation in crime prevention, criminal justice and in the search for alternatives to imprisonment, of necessity, must include a wide range of activities. These include the drafting and reform of existing laws and policies, the development of organisational structures that support and guide the administration of criminal law, the modernisation of the work of criminal justice and correctional agencies, the organisation of key implementation agencies, international legal and correctional research, the organisation and conducting of research, and the organisation of seminars, workshops, and training programs all designed to strengthen new or existing criminal justice initiatives.

This workshop is designed to provide a forum to discuss these issues and to indicate the international co-operation and assistance available to states seeking it. Additionally, only if a number of management and structural issues are addressed and rectified can probation gain this much needed international prominence and position in the new millennium.

BACKGROUND AS TO WHY WE ARE HERE

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1990) adopted the UN Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) and the resolution on Principles and Directions for Research on Non-Custodial Sanctions, highlighting the need for training and research on use and effectiveness of non-custodial sanctions in order to facilitate informed decision-making, administration, credibility and acceptance. Subsequent work revealed that despite the wide use of probation and its popularity as one of the traditional non-custodial sanctions, no major interregional comparative study has been carried out recently.

This prompted the United Nations Interregional Crime and Justice Research Institute (UNICRI) and the British Home Office to commence a study on probation systems and services for adult offenders in ten countries including from the well resourced and heavily professionalised services of Britain (including parts of the Old Commonwealth) and Israel, to the systemic and planned lay supervision in Japan and the community-based system recently established in Papua New Guinea. The results of the project indicated a number of important issues in need of further study and practical development in order to promote probation as a credible and effective non-custodial sanction, especially in developing countries which as a result of a large increase in prison populations and overcrowding, are looking at alternative and more cost-effective non-custodial options in order to more humanely deal with the offender and to divert offenders away from the penal system.

The long journey that resulted in us being here in Malta commenced with the UNICRI sponsored 'Alternatives to Imprisonment' research workshop that was held within the context of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana, Cuba, 27 August - 7 September 1990. UNICRI was responsible for the scientific and organisational co-ordination of the workshop, the results of which were published as 'Alternatives to Imprisonment in Comparative Perspective' in 1994.

This work continued especially following the 1995 joint UNICRI/British Home Office publication, 'Probation Round the World', which resulted in a revitalised and renewed interest in, and re-evaluation of, the efficiency and effectiveness of probation as a non-custodial option, both in developed and developing countries. In fact, the original five authors of the report (Koichi Hamai, Renaud Villé, Robert Harris, Mike Hough and Ugljesa Zvekic) are all present with us this week. This, I believe, demonstrates clearly UNICRI's long standing interest, tradition and continued involvement in the area of non-custodial options and sanctions.

The perceived need for this workshop arose out of these research efforts, in order to capitalise on the gains made and to address many of the structural and operational issues identified as needing resolution. It was against this backdrop that planning for this workshop commenced in 1996 with the initial preparation of the draft Handbook on Probation: Guidelines for Probation Practitioners and Managers, that we hope this workshop will finalise. It was our hope that such an international review and endeavour, using the Tokyo Rules, would become a framework for 'best practice' and a potential benchmark.

Independently of the philosophical orientation, debate and controversy that surrounds probation and parole, probation has, nonetheless, proven useful as a humane and rehabilitative non-custodial sanction, one that offers assistance and guidance as well as punishment. Increasingly, probation is viewed as a realistic public policy option - the imposition of a cheap, non-custodial punishment for offenders whose crimes are not deemed to justify the imposition of higher level more expensive custodial options. Offenders are selectively targeted at the pre-sentence stage of the judicial process in which courts are encouraged to use prisons as the penalty of last resort and to promote the use of community based alternatives.

Two major products are being provided to you at this workshop, along with key developmental and research findings on 'what works', not just for practitioners but for managers and leaders as well.

The first is:

**THE DRAFT HANDBOOK ON PROBATION SERVICES:
GUIDELINES FOR PROBATION PRACTITIONERS AND MANAGERS**

The basic purpose of this draft Handbook (which was researched and written by Jon F. Klaus, a Visiting Fellow at UNICRI, on loan to us for two years from the Correctional Service of Canada), is to assist in the revitalisation of services and the raising of the profile of the utility of probation where emphasis has either diminished or shifted. This is sought to be achieved by the sharing of best practices, experiences, issues needing to be addressed and include the efforts of some countries. It is also intended to provide assistance and guidance to those countries who are either in the process of, or are interested in, the establishment of probation/parole or after-care services with a set of practical guidelines and needs assessment tools that will further define and guide the development, implementation and evaluation process. It is intended as one of the practitioners' tools - moving toward international standards, defining the boundaries of policy and practice, and raising both organisational and managerial issues that need attention.

Issues and problems that have been identified in the research that has gone into the preparation of the Handbook are also highlighted to illustrate many of the problem areas that often create distractions for staff, managers and partners within the criminal justice system. They must be addressed if probation is to achieve its rightful place within international criminal justice systems.

I am pleased to say that this Handbook has had input from a variety of sources, including a group of international experts who met with us at UNICRI in Rome in mid-April of 1997. Earlier, a draft version was field tested with a group of probation officers within the Kenya Probation Service and their comments, support and constructive suggestions contributed significantly to further refinement of the draft version that you have with you today.

As an aside, and in preparation for what follows, the Handbook represents 'old technology' and ways of doing things and passing on knowledge and information. What we are proposing next, I believe, is the way of the future.

The second major product proposal that we hope flows from this workshop will be what we have tentatively called:

THE UNICRI INTERNATIONAL WEBSITE ON PROBATION

We are in a world of constant and rapid change, no longer with boxes or borders, and staff are increasingly working in non-traditional 'non-office environments, often in "telework" situations' with links to the office. The dynamics and rapidity of change these days including the flow of information outpaces individuals', organisations' and governments' capacity to assimilate and address it. Practitioners in particular can simply no longer keep up with the information, knowledge and technology explosion. This revolution challenges the appropriateness of the traditional model of service delivery. Until addressed, the gaps that have developed are serious and growing and must be addressed at the individual, community, organisational and system levels, and incorporated into a new concept of doing business.

We have prepared a demonstration of what we believe is the next step of 'knowledge transfer' and what is needed for a truly international probation network, one that will give developing and in-transition countries in the stages of planning for or implementing probation, a quantum leap forward by putting much needed information on policy, procedures and research findings from across the probation and academic world at their fingertips. It will also offer the possibility of close and ongoing interaction between leaders, policy makers and practitioners on issues of mutual interest.

Results from this workshop 'demonstration' will be analysed, assimilated and incorporated into the UNICRI project proposal for funding for an 'International Website on Probation' that, hopefully, through collaboration and consultation with practitioners, managers, researchers and other interested parties and donors, will result in a 'state of the art' international collaborative and interactive site that allows for an exchange of ideas, experience, knowledge and information. It will provide access to the highlights of international activities and events constructed around those elements deemed essential to facilitate users' access to 'state of the art knowledge and technology transfer'.

WORKSHOP OUTCOMES

It is my hope that our work here this week will result in 5 major outcomes, all critical to the future direction and development of probation. They include:

1. Refinement and distribution of the Handbook on Probation: Guidelines for Probation Practitioners and Managers across the world, primarily as a United Nations document designed to foster good practice.
2. Technical Assistance projects especially in developing and in-transition countries who either do not have, or are in the process of either developing or strengthening, probation services, based upon the knowledge that we all can learn from one another. You will find a protocol in your material which we have developed to facilitate the understanding of your needs which will in turn help us to identify funding bodies and other sources we can solicit support and funds from in order to help you. Please consider it one of your personal priorities to fill it out and return it before you leave to the conference organisers.
3. Further research especially of an international comparative nature on the effectiveness of probation as a non-custodial alternative to imprisonment.
4. Development and operation of an international 'knowledge network' for probation practitioners and managers around the world.
5. Training on probation, especially in the international context and especially for those countries interested in revitalising, reforming or implementing probation systems. In order to facilitate true knowledge transfer, 'experts' from around the world will form the nucleus for such endeavours.

I thank you for being with us and, even more so, I would like to thank you in advance for the input, sharing of experiences and knowledge that will make that endeavour a little less difficult by further defining and shaping how we get there from here.

Richard C. Nzerem, Assistant Director of the
Legal & Constitutional Affairs Division,
Commonwealth Secretariat

My friend and colleague, the Director of UNICRI, has set the stage with a fitting introductory statement that says almost all that needs to be said. I endorse everything he has said and this is not just because we are in this endeavour together as co-sponsors. I say so because the workshop can truly be said to be a Commonwealth affair and I have a certain bias towards things Commonwealth.

But permit me first, Prime Minister, to bring to this gathering the warm wishes of the Secretary General of the Commonwealth, Chief Emeka Anyaoku as we embark on our journey which, I am sure, will be a pleasant one. This workshop deals with a subject which is rightly an area of concern to many Commonwealth member states and to which the Commonwealth Secretariat therefore attaches the importance it clearly deserves.

No one could seriously doubt the interdisciplinary and inter-related nature of what every caring government should be doing to achieve an effective ordering of society. This clearly includes an imaginative administration of the justice system, especially the criminal justice system. Admittedly, many of our countries have still to loosen themselves from the grip of an era dominated by the philosophy of retributive justice. But it is my view, and I am pleased to say that I take my cue from what I see already beginning to happen in many of our countries, that we are at the threshold of a new political era.

On my way here on the plane, I was reading a speech delivered recently in London by the Hon Secretary of State for International Development of the United Kingdom on the subject of eliminating poverty. It was most revealing from the speech of how change can be brought about by a government which has the political will to bring about such change and to make things happen. The Secretary of State said many trite things in her speech but the one that struck me most was her comment that recent political events suggest that people all over the world - at last - are voting for social justice both at home and abroad. True it is a *cliché*, she admitted, to say that the world is becoming a smaller place. It is by virtue of that phenomenon that one can travel across the world and see things in person or on television that could not have been imagined before.

I have had little difficulty in extrapolating, by way of analogy, from the speech by the Secretary of State. Globalisation should help to change the way people think about world problems and the changes should make it feasible to seek and build alongside other forms of globalisation, a global moral community.

I would like to bring this down to a more practical level by adding that the working relations between the Commonwealth Secretariat, for which I work, and UNICRI have focused and will continue to focus on those issues which, in the recent past, were seen as belonging in the sole domain of state competence, to be undisturbed by outside intervention. But our relationship with the governments we serve, particularly in the developing world, remains crucial because only governments can deliver all the universals that are needed - universal education, universal primary health, universal suffrage, universal justice, i.e. justice to all, and all the other universals. In other words, together we are in the business of looking for ways of developing partnerships and charting pathways to practical change. Probation is something that largely only governments can make to happen.

I started by not intending to say much more than endorsing what the head of our co-sponsoring organisation had said with such clarity and in such great detail but I want to associate myself specifically with the outcomes that he identified. In particular but not exclusively, I commend the development of an international 'knowledge network' for probation practitioners and managers around the world as a way of keeping in touch. It would, in essence, facilitate a combination of networking and a do-it-yourself distance training on probation.

But I could not end, Prime Minister, without adding my own words of appreciation and gratitude especially to the Government of Malta, The University of Malta and the Foundation for International Studies for acting as our hosts. I also would like to thank the other governments and institutions, especially UNAFRI with its extremely limited resources, which have helped in so many ways to bring this workshop to fruition. Like UNICRI, I would hope that this workshop acts as a catalyst for similar workshops in other regions of our global community.

Key note addresses

International trends in non-custodial sanctions

*Ugljesa Zvekic **

INTRODUCTION: BEYOND PRISON

Imprisonment, and not non-custodial sanctions, probation included, is still the cornerstone of a conventional penal system. Imprisonment remains the basic measure of the certainty and severity of punishment.

From an international comparative perspective the above statement holds true for modern bureaucratic and state-centred societies and thus from a restricted historical perspective. It also holds true from the philosophy of punishment perspective but again in its restricted spatial and historical ambit and, moreover, from a restricted vision of criminal processes and criminal justice responses to them. It is from these restricted perspectives that Albrecht paints an evolutionary scheme according to which:

Socio-economic and political change has affected sanction systems and their implementation ever since modern criminal law has emerged as a central element of the modern state in the middle ages. The transition from the ubiquitous use of corporal punishment and the death penalty to the modern prison and the transition from prison as the regular approach to punishment to alternatives like the fine, probation, suspended sentence and other types of intermediate penalties replacing immediate physical control through supervision and various types of non-custodial control, and most recently the attempts to shift the focus from punishment to mediation and reparation demonstrates the enormous changes sanction systems and underlying philosophies have undergone so far in history and points towards the potential for change actually available for criminal law reform.

(Albrecht 1966: 5)

Today, it is almost common place within the punishment discourse to view its history from a restricted geo-cultural perspective as well as from a restricted type of punishment perspective. Perhaps such an approach is justifiable in the era of the ideologies of the world becoming alike. However, just a brief excursion into different geo-cultures and histories offers insights and visions which rest on restoration and integration rather than on pain and separation.

In terms of production, consumption, and associated social relations, the nature and characteristics of most precolonial African societies (state or stateless) manifested decentralisation and democratisation (the family, the ward). Generally speaking, the criminal justice system and administrations had the following overriding features: community participation; emphasis on collective over individual rights and interests; consensual non-custodial sanctions of compensation, reconciliation, restoration, community service, exile or banishment, suicide, and the like of these. Prison and imprisonment were a rarity, if they were used at all.

(Odekunle 1994: 45)

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Moreover, '[...] the continuation or maintenance of this essentially procedure-dominated and prison-happy philosophy and practice is ironical, since it is in contradiction with the precolonial penal philosophy and practice [...]' (Odekunle 1994: 47). And yet today it is imprisonment that, within the state-centred penal system, stands as a normal sanction and, more importantly, as a reference point for any sort of non-custodial sanction. To the extent that even where prison philosophy and use is ironical, today lack of regulation on a normative plane and lack of implementation in practice make 'alternatives [...] either "tokens" or "illegalities"' (Odekunle 1994: 47)

Once imprisonment took over other sanctions based on the principle of absolute elimination (the death penalty) or spatial separation (community exclusion; transportation to other countries) as well as corporal punishment and many forms of non-custodial restitution/integration oriented sanctions, the punishment paradigm became prison-centric.

The centrality of imprisonment should be explored, on the one hand, with regard to the level of its volume of use and, on the other, with regard to its function as a yardstick in criminal policy and penal philosophy.

Above and beyond the volume of use of imprisonment, it is still a central reference, both positive and negative, within the punishment paradigm. It is a positive reference in the sense that there appears to be a consensus that those guilty of some crimes deserve to be 'locked up'. The positive reference function includes that of the warnings to society at large against offending (general deterrence) as well as to individual offenders (special prevention) which consists in spatially isolating the offender. In many countries and for a substantial portion of the public, imprisonment, considered the most severe form of punishment in contemporary society, meets a demand for a severe response to crime and retribution. On the international level, the Standard Minimum Rules related to imprisonment were one of the first United Nations efforts to promote human rights and standards of professionalism in the correction area and to serve as a positive model for international quasi-legislative actions. The list of negative functions of imprisonment is, as a matter of fact, longer than that of its positive functions and these are mainly well-known.

What is, however, important to underline is that the negative attributes and consequences of imprisonment have a positive function in promoting non-custodial sanctions.

The arguments for non-custodial sanctions are essentially the mirror image of the arguments against imprisonment. First, they are considered more appropriate for certain types of offences and offenders. Second, because they avoid 'prisonisation', they promote integration back into the community as well as rehabilitation, and therefore are more humane. Third, they are generally less costly than sanctions involving imprisonment. Fourth, by decreasing the prison population, they ease prison overcrowding and thus facilitate administration of prisons and the proper correctional treatment of those who remain in prison.

(Joutsen and Zvekic 1994: 6)

The fact remains that imprisonment is still, in many systems, the yardstick against which non-custodial sanctions are introduced, assessed and implemented. Their penal value is still sought within or against the penal value of imprisonment.

All the introductory observations referred to above are valid only when applied to conventional crimes, conventional and individual offenders and criminal justice responses to the conventional criminal process. It is clear today that both imprisonment and the non-custodial sanctions commonly referred to are centred on conventional crimes and individual offenders. As a matter of fact, one can talk about conventional non-custodial sanctions as alternatives to the dominant conventional punishment, namely imprisonment. This is an intrinsic and enormous limit in the historical and contemporary discourse on punishment. The new forms of crime (e.g. economic crime; organised crime; environmental crime; corruption; money laundering) involve different criminal actions; diversified profiles of criminal actors (e.g. the organisation as such or the representatives of organisations); and novel criminal procedures and sanctions. Indeed, there is a need today to make a clear distinction between conventional alternatives to imprisonment, on the one hand, and non-prison inspired non-custodial sanctions such as forfeiture, seizure, confiscation, banishment from certain activities, etc., on the other.

This paper postulates that the discourse on international trends in non-custodial sanctions has to break away from a restricted notion of the conventional alternatives to imprisonment. However, since most of the information on the international (and national) level is available for conventional non-custodial sanctions, and since the topic of the training workshop is probation, being an exemplar of the conventional alternative to imprisonment, the bulk of this paper will be devoted to these. Yet, an attempt will be made to at least introduce a wider discourse focusing on non-prison inspired non-custodial sanctions.

CONVENTIONAL PUNISHMENTS IN THE WORLD

Despite the prison-centric paradigm, imprisonment is by no means the exclusively used type of punishment. As a matter of fact, as will be illustrated below, its centrality rests more on its comparative function than on its volume of use. Generally speaking, types of punishment in use today include - in addition to imprisonment - also the death penalty, corporal punishment, monetary sanctions, various types of prohibitions and other ranges of non-custodial sanctions and measures.

The most recent information on types of punishment in use in the world is derived from the fifth round of the United Nations Survey of Crime Trends and the Operations of Criminal Justice System (1990-94).⁴ Without going into detail,⁵ it should be noted that situations differ across the board. Thus, there are countries in which warnings, fines and the like account for up to 70% of total convictions (e.g. Slovenia; Japan; Germany; Finland; Egypt; Austria); there are others in which more than 50% of convictions are custodial (e.g. Colombia; Singapore; Moldova); and then there are many countries in which the proportions of various types of punishment show no clear predominance in quantitative terms.

Capital punishment is still present and in use in many systems. According to the most recent UN report (United Nations Economic and Social Council 1996) ninety countries retain capital punishment in their legislation; fifty-five have abolished it *de jure* and fourteen have abolished it for ordinary crimes. Out of the ninety retentionist countries, thirty are considered *de facto* abolitionist in that capital punishment has not been executed over the last 10 years. It should be noted that the

pace of change towards abolition has notably increased [...] since 1989 [...] 25 countries have abolished capital punishment, 23 for all crimes, whether in peacetime or in war. In other words, the annual rate of abolition has been nearly three times as fast as in the previous quarter of a century [...]. Yet, in some regions of the world, notably the Middle East, North Africa and Asia (*as well as the United States* [author's remark]) abolition has been strongly resisted. It has been shown also that abolition once accomplished is not always permanent.

(Hood 1996: 227, 229)

In 1995, 'at least 2,931 prisoners were executed in 41 countries and 4,165 people sentenced to death in 79 countries' (Amnesty International Report 1996).

Corporal punishment is yet another reality to be taken into consideration in reviewing the major types of punishment in the world. In some systems it stands in its own right; in others it is encompassed in the imprisonment sentence, and still in others it is used as a disciplinary sanction within a prison setting. In some cultural settings, it is claimed, it sits well not only with law or religion but also with popular beliefs and practices that have much to do with the socialisation process. Although the UN Crime Survey data should be taken with caution, they do point out that corporal punishment is systematically implemented in a number of countries (e.g. Islamic countries).

4 The United Nations Survey of Crime Trends and the Operations of Criminal Justice Systems is a regular collection of statistics provided by the Member States to the Secretariat - the Crime Prevention and Criminal Justice Division - of the United Nations Crime Prevention and Criminal Justice Programme. Up to now the rounds of the Survey covered the following periods: 1970-75; 1975-80; 1980-85; 1985-90 and 1990-94. The first three Surveys also collected information on crime prevention strategies and measures. The sixth Survey will cover the period 1994-97 while the future Surveys will be biannual and supplemented with a topical survey (e.g. prison conditions). The results of the Surveys are available in hard copy from the Division and in electronic format from the United Nations Criminal Justice Information Network (UNCJIN) through Internet (<http://www.ifs.univie.ac.at/~uncjin/wcs.html>)

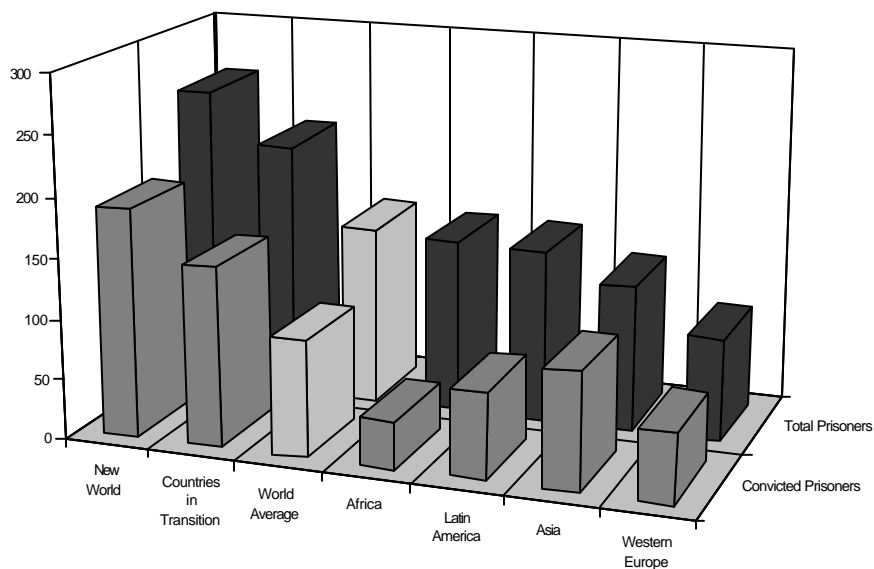
5 For a detailed analysis of the results of the Fifth UN Crime Survey as regards punishment see Shinkai and Zvekic (forthcoming).

As regards imprisonment, the range of its use shows considerable variations, as is illustrated in Table 1 and Figure 1.

Table 1 Rates of imprisonment per 100,000 population in world regions, 1994

<i>Region</i>	<i>Convicted</i>	<i>Total</i>
New World	189.38	255.44
Countries in transition	148.23	214.13
World average	96.14	149.17
Africa	39.31	144.79
Latin America	70.63	142.78
Asia	96.35	121.92
Western Europe	57.37	85.05

Figure 1 Rates of imprisonment per 100,000 population in world regions, 1994



On the regional level the New World showed the highest incarceration rate,⁶ followed by countries in transition (Eastern and Central Europe), Latin America, Africa and Asia. Western Europe exhibits much lower incarceration rates. However, it should also be noted that the largest share of non-convicted persons in the total prison population is found in Africa and Latin America.

As of 1994, the United States of America with as high a rate as 553 per 100,000 was 'overtaken' by Russia with a rate of 580 per 100,000; there is a group of countries with rates above 300 per 100,000 population. On the other hand, there are countries with much lower rates of imprisonment.

In terms of trends, the most notable change is recorded for countries in transition which exhibited a marked decrease in the prison population in the fourth Survey (1985-90), but then reversed to an upward trend in the period covered by the fifth Survey (1990-94). Roy Walmsley, in the study of the prison situation in Eastern and Central Europe (1996: ix), noted that there were three main reasons for the large numbers of people in prison 'namely legislative provisions such as statutory minimum sentences and requirements that recidivists must receive longer sentences than others, the length of sentences and the *limited availability of alternatives to imprisonment* [author's emphasis]'. In the period under observation, some countries (e.g. Belarus, the Czech Republic, Italy) increased their imprisonment rates almost twofold. Out of 65 countries which provided information on imprisonment rates, 30 exhibited a consecutive increase, 7 a steady decrease and the others more or less maintained the same level of imprisonment throughout the period covered by the fifth UN Crime Survey.

Status and trends in imprisonment do not appear to be related to the developmental profile and standing of the countries.⁷ This shows that the use of imprisonment is rather independent of the level of development although, as a number of studies have shown, it was not independent from certain economic processes at the country level such as the rate of unemployment. Furthermore, there is no conclusive evidence that imprisonment rate relates to the levels of crime.⁸

Neither is there evidence that non-custodial sanctions are related to the indices of Western measures of the level of development. As noted in the introductory observations, a global comparative insight into the philosophy, trends and practices of punishment reveals that an evolution from imprisonment to non-custodial sanctions is registered only within a limited geo-cultural ambit, namely that of the West.

6 Mainly due to the contribution of the United States.

7 The analysis of the association between the number of developmental indices (economic, human development, etc.) and the number of imprisonment related indices is rather inconclusive (Shinkai and Zvekic forthcoming).

8 'The USA [...] from 1975 to 1995 tripled the number of persons incarcerated in prisons for adults from about 500.000 to 1.500.000 - a rate per capita ten times that of Japan or the Netherlands and five times of Canada or United Kingdom. This massive prisonization of young males - particularly of African American and Hispanic origin - has not been associated with any dramatic reductions in murder, rape or robbery rates'. (Waller 1997: 12)

The UN Crime Survey does not, however, cover the entire range of non-custodial sanctions. In our previous work (Joutsen and Zvekic 1994) the following classification was offered:

Sanctions that imply supervision and control	Sanctions that do not require supervision or control
<ul style="list-style-type: none">- probation and suspended or conditional imprisonment with supervision- community service- home probation- open, ambulant or contract treatment	<p><i>Monetary payments</i></p> <ul style="list-style-type: none">- fine- compensatory payment- reconciliation- personal reparation- confiscation- diyya <p><i>Withdrawal of rights</i></p> <ul style="list-style-type: none">- suspension of licenses

Combination of sanctions

In some systems, and increasingly so, provisions are made for the combination of custodial sanctions with non-custodial sanctions and the combination of different non-custodial sanctions. Such combination may give the sentence more weight and tailor it to the characteristics of offenders while meeting the expectations of the court and the community. The UN Crime Survey shows that many countries either do not have categories of non-custodial sanctions included in the Survey or do not possess statistical data on their use. Four categories of non-custodial sanctions are referred to: control in freedom⁹, warnings¹⁰, fine, and community service order.

In most of the countries responding to the Survey the fine is the most frequently used non-custodial sanction. It ranges from 95% in Japan through more than 70% in the Western European countries to much lower percentages in the countries in transition and the developing world. Close to, and more than, 50% of convicted adults received warnings and admonitions in a number of both Western and Central/Eastern European countries (with as many as 74% in Slovenia) compared to an almost negligible percentage in the developing world with the exception of South Africa (23%). Control in freedom and community service order appear to be less utilised sanctioning options across the board although the Republic of Korea, Israel and Slovakia utilise them substantially.

9 'Control in freedom includes a probation order, a conditional sentence with additional supervision requirement and other forms of so-called controlled liberty (i.e. cases where the person is required to fulfill special requirements with regard to supervision)'. (Questionnaire of the United Nations Surveys of Crime Trends and Operations of Criminal Justice Systems)

10 'Warnings and admonition include suspended sentences, conditional sentences, findings of guilt without sanctions, formal admonitions, formal warnings, imposing duties without control, conditional dismissal, conditional discharge'. (Ibid.)

Probation defined in the UN Crime Survey as ‘a procedure whereby an individual found guilty of a crime is released by the court without imprisonment to the supervision of an official’ showed, in the period 1990-1994, an increase of the persons placed on probation in 16 countries and a decrease in 11 countries. ‘A remarkable increase was recorded in Belarus (213% increase) and the Netherlands (79% increase). On the other hand, Germany recorded dramatic decrease (52% decrease), as did Lithuania (46% decrease). [...] The United States of America showed the highest prevalence rate of probation (536), followed by Canada (269), England and Wales (217), Scotland (117) and the Russian Federation (100).’ (Shinkai and Zvekic forthcoming) The results are presented in Table 3.

Table 2 Percentage of adults convicted to non-custodial sanctions in the world, 1994

<i>Country</i>	<i>Control in freedom</i>	<i>Warning</i>	<i>Fine</i>	<i>Community service order</i>	<i>Total Sentenced</i>
<i>Andorra</i>	42.94	0	31.56	0	659
<i>Austria</i>	18.96	0.54	70.61	0	66136
<i>Azerbaijan</i>	35.48	0.1	6.98	12.83	11563
<i>Belarus</i>	11.02	46.12	9.15	0	47317
<i>Canada</i>	28.16	2.58	38.65	0	106638
<i>Costa Rica</i>	42.11	0	20.51	0	5913
<i>Cyprus</i>	2.87	28.82	32.32	0	628
<i>Czech Republic</i>	66.25	0	11.15	0	50651
<i>Egypt</i>	0	0.22	77.66	0	4141399
<i>Estonia</i>	0	40.8	31.5	0	6101
<i>Finland</i>	0	15.66	72.9	1.89	76474
<i>Georgia</i>	7.77	19.12	7.49	11.63	8283
<i>Germany</i>	13.92	0.84	78.31	0	445051
<i>Greece</i>	0	0	4.07	0	78985
<i>Israel</i>	52.02	0	26.78	1.94	66721
<i>Italy</i>	0	0	39.95	0	202943
<i>Japan</i>	0.43	2.69	94.93	0	1141407
<i>Kazakstan</i>	0	51.06	8.84	0	81293
<i>Lithuania</i>	51.43	0	4.11	0	13710
<i>Mexico</i>	0	0	6.58	0	116489
<i>Myanmar</i>	0.38	0.28	82.49	0	479407
<i>Netherlands</i>	0	0.04	46.82	8.63	98984
<i>Portugal</i>	0.17	29.88	24.58	0.43	29277
<i>Qatar</i>	0	0	34.55	0	3048
<i>Rep of Korea</i>	54.4	1.26	18.01	0	121460
<i>Rep of Moldova</i>	0	0	16.82	0	13524
<i>Singapore</i>	0	0	0	2.13	14506
<i>Slovenia</i>	0	73.67	11.75	0	6289
<i>South Africa</i>	0.01	22.51	7.78	0	318068
<i>Turkey</i>	0	16.67	45.07	0	751147
<i>England & Wales</i>	7.07	7.98	79.33	0	1183963
<i>Zambia</i>	5.67	9.44	12.5	0	16520
<i>Hong Kong</i>	5.84	12.75	31.19	2.19	24216
<i>Northern Ireland</i>	8.8	35.26	28.26	6.02	7671
<i>Scotland</i>	8.13	11.35	48.51	7.01	51129

Table 3 Persons placed on probation, 1990-94

Country	1990				1994			
	Total	Rate	Adult	Juv.	Total	Rate	Adult	Juv.
Belarus	1647	16.05	1647	--	5212	50.33	5212	--
Belgium	3517	35.29	3517	--	4824	47.86	4824	--
Bulgaria	727	8.09	677	50	853	10.10	825	28
Canada	66097	248.63	66097	--	78639	268.87	78639	--
Chile	916	6.95	916	--	1226	8.76	1226	--
Costa Rica	2756	98.25	2756	--	2490	81.08	2490	--
Denmark	2142	41.67	--	--	1687	32.41	--	--
Germany	41880	52.77	--	--	20797	25.55	11384	9413
Indonesia	2722	1.51	2273	449	1449	.75	1172	277
Jamaica	655	27.12	324	331	1038	41.59	594	444
Japan	78772	63.76	4793	73779	58869	47.17	5054	53815
Latvia	813	30.44	813	--	--	--	--	--
Lithuania	633	17.01	633	0	356	9.57	356	0
Malta	7	1.98	4	3	50	13.74	31	19
Marshall Islands	6	13.04	6	0	8	14.81	8	0
Mexico	245	.28	245	--	938	1.01	938	--
Netherlands	6626	44.32	--	--	12171	79.14	--	--
Nicaragua	170	4.39	--	--	186	4.23	--	--
Portugal	--	--	--	--	49	.50	--	--
Qatar	--	--	--	--	10	1.85	--	10
Rep of Korea	9037	21.08	0	9037	17327	38.98	0	17237
Rep of Moldova	627	14.37	538	89	435	10.00	370	65
Russian Federation	--	--	--	--	149140	100.77	--	--
Western Samoa	36	21.95	33	3	--	--	--	--
Slovenia	979	49.00	975	4	695	35.79	691	4
Sweden	6694	78.21	--	--	6835	77.85	6634	201
England & Wales	89672	177.35	54306	35366	111746	217.24	82908	28838
USA	1637549	655.25	--	--	1397505	536.16	--	--
Hong Kong	3054	53.53	776	2278	3341	55.12	869	2472
Northern Ireland	--	--	--	--	1238	75.87	963	275
Scotland	4122	80.79	4109	13	6011	117.12	5978	32
Macau	224	60.22	56	168	349	83.29	88	261
Bermuda	12	19.67	6	6	22	34.92	20	2

Rate : rate of persons subjected to probation by 100,000 general population in a year.

'--' : data unavailable.

This overview shows that there are in reality quite limited alternative options. While, on the one hand, the search for effective and credible non-custodial sanctions continues, on the other, there are considerable variations in the proportion of the use of imprisonment and non-custodial sanctions. However, it does appear that certain regional patterns in the use of non-custodial sanctions exist. For instance, these are less used in Latin America, Africa and Asia (excluding Japan and the Republic of Korea); while the New World and Europe (both West and East) are more pro non-custodial oriented. Yet, this does not mean that the greater use of non-custodial sanctions results in a less systematic use of imprisonment.¹¹ What appears is that non-custodial sanctions are ‘probably more often a response to restrict prison use than a route to low prison use’ (Pease 1995: 2), an issue which will be addressed below.

PUBLIC OPINION TOWARDS CONVENTIONAL PUNISHMENT

For punishment to be credible it is important that it is predictable (certain) and that it ‘conveys the message that punishment is implemented seriously both to the public and to the judiciary in order to ensure acceptance’ (Albrecht 1996: 51). However, there is a need to make a fine distinction between popular support and ‘well-informed opinion’ as is the case with the death penalty. As Roger Hood underlined:

Public opinion polls can prove to be a misleading indicator, the responses depending greatly on the nature and specificity of the question posed, their order and sequence of questioning, the context in which the survey takes place, the alternative measures suggested, and the socio-economic, race and gender composition of the sample.

(Hood 1996: 238)

Nevertheless, there are indications that, just as it is possible to influence the public in the case of the death penalty, so it is with non-custodial sanctions.

Within the framework of the International Crime (Victim) Survey, a joint endeavour by the Ministry of Justice of the Netherlands, the UK Home Office and UNICRI, which was carried out in 1989, 1992 and 1996/97 and involved some 60 countries all over the world and more than 130,000 people interviewed about their victimisation experience, the respondents were asked about the preferred sentence to be given to a 21 year old burglary recidivist.¹² Despite the numerous problems encountered, and in particular problems of interpretation linked with the target of the theft, namely a colour TV set, the value of which and possibility of replacing vary across countries, certain patterns in punishment orientation did emerge.

11 In an attempt to cluster countries by type of sentences, the analysis by Shinkai and Zvekic (forthcoming), UNICRI, indicated that clustering by type of sentence pronounced cuts across the world regions. In other words, the sentencing practice is largely independent of geo-political and developmental position.

12 The question was as follows: ‘People have different ideas about the sentences which should be given to offenders. Take for instance the case of a man 21 years old who is found guilty of a burglary for a second time. This time he stole a colour TV. Which of the following sentences do you consider the most appropriate for such a case: fine, prison, community service, suspended sentence or any other sentence?’ If the interviewee opted for imprisonment, he/she was asked to specify the length.

Table 4 Favoured sentence for a young recidivist burglar by developmental status and regions, IC(V)S 1996 (urban areas)

	<i>Fine</i>	<i>Prison</i>	<i>Community</i>	<i>Suspended</i>
Total	9.7	46.8	31.7	6.9
<i>Status</i>				
<i>Industrialised countries</i>	9.8	33.3	44.1	7.7
<i>Countries in transition</i>	10.9	44.5	30.5	8.6
<i>Developing countries</i>	8.0	64.8	19.4	3.8
<i>Global Region</i>				
<i>Western Europe</i>	10.4	28.5	48.7	8.2
<i>New World</i>	7.1	54.8	23.5	5.4
<i>Countries in transition</i>	10.9	44.5	30.5	8.6
<i>Asia</i>	8.2	75.6	9.6	2.0
<i>Africa</i>	10.1	74.1	10.4	2.6
<i>Latin America</i>	6.3	49.8	33.6	6.0

These results are also shown in Figures 2 and 3.

Just over four in ten of all respondents chose imprisonment as the most appropriate sentence for a young recidivist burglar. On a regional level more than half of them in the New World and Latin America and as many as three-quarters in Asia and Africa opted for imprisonment. On the other hand, some 45% of the respondents from countries in transition and 28% from Western Europe favoured imprisonment.

Following imprisonment, the next most preferred sentencing option was community service which was favoured by one third of the respondents. Community service was the preferred sentence by almost half of the respondents in Western Europe, followed by approximately one third each in Latin America and in countries in transition. Only 10% of the respondents from Asia and Africa opted for some sort of community service.

Regional variations regarding a fine as a favoured sentencing option for a young recidivist burglar are not pronounced and average 10% of the respondents. Suspended sentence is thought to be the most appropriate sentence by 7% of the respondents; however, ranging from 2% and 2.6% in Asia and Africa respectively to 8% in the countries in transition and Western Europe.

There are, however, significant variations in preferred sentencing options in each of the world's regions.

For example, as regards imprisonment, the range of variations in Western Europe goes from 59% in Northern Ireland (and 50% in England and Wales and Scotland) to 2% in Switzerland. Both in Canada and the USA, imprisonment is the most favoured sentence.

This supports the findings of the 1989 and 1992 IC(V)S according to which Anglo-Saxon countries are more prison-centric than other industrialised countries. Other regions exhibit fewer variations as regards imprisonment as the sentencing option although, among the countries in transition, only 18% of the respondents from Poland favour imprisonment as compared with over 60% in Albania, Mongolia and Romania.

Figure 2 Favoured sentence for a young recidivist burglar by status, IC(V)S 1996 (urban area)

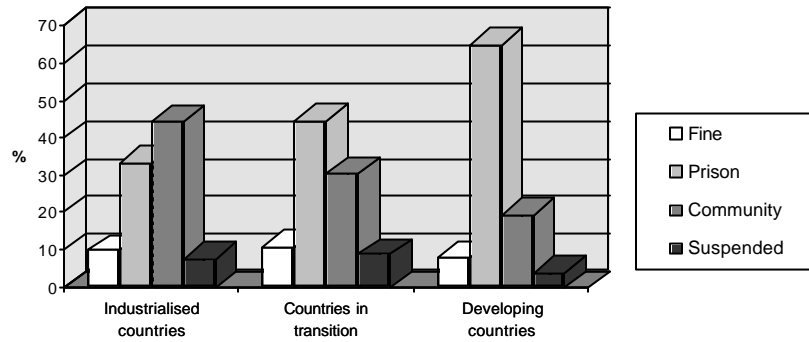
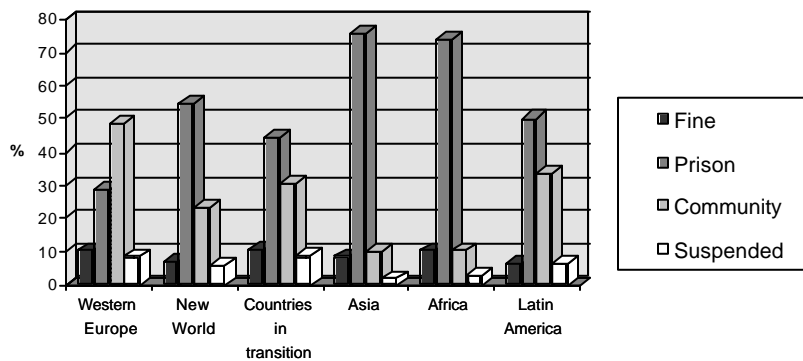


Figure 3 Favoured sentence for a young recidivist burglar by six global regions, IC(V)S 1996 (urban area)



Similarly, for community service there is some support in non-Anglo-Saxon industrialised countries, in Latin American countries and among the countries in transition, in particular in Poland, the Czech Republic, Hungary and Yugoslavia. Citizens from Mongolia, Albania, the Philippines, Uganda and Zimbabwe show little appreciation for this sentencing option.

The preference for imprisonment in developing countries and countries in transition could have much to do with at least three factors. First, there are generally fewer non-custodial sentences available, as well as difficulties in implementation following conviction (Joutsen and Zvekic 1994). Second, support for imprisonment appears to be higher in countries where crime is highest, particularly when no other available and practical solutions exist. Thirdly, what the public feels about punishment is often formed by vicarious information, traditional belief systems, and socio-legal heritage. For example, in the industrialised nations, the demand for imprisonment was higher among 'anglophone' countries independently of personal victimisation experiences or other crime-related factors.¹³

There is a certain level of correspondence in the regional patterns based on public attitudes to punishment, on the one hand, and the predominant actual use of non-custodial sanctions and imprisonment, on the other. This seems to indicate at least two things: first, a degree of independence in types of sentencing from the geo-political and developmental position;¹⁴ second, that public attitudes do reflect, to a certain degree, the actual availability of sentencing options and their use in practice. In other words, public attitudes are influenced by penal systems and penal practice, although neither exclusively nor in a clearly pre-deterministic manner.

FUNCTIONS AND DYSFUNCTIONS OF CONVENTIONAL NON-CUSTODIAL SANCTIONS¹⁵

The main arguments *against* the greater use of conventional non-custodial sanctions (as alternatives to imprisonment) are that they are not as effective as sentences of imprisonment in deterring other members of the public from committing offences, that they do not incapacitate the offender, and that they do not sufficiently demonstrate the degree to which society condemns the offence. Put simply, non-custodial sanctions could be regarded as overtly lenient for a broad range of offences.

Appropriateness

For a wide range of petty offences, the court can only impose non-custodial sanctions. Imprisonment would not even enter the question; petty offences are not seen to 'merit' imprisonment. Non-custodial sanctions are also deemed appropriate for certain types of offenders or for offenders with certain characteristics. Among the criteria considered are whether or not the person in question is a first-time offender, the likelihood of not reoffending, past behaviour, repentance, status in the community and so on. The assessment of appropriateness may also be connected with the offender's willingness to participate in a non-custodial programme, the ties of the offender to the community (for example family and employment), and the availability of the necessary resources for non-custodial programmes (e.g. supervisors, the availability of space in the programmes, even the technological infrastructure).

13 In stepwise regression analysis on the regional level, among the four chosen predictors of the preference for imprisonment, 'anglophone countries' were positively related with beta 0.43 (van Dijk 1994).

14 See footnote 8.

15 Based on Joutsen and Zvekic (1994).

Finally, the assessment of appropriateness may be connected to the fact that non-custodial sanctions provide a framework for a wider range of programmes than institutional treatment. For this reason, it is seen to serve the interests of the individualisation of punishment.

Rehabilitation

One of the main arguments for non-custodial sanctions is that they do not hinder readjustment to society, and may indeed facilitate this. Prisons have difficulties in preparing offenders for a life in freedom under conditions of custody.

The ordinary method for assessing rehabilitation is to study recidivism. The assumption is that the greater use of non-custodial sanctions will reduce recidivism. Unfortunately for those who want clear answers, it has proven to be very difficult to measure and assess recidivism.

Another method to measure the effects of non-custodial sanctions considers the 'success rate' of the programme. It is based on the assumption that successful completion of the programme indicates a high likelihood of having achieved the purposes of the programme, including rehabilitation. Thus, in the United States, some programmes involving the use of electronic monitoring have been deemed to be highly successful because almost all who participated in the programme followed the conditions, while other programmes had a 'success rate' of only 50%. In Australia, in turn, home detention has been reported to have a 'success rate' of 85%.

The problem with this measure is that non-custodial sanctions tend to be used where there is a large likelihood of success (some programmes had a great control over admission to the programme). Thus, the programme is applied to a selective profile of offenders, and the consent of the offenders is required. These factors tend to make it difficult to determine whether or not the goals of the programme in question have been reached.

Cost reduction

A third argument that is often advocated in support of non-custodial sanctions is that they are less costly than imprisonment. However, costs can be variously defined and measured. One may speak of the immediate financial costs of the adjudication or the enforcement of sentences (in a number of legal systems, simplified proceedings can be used where there is no threat of imprisonment involved), of the indirect financial costs resulting from an increase or decrease of crime, of the costs to the offender and to the victim, of the wider social costs, and so on.

What is generally implied is that the wider use of non-custodial sanctions would allow the State to administer the enforcement of sanctions more cheaply. However, an assessment of the success achieved in reaching this goal requires an estimate of the saving that might be made with various changes in the rate with which different sanctions are used. Comparisons of per diem costs alone would oversimplify the issue. Fines and penal warnings are cheap (fines even bring in revenue), but probation and community service require an organised, skilled and professional corps of workers to ensure their proper use.

Furthermore, minor cuts in prison rates would not significantly reduce the maintenance costs of prisons. For example, if each prison had one tenth fewer prisoners, this would have little effect on the amount of personnel needed, on programme costs, or on the costs of the day-to-day management.

Third, the possible net-widening effect of the adoption of non-custodial sanctions (i.e. their use for offenders who in other circumstances would have received a *less* punitive sanction) may increase the overall costs of the criminal justice system.

Fourth, as suggested above, it would be unwise to concentrate solely on financial criteria as a measure of effectiveness. Also the humanitarian and ethical factors ('costs') or the social costs should be taken into consideration. For example, reliance on imprisonment as the 'normal' punishment has clear humanitarian, ethical and social costs. On the other hand, for example, home detention and electronic monitoring have been argued to place a burden on the immediate environment, such as the family of the offender; this can be deemed a social cost.

Reduction of the prison population

The greater use of non-custodial sanctions is commonly expected to reduce the prison population. This can be understood in two ways: either such sanctions reduce the number of offenders in prison at any one time, or they reduce the number of offenders entering prison.

The force of the first function is lessened by the fact that non-custodial sanctions generally replace only the shorter sentences of imprisonment, and thus have little practical effect on the overall size of the prison population. Other circumstances (such as increased crime) could lead to more, and/or more severe, imprisonment sentences, making it difficult if not impossible to determine whether non-custodial sanctions actually have this function. The effectiveness of non-custodial sanctions cannot be judged solely on the basis of whether their use reduces the size of the prison population.

Even if the greater use of non-custodial sanctions does not decrease the number of offenders in prison at any one time, it may reduce the number of persons entering prison. Such a function could have two benefits, one related to criminal policy and one to prison administration. If prison does indeed have a negative effect on offenders, then it is desirable to limit the use of imprisonment to the fewest possible offenders. Second, by reducing the number of cases that have to be processed in prison, it decreases the work load of prison administration.

Effect on crime rates

The main argument against non-custodial sanctions is that, because of their leniency, they do not deter people from committing offences; they do not have a *general preventive effect*.

There are serious methodological difficulties in studying the effect that a change in sentencing policy may have on public attitudes and behaviour, and more specifically on the overall crime rate. The few existing attempts to study this point tend to conclude that the degree of use of imprisonment does not appear to be decisive for the *general* level of crime control in society.

It may thus be that high rates of imprisonment do not curtail crime in general, nor do low rates encourage crime. It is generally held that other intervening factors such as the likelihood of detection and the certainty of punishment are probably more important.

Taking into account the drawbacks of imprisonment, and in the absence of appreciable evidence to the contrary, it would appear that a wider use of non-custodial sanctions does not lead to any substantial increase in criminality, especially when such sanctions are properly planned and implemented, and have the informed support of the community and the public at large.

TOWARDS NON-PRISON INSPIRED NON-CUSTODIAL SANCTIONS

It can be noted that the situation regarding the relationship between imprisonment and conventional non-custodial sanctions varies across the world. There is no clear trend in terms of one or another category overtaking the predominant place within the conventional punishment paradigm and sentencing practice.

Indeed, the battle, if one may use this expression, is still going on without predictable results, except that conventional non-custodial sanctions are used, to cite Ken Pease again, 'more often (as) a response to the need to restrict prison use than a route to low prison use'.

Furthermore, since 'imprisonment is characterised as a default option, the other sentences must represent themselves as like prison in pertinent ways, and will struggle to bring other criteria to bear on sentencing decisions' (Pease 1995: 7).

Hence a trend towards introducing more punitive components in the framework of the conventional non-custodial sanctions through, for instance, combined sanctions, boot-camps and remote control techniques such as electronic tagging. It should be noted that the punishment paradigm embraced the notion of respect for human rights.

Yet, these human rights concerns were mostly, although not exclusively, restricted to the issues of criminal procedure and severe punishments (e.g. torture, the death penalty and imprisonment) or, in the post-communist societies, to repressive non-custodial supervision and enforced treatment.

The introduction of human rights concerns in the field of conventional non-custodial sanctions and the crime prevention area is of a more recent date. These efforts may result in less people in prisons but not necessarily; certainly, they will bring about more focused and probably less oppressive control.

Nevertheless, they certainly remain within the ambit of the prison-centric punishment paradigm. It appears that many of the conventional non-custodial sanctions are doomed to share the common destiny of imprisonment.

Their *raison d'être*, their acceptability, their expansion, reduction and change are intrinsically tied to the place and role of imprisonment within the prevailing punishment paradigm built around conventional crimes, conventional actors and conventional models of criminal justice. Despite preferred terminology of non-custodial sanctions over that of alternatives to imprisonment, in essence and in fact they remain but 'alternatives to imprisonment'.

Faced with issues of globalisation, the fall of ideologies, and concerns with the cost of managing social processes and order there appears to be a revitalisation of the neofunctionalist vision of society as a 'tension-management system' (Moore 1974). Changes in social actors are also evident: organisations are equally important as individuals, if not more so, and are held to be responsible actors.

Although they are not relying on the neofunctionalist perspective, a number of authors, such as Albrecht (1996) and Garland (1997), just to cite two of them, tend to describe the criminal justice system as a risk management system with a focus shifted from the consequences of individual human behaviour to risks attributed to social actors.

This orientation of the criminal justice systems then takes place in the context of 'high crime rates as a normal social fact' (Garland 1996: 446) and the marginalisation of moral and humane-centred arguments within the punishment philosophy and practice.

Risk assessment and risk management are not new elements of penal practice, but they now have a centrality and a formality which they have never had before [...]. To the extent that the penal system becomes increasingly rationalised, increasingly accountable, and increasingly cost-conscious, it becomes increasingly focused upon risks.

(Garland 1997: 9)

The organisational and professional concern with management and accounting/auditing issues tend to replace substantive social goals with internal organisational goals, and even for policy-makers reduction of risk is seen as a central issue. Hence the more frequent recourse to incarceration and a call for the punitiveness of conventional non-custodial sanctions. The two are no longer seen as antipodes but rather as control mechanisms to reduce risks.

Further consequences of the risk-management orientation of the criminal justice system are to be found in that

Modern criminal law relies essentially on the concept of 'endangering offences', a technique today widely used in criminal legislation to ensure e.g. traffic safety, a proper natural environment, the well-being of economy, public health, internal security and ultimately feelings of safety [...]. With risk management and the concept of endangering offences a mechanism is initiated which among others influences the type of sanctions used.

(Albrecht 1996: 11)

The importance of organisations as social and thus also criminal actors called for the acknowledgement of corporate liability and in some cases a mere organisational membership and leadership role gives rise to criminal responsibility. Moreover, such a process of 'responsibilisation' is becoming shared among public and private actors (Garland 1996: 452) and leads to a 'convergence between sanctions and sanction severity both for intentional and negligent behaviour' (Albrecht 1996: 11).

The range of non-custodial sanctioning options has increased but not so much as a consequence of efforts to avoid prisonisation but rather as the combined results of changes in the criminal justice orientation ('risk management'), increased opportunities to rely on and/or combine criminal with administrative sanctions and to respond to challenges posed by new criminal actors and new criminal processes.

Some of the conventional non-custodial sanctions found their way into this new non-prison centric punishment paradigm such as the fine, confiscation and temporary or permanent banishment from the exercise of a profession, an activity or the holding of an office. Others, such as forfeiture and seizure, preliminary injunction, sequestration, clean up and restoration orders, and exclusion from government contracts, related to drug trafficking, organised crime, economic crime, environmental crime, corruption, and money laundering were never meant to be true alternatives to imprisonment. They are meant to deal with different actors and consequences of criminal actions for which neither imprisonment nor prison-inspired conventional non-custodial sanctions alone, if at all, were ever deemed appropriate and potentially effective. To these one should add that public opinion and mass-media pressure and/or isolation and adverse publicity orders appear to possess greater deterrent as well as sanctioning power when applied to corporate actors rather than individuals in modern society; effects perhaps similar to peer and community pressure in traditional societies or small groups.

While the prison-inspired non-custodial sanctions still compete with imprisonment on grounds ranging from moral through costs up to effectiveness in curbing crime, this is not the case with non-prison inspired non-custodial sanctions. Their *raison d'être*, acceptance and effectiveness are based on different arguments and rests on different assumptions and expectations. This in itself does not make them superior to conventional sanctions. But, at least they are not competing with such a powerful referential as the prison. Although, when it comes to individuals held responsible for non-conventional crimes both the justice system and the public opinion still too often use and/or demand imprisonment.

EXTENDING THE USE OF NON-CUSTODIAL SANCTIONS¹⁶

The above considerations revealed that the use of both prison-inspired as well as non-prison inspired non-custodial sanctions is a truly dialectical process with 'push and pull factors' acting sometimes in congruent and sometimes in opposite directions. Despite ideological acknowledgement of the importance of non-custodial sanctions, there are still in practice many obstacles to their fully fledged penal recognition and support by legislators, the judiciary and the public at large. What follows are a number of recommendations regarding systematic efforts towards the promotion, implementation and heightening of the credibility of non-custodial sanctions.

The interest throughout the world in non-custodial sanctions can be seen in various trends. The strength of these trends varies from one jurisdiction to the next:

- A diversification of non-custodial sanctions through, for example, the adoption of new non-custodial sanctions, increased possibilities for adding conditions to existing non-custodial sanctions, and increased possibilities for combining different non-custodial sanctions.
- The diversification of non-custodial sanctions has been paralleled in some countries by an extension of non-custodial sanctions to a greater range of offences and offenders.

¹⁶ Based on Joutsen and Zvekic (1994).

- A greater use of the classical non-custodial sanctions such as the fine (either as such or in the form of, e.g., day-fines) and probation.
- The development of non-custodial sanctions that include one or a combination of the following components: work (as in community service), compensation/restitution, and treatment.
- A renewed interest in ‘traditional’ sanctions, and in sanctions that rely on traditional infrastructures.
- The introduction of a range of non-prison inspired non-custodial sanctions.

Despite these developments, a gap remains between policy and practice regarding non-custodial sanctions. This gap is reflected on several levels.

- On the statutory level, many states report that they do not have an appropriate range of non-custodial sanctions, or that the legislation does not provide clear guidance on the purposes, imposition or implementation of these sanctions.
- On the level of sentencing practice, the gap is reflected in the continuing predominance of imprisonment as the ‘norm’, as the main measuring stick in sentencing. Non-custodial sanctions are either used far less than the law would allow, or they are used as alternatives for other non-custodial sanctions.
- On the level of resources, the implementation of some non-custodial sanctions remains hindered in many areas because of the absence of the necessary personnel, support structures, and funds.

The gap can be diminished only through a change in attitudes. The legislator should be made aware of the need for legislation that supports the goals of non-custodial sanctions. The judge and prosecutor (as well as the other practitioners involved) should be made aware of the need to seek the appropriate non-custodial sanctions and to apply them whenever possible. Those who decide on resources should be made aware of the benefits to be derived through expanded use of non-custodial sanctions. Finally, the community should be made aware of the importance of the re-integration of the offender into the community for the benefit of the offender, the victim and the community as a whole.

This change in attitudes requires greater clarity regarding the goals of the increased use of non-custodial sanctions. Non-custodial sanctions are expected to do many things at the same time. They are generally expected to help in reducing the prison population and in reducing the overall costs of the system. They are believed to be more conducive to social integration, thus reducing recidivism, and enhancing the effectiveness of the criminal justice system. They are also believed to act as a deterrent and as a just punishment for a certain range of offences and for certain types of offenders.

Although non-custodial sanctions as a whole can help in reaching these purposes, some of these purposes are in conflict with one another. Furthermore, some of these purposes are not appropriate for all types of non-custodial sanctions. Some non-custodial sanctions may be more oriented towards treatment, some more towards reintegration, while others simply call for payment by the offender - a fiscal contribution to the State, compensation to the victim or compensation to the community as a whole.

The experience with various sanctions in the different countries cannot be taken as a clear-cut demonstration that non-custodial sanctions always necessarily have these benefits. For example, even when non-custodial sanctions do replace imprisonment, they generally replace quite short sentences, thus having little effect on the size of the prison population. The same negligible results are achieved if the non-custodial sanctions are used for a small number of offenders.

At the same time, other circumstances (such as increased crime) could lead to more, and/or more severe, sentences of imprisonment, thus giving the impression that the reform has on the contrary led to a greater use of imprisonment. The evidence is also ambiguous as to whether or not the greater use of non-custodial sanctions succeeds in lowering the costs of criminal justice or in promoting rehabilitation.

This ambiguity in the evidence in support of non-custodial sanctions may make it difficult to convince key groups of the need to replace imprisonment, wherever possible, with non-custodial sanctions. The ambiguity, and the possible risk of disillusionment when experiments with non-custodial sanctions do not succeed on all fronts, can only be dispelled if both decision-makers and practitioners have a clearer concept of the function of non-custodial sanctions, and of the goals of such experiments.

The planning and implementation of non-custodial sanctions has consistently met with much the same problems in jurisdictions around the world, such as problems in availability, sentencing, resources, attitudes and evidence of their effectiveness.

There is as well an increased interest in national and international standard-setting with an emphasis on legal safeguards. On the global level, the United Nations adopted the Standard Minimum Rules for Non-custodial Measures ('The Tokyo Rules'). The Council of Europe also adopted the European Rules on Community Sanctions and Measures.

Particular efforts are needed in promoting legal and criminological research on the penal value and effectiveness of non-custodial sanctions. International exchange of experience in the implementation, research on and the 'success and failures', of non-custodial sanctions is of paramount importance.

CONCLUDING REMARKS: AFORE PUNISHMENT

Punishment should not be disregarded neither in its instrumental nor in its symbolic value. This holds equally true for imprisonment as well as for non-custodial sanctions.

The intention of this paper was to contextualise and outline international trends which go beyond prison-inspired non-custodial sanctions. Yet, it is well recognised that both the deterrent as well as rehabilitative/integrative effects of any punishment are rather limited. These limits are particularly evident when it comes to the punishment's impact on the reduction of crime and fear for safety. As a matter of fact, such evidence, to say the least, is inconclusive. A less cautious view would be that there is really no hard evidence that punishments have drastically reduced crime, the risks of offending, the risks of victimisation and the feeling of insecurity. In other words, they have not successfully done away with the 'high crime rates as a normal social fact'.

To that extent a critique of non-custodial sanctions in particular but also of imprisonment as to their practical effects on crime and security is based on wrong visions of crime control business.

It is a repression-benevolent vision in which to punish, and if possible and to the extent possible, rehabilitate the offender is the centrepiece of criminal justice.

Punishment thus becomes the most important symbol of the justice system. Yet, it is crime prevention and reduction of opportunities both for wrongdoing as well as for punishment that is the true measure of effectiveness, human rights and human development. In a certain sense crime prevention ‘remains the most productive alternative to custody’, as well as to offending, victimisation and punishment in general (Pease 1997: 11). Indeed, there is ample evidence today that targeted crime prevention programmes have indeed reduced crime (Waller 1997), increased security and rationalised sentencing. Only within such an approach to criminal justice will the non-custodial sanctions be given a true opportunity to realise their own punishment potentials and prove their effectiveness. Only within such an approach will they manage to shake off the prison feathers and to stop being considered the surrogate of the ‘real thing’. Only then will their and the prison’s penal value be truly appreciated in the context where they truly belong, that is, as the ‘last resort’.

The punishment paradigm today includes different type of punishment corresponding to different protected and targeted values and costs.

Punishment	Values/costs
Death penalty	Life
Corporal punishment	Body integrity
Imprisonment	Freedom and time
Conventional non-custodial sanctions	Freedom, duty and reparation
Non-prison inspired non-custodial sanctions	Patrimony and position

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Developments in probation: an international perspective

Robert Harris *

My aim is to set current British criminal justice and penal policies in a broader context, drawing where possible on the comparative perspectives I helped develop in 'Probation Round the World'. Having set my context I shall briefly mention the internationally significant 'what works?' debate. My theme will be that while effectiveness is by definition important, probation services should beware expecting too much of the 'what works' literature, which is very much a product of its time and certainly should not be the be-all and end-all of their existence.

COMMUNITY SENTENCES AND THE POLITICS OF PROBATION

I begin by discussing two contemporary political trends which affect the manner in which probation and criminal justice fit into today's world: the emphasis on 'measuring performance' and the reversion to the 'individualist principles' of 19th century liberalism.

In Britain and much of the developed world we are in an historical phase best described not as a post-welfare state era but as a post-statist era of welfare. One characteristic of the politics of the last decade or so has been an emphasis on *accountability* and *standards*, linked concepts which, when applied to the professions, challenge the assumption that professional expertise, altruism and integrity may be taken for granted.

In Britain, on the platform of national politics the party system no longer reflects the supposedly contradictory aspirations of different classes. Labour has wooed bankers and businessmen while playing down its affiliation to the trade unions, its historical commitment to public ownership and its belief in the redistribution of wealth through taxation; the Conservatives meanwhile complemented their conventional restrictions on trade unions by imposing on the professions an interesting combination of the invisible hand of the market *and* firm and centrally imposed accountability demands based on quality assurance and value for money. The former *élites* have felt a similar cold draught to that which has traditionally chilled blue collar workers.

Probation has by no means been immune from these trends (though it did come to them surprisingly late in the day) and in Britain we have seen the introduction of national standards, tighter management structures heralded initially by the Audit Commission, firmer financial accountability and cash limiting; and the 'what works?' debate and the policy possibilities which stem from it, such as calculating the financial cost of each prevented crime or relating probation officers' performance to salary, fit perfectly into this particular *gestalt* of political strategies.

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Secondly, *liberal individualism*. The UK General Election of 1979 was both cause and symptom of a monumental change in political philosophy, as we had a Government which drew its inspiration from a line passing back through 19th century liberals and 18th century Whigs to Adam Smith, and which explicitly set about changing not just the political agenda but the entire political discourse. Still under Labour, a prevailing philosophy of economic individualism, the idea of a 'social contract' whereby the citizen enjoys freedom from unnecessary intervention in return for respecting the freedom of others remains central. Crime in Britain is perceived primarily as an abrogation of duties enshrined in the social contract; it follows that the rights of victims are elevated above those of offenders, who are seen as the cause of social problems and not as one of their products.

But while offenders, by dint of their criminality, are by definition in breach of the social contract, probation officers are daily confronted with the poverty and human misery of many offenders, and their professional culture and training make it inappropriate for them to externalise or objectify their experiences, and psychologically hard as well as ethically difficult for them to act 'simply' as instruments of punishment. And therein lies my justification for a brief *excursus* into the history and geography of probation.

AN HISTORICAL AND GEOGRAPHICAL EXCURSUS

As we explain in 'Probation Round the World' probation's origins lie in two distinct traditions, common and civil (or statute) law.

In the **common law countries** of Britain and USA probation's origins lie in the mediaeval practices of releasing offenders on recognisance (or 'binding them over') on condition that they are of good behaviour and keep the peace, and the surety system of bail release. In the recognisance system no supervision or monitoring is involved; the surety system on the other hand makes a willing third party responsible, on pain of penalty, for producing an offender in court.

So the probation officer in Britain and USA represents a professionalisation of the person standing surety, and it is from this tradition that we accept that the management of an offender in the community is handed over to a 'wise person' who both advises and monitors the offender and who is the agent by means of whom the state imposes requirements which are greater than the law permits to be imposed on the rest of us - seeking work, notifying changes of address, etc. Probation in this tradition represents discretionary intervention beyond the strict dictates of the law.

The **civil (or statute) law tradition** of much of continental Europe is, however, quite different. In this tradition probation has developed from the *sursis* or the suspension of the execution of sentence; and originally not only did it not entail supervision at all, but to add supervision to the *sursis* would have been a gross intrusion on the rights of man. This reflects the concern in post-revolutionary France to introduce a principle of strict legality into the Penal Code.

The context was an obsession that the arbitrary justice of the overthrown monarchy should be destroyed forever, and in this climate of enthusiasm for strict equality before the law all judicial discretion was abolished to the extent that even clemency was seen as an act of oppression.

Hence it was only in the years following World War One that the notion of professional expertise gained acceptability, and across much of Western Europe supervision came to be added to suspension.

So while in common law countries probation moved from informal and marginal beginnings to become a dimension of law and policy, in civil law countries the reverse process occurred, with supervision being grafted on to a *sursis* whose main function was to suspend the execution of sentence.

In common law countries generally, however, it was clear from early on that its common law basis would change once it spread geographically, blending into its few core universal characteristics consonant aspects of the history, geography, culture and politics of different countries:

- in the *United States* the importance of the Constitution and the relative autonomy of states, counties, towns and districts so far as operational probation was concerned created variations in practice, and conflict between Supreme Court interpretations of the Constitution and the common law tradition;
- in the former communist *Eastern Europe* probation was welded on to a framework of communalism which gave a new and literal meaning to the concept 'community correction' in a context in which supervision by family, neighbours or workmates had a logic which enabled the former Communist countries to integrate their political and cultural aims with a western justice system.

The Eastern European experience is in fact an extreme example of how changes to the nature and purpose of probation are wrought by political change. And this point highlights a crucial conclusion of 'Probation Round the World': very few variables are constitutive of probation, but this flexibility is one of probation's strengths, for it must reflect contemporary political aims and cultural norms if it is successfully to solve local problems of criminal justice and diversify the range of sentencing options available to the courts. Probation does not supply an exported 'answer' to all the social problems caused and experienced by offenders, but offers a process by which national governments can work out what needs to be done to mark the wrongness of the crime, acknowledge that hurt has resulted from it, often to the offender too, and then seek to put it right.

In 'Probation Round the World' a nice example of how one probation service addressed a local problem was provided by our Philippine expert, Francisco Ruivivar who told us of the attempt of his probation service to make the punishment fit the crime:

Offenders may [...] be required to participate in activities geared to social/environmental improvement *or* to self-reliance and personal growth. So those guilty of illegally clearing forests for agriculture may be directed to forest conservation work to enable them to meet individualistic economic goals legally; while offenders convicted of illegal fishing or coral reef destruction may be trained in marine conservation and helped to buy fishing boats.

While probation has indeed few defining characteristics, one of them must be that it works constructively to reintegrate the offender into the society against which he or she has offended by creating a new balance: on the one hand a symbolic apology from the offender and on the other a symbolic forgiveness from the community are needed.

A comparative history of probation therefore offers us a new way of viewing probation's simultaneous pulls to intervene helpfully (which comes from common law) and to be concerned about offenders' civil liberties (which comes from civil law). And it is by no means only in Britain that it also helps us to see just how important it is for the service to redefine its social philosophy if it is not to be left stranded outside an emerging political consensus of the centre right. If the probation service comes to be seen as concerned more with the needs of the offender than with those of the victim community a balance cannot be achieved, and the service is bound to lose credibility because it will have no political allies.

In Britain's common law tradition, over the years probation's orientation has moved from a theologically to a psychiatrically driven discourse and then to what has been termed a 'post-psychiatric paradigm' based less on therapy than on system and offender management. The concern of probation's founding fathers, Church missionaries to the undeserving poor, was with saving souls by providing opportunities for self-help. This involved removing such hindrances to reform as the temptation to drink and the corrupting influence of the prison. But as the missionaries gave way to an increasingly trained, secular and professional workforce, probation officers came to be influenced by a training which drew heavily on psychoanalytic explanations of crime which sought to locate the causes of crime in external manifestations of family and environment. They aimed accordingly to remove the *psychic* blockages which prevented offenders from leading mature and responsible lives.

The relative security of these early phases of probation development came under pressure in the late 1960s when the Government began to identify the probation service as a vehicle for the management of more serious offenders in the community, including increasing numbers on post-custodial and parole licence. It was at this moment, when the size, funding and function of the service developed so dramatically, that the common law tradition underwent such a transformation. The service was no longer to be a small and insignificant agency, softening the edges of justice by supporting and caring for socially fragile petty (and particularly youthful) offenders, but a central plank of penal policy, involving the supervision of serious, even dangerous, offenders in the community. With that duty came, inevitably and properly, enhanced public and political accountability.

The problem was that this policy sat awkwardly with the fact that the common sense idea that sensible guidance by a mature and responsible probation officer would of itself lead to reduced criminality was being confounded by studies which seemed to suggest that no human interventions could reliably be shown to reduce crime. From this questioning of the sound British common sense which underpinned the common law tradition the slogan 'nothing works' emerged, and not surprisingly, in the mid 1970s a degree of cynicism set in which did not so much lead to the belief that 'nothing works' as that it was impossible to know what worked and why. There were several reasons for this, and I mention two.

First, the 1970s saw the zenith of the sociological contribution to criminology and the nadir of the psychological one (for a 'what works' approach to flourish, a psychological paradigm is necessary).

The sociology of deviance repudiated the idea that the social world was akin to a laboratory and the tools of the social scientist akin to those of the hard scientist. After all, whereas you know in advance what colour a piece of litmus paper will turn if anybody in this room puts it into an acidic or alkaline solution, if you all apply the same form of therapy to an offender this certainty no longer exists: you are all different people and so are the offenders on whom you do the therapy. So the effect of your interaction with the offender depends on an almost infinite number of variables: even with the same input, unlike the litmus test you will have very different outputs, for the method of work becomes indistinguishable from the person doing it: in WB Yeats's words 'How can we tell the dancer from the dance?'

Secondly, there was a more mundane problem: how would you *know* how successful you had been when measures of criminality were arbitrary or biased: after all, if good policing means chasing up known offenders or going in where the chances of an arrest are best (say inner cities or large estates) one's chances of getting caught are scarcely random; and if only around 3% of offences end up with a conviction, one's chances of being in the unlucky minority and not the lucky majority depend on numerous factors unconnected with one's own behaviour. In the world of crime many are called but few are caught - and with self-report studies revealing that most people commit crimes at some time in their life, and probation officers whose ears were close to the ground hearing unsubstantiated rumours about the misbehaviour of their charges, the awkward thought occurred that *most* probationers were probably committing offences periodically but getting away with it. So the idea of basing a policy on the incorrect premiss that one could ever know who the criminals were appeared irrational.

But needs must, and whereas in times of plenty research which knocks down established truths may get funding, in more economically and politically controlled times only research which offers value for money in terms of high success for low cost attracts funding. And this is where 'what works' comes in, and with it the predominantly psychological paradigm of working on individual behaviour and not on contemporary social arrangements.

By a range of techniques collectively known as 'meta-analysis' - in plain language an analysis of analyses - statistical tools have been developed which establish a common language between different research studies, which turn different samples into a single sample, and identify, albeit at a level of generality and with more subjectivity than some researchers suggest, the kind of thing which works and the kind of thing which does not. If you get all this right, with a fair wind you may be 10% or so more successful than if you get it wrong or do nothing. Hence the message of 'what works' is that in terms of reconvictions the added value of best practice is around 10%. Nevertheless, one has to start somewhere, and if this cluster of criteria encourages probation services to concentrate on action oriented programmes and activities as well as on a more introspective middle class preference for counselling, that is all to the good.

So 'what works' is a necessary but not sufficient component of contemporary probation practice, and certainly it offers the probation service a plausible and politically acceptable framework for action under the new consensus politics. Nevertheless, for a number of reasons, of which I here mention two, I counsel against going too far too fast down the 'what works' path.

First, bear in mind the politics of 'what works'. If improved training and performance do not improve your '10% above spontaneous remission' rating you will be vulnerable to renewed political attack. It would be simple by mathematical modelling to calculate the cost of each crime prevented on the respective assumptions that, say, 100%, 50% or 25% of the probation service were working optimally, as against the cost of other policy options such as incarceration and situational crime prevention, and in many countries probation is less politically attractive than either of these other options. Probation, however hard it tries, will never pick up the winner's rosette in the 'tough on crime' stakes.

Secondly, if I were a probation officer I should want to continue defending the moral basis of probation work. Even in a secular world the parable of the Prodigal Son - which most aptly describes probation work - retains some moral force, and it is sometimes forgotten by probation's severest critics that, irrespective of the religious beliefs of the probation officers of today, part of the historical tradition of the service under common law has been to stand for forgiveness and redemption, as opposed to Old Testament retribution. This is what the marketing people would call probation's unique selling point; it is quite a good one and probation officers should not be ashamed to defend it.

CONCLUSION

Certainly, the probation service should play a broader part in the community response to crime; and providing for magistrates a rich and varied menu of community sentences, speaking with them about what, as representatives of the community, they want, and involving them in the schemes are all crucial aspects of the service any supplier should offer a purchaser. Probation should also be developing more joint work with the police in victim support, community mobilisation against crime and crime prevention, and should be at the heart of any community-based anti-crime policy. I must also say, however, that to exclude from consideration the social needs of offenders - who may lack homes and jobs, who may have suffered abuse or who may just have been stupid or evil - is surely perverse, however politically unfashionable it may be to say so; but I hope to have explained that a prerequisite for securing political support for this view is for probation to be seen to be just as concerned about the problems and needs of victims. It is in this process, whether it be reintegrative, restorative, restitutive or any other kind of justice, that the medium term future of probation round the world seems primarily to lie; and in a number of countries it seems to me uniquely positioned to develop it.

Knowledge transfer and its mismanagement: the ‘what works’ for administration and leaders

Jon F. Klaus *

BACKGROUND TO THE PRESENTATION

Today, the presentation that follows is UNICRI’s first attempt at an international project designed to facilitate, in our own small way, knowledge and technology transfer for probation services around the world. I have designed the paper in such a way as to touch on the maze of issues surrounding learning and teaching that have seemed to impact and inhibit the adaptation and moving forward of probation such that it has not, in my mind, achieved the prominence that it should within the range of non-custodial sentencing options. You will note that much of the material presented is from a variety of sources and fields not normally quoted in probation and parole research or linked academic dissertations. It has been quite deliberate in the sense that all this material is freely accessible, but not easily found, on the Internet.

While the issues presented are perhaps more macro in scope than either the problem or the solution that we are proposing, they must be addressed if we actually expect any change in how probation adapts and imparts new knowledge and applications into practice. The discourse is not intended to be critical of any individual or managerial level of any criminal justice organisations: instead it reflects the published views, opinions and reflections of a myriad of practitioners and participants in the probation and correctional process. Whether perception is reality or reality is perception, the concerns are all issues that must be dealt with for us to move forward. Clearly, what are needed are new strategic approaches based upon

[...] the growing conviction that organisations of all kinds are facing unprecedented challenges of adaptation and change, and that learning is one of the essential means of meeting these challenges. In a world in which organisations are under pressure from countless directions and are being forced to evolve at an unprecedented pace, learning has come to be regarded by many organisational thinkers and leaders as perhaps the only sustainable comparative advantage to which an organisation may be able to lay claim in future.

(Ingstrup 1995a: 3-4)

STATEMENT OF THE PROBLEM

The systems environment

Criminal justice work generally and probation/parole specifically is described as directionally confusing, divided philosophically, an often-dirty, murky, and unloved profession with few allies and even fewer experts or leaders guiding or supporting it - especially when there is trouble.

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Probation and parole exist within very unstable and seemingly unsupportive organisational frameworks, as well as within destabilising and sometimes demotivating environments. Little consensus exists as to what professional body of knowledge should guide and direct it.

Thus, those that work in this field (be they probation officers, parole officers, correctional officers - whatever) must love it, and I know they do.

Otherwise they would not have remained in a job and career without a lot of consensus or direction about what works best with whom, including in the managerial sphere and in which, therefore, they have had to use whatever tools they have in their own often self-developed 'toolbox' and to follow whatever 'North Star' is appropriate for them in their practice and in their profession.

The organisational environment

Despite developments in other fields and organisationally, while services are becoming increasingly sophisticated, regulated and complex, it is questionable if things actually are getting better.

There are many hopeful signs, however, as it appears to be individual practitioners, managers and officers who have recognised the *malaise* and are attempting, in many countries, to create their own sites of international exchange as a means to achieve practitioner excellence.

As a result of the research that went into both the 1995 UNICRI study of 'Probation Round the World' and the 'Handbook on Probation Services: Guidelines for Probation Practitioners and Managers' that is being distributed and discussed at this workshop, many operational issues were identified that suggested that probation practitioners, managers and executives often operated in isolation of the practices, policies and innovations of similar services in both their own as well as other countries.

This was equally true of researchers as well as senior executives of the probation and parole services, and most likely of similar persons in similar positions within other criminal justice organisations.

Much of the problem appears to lie in the fact that, while there is considerable research and literature on a variety of topics, few practitioners, managers, executives and even researchers and academics have had the time, inclination and 'habit' of reading, learning, teaching or applying what they read into their daily organisational work life.

This was even more true of material that existed in other fields and disciplines, especially when it was from other organisations, countries and cultures.

There always have been, and still are, many gaps in basic understanding and knowledge about what works in correctional treatment - and so it is the same in what works in practice, management, leadership and organisational change - but especially in areas of technological and knowledge management and transfer.

Organisations do not know what they actually know or how to harness the power of that internal knowledge. Organisations seem to have little ability to view or sustain the focus on the work and organisational world 'outside the box'.

The informational world

Part of the problem is that there simply are few publications, and even fewer integrated international forums or sites, for practitioners, managers, leaders and researchers to consult or attend for detailed, objective, and comprehensive information, especially of an international comparative or evaluative nature, on other probation/parole, or prison and criminal justice services and organisations or the services they use, provide or contract for. Even less exists organisationally and at the managerial level on what criminal justice managers or leaders think, feel or need! It becomes even murkier in the technological and product sphere for operational managers who, in the absence of technical and operational guidance and support, must rely on suppliers and contractors with their representatives all claiming product superiority. A real need arises for new organisational application for 'knowledge and technology management'.

THE STATE OF LEARNING AND 'KNOWLEDGE' IN PROBATION/PAROLE AND CRIMINAL JUSTICE

Probation (and probably many of the other agencies that comprise the criminal justice system) has been described by many as too 'inward looking' (Burnett 1996, Roberts 1996). Probation practitioners themselves have often been derided for not reading, keeping themselves updated on the research on 'what works' or integrating it within their practice (Harris 1992). Along the same theme, and in the same criminal justice system, the problem of drift and abrogation of responsibility has been recognised.

I believe that there is also a need for leaders who can stand up for the public service. We have not been very successful, I think, in defining public service as a profession, with its own standards and dignity, and place in the world. We have not developed the professional self-confidence needed to state and maintain our proper role and contribution to society.

This too, is a question of leadership. Those in senior positions in the public service need to become bolder, more articulate and more effective in defining our profession, in ensuring that the public service receives the credit that it deserves for its accomplishments. We need to define what our professional competence is, and help create understanding of what the professional boundaries and functions should be.

(Ingstrup 1995b: 21)

For equally similar reasons, few probation and other criminal justice leaders and managers, also don't write and share these thoughts comprehensively, and as a consequence, what they write and communicate is designed and positioned for a different audience. The sharing of their organisational knowledge through writing becomes an even more daunting task and a greater problem if the text is not written in such a language and style as to enable line staff to read it and embrace its message! This is partly because reading, analysing, integrating and writing takes time and, unfortunately, leaders do not have much time to dedicate to these activities. Reading and sharing also takes time and exposes you to possible criticism as is so often seen in the research and academic world. Thus executives, like the staff and many of the researchers, have also not read, integrated and applied the lessons from other disciplines, organisations or countries.

Potential reasons include how they are appointed and trained, how they manage, how they themselves have learned (educationally and from experience) and their impressions of how the staff have responded to their initial overtures. Some suffer from what Gendreau called the 'MBA - management syndrome' - a form of theoreticism that has evolved with the appointment of a top manager level 'content free' in the field with little or no training in the actual professions, and/or little or no operational experience. 'Even if a few of the new breed of administrators are well-versed in correctional issues, they rarely stay in the job for long' (Gendreau 1996: 154). And when they are replaced, new and often contradictory messages of the new leader compared to that of the previous regime disrupt, at least in the short term, any hope of organisational direction, culture and correctional philosophy from developing.

But leaders do need to communicate in order to address the malaise, and precisely for the reasons outlined by Ingstrup, as he spoke about another type of service renewal - that of the Canadian Public Service.

Too often, ordinary public servants have heard their leaders say one thing and do another. As today's catch phrase puts it, they did not always see their leaders 'walk the talk.' For this reason, those of us who are leaders - and cheerleaders - for public service renewal are now sorely tempted to put away the words and concentrate on the deeds. The emphasis right now, it seems to me, should be on action. Those of us at senior levels should demonstrate through the things we do - through the way we choose and treat people, for example - we should demonstrate through our actions, our commitment to a new kind of public service.

In doing so, we are tempted to set aside words for the time being, as if they had lost their value through overuse and deflation, or perhaps out of fear that once again we would betray them. I understand and agree with the impulse to emphasise actions and to demonstrate good faith. However, I think words are also important and that we should not abandon them for two reasons.

First of all, people need to give meaning to things, to their lives and their work. And meaning comes through words. We do not in fact, live by bread alone. We need to articulate for people what we are doing, what they are doing, so that they may have and see a meaning to events, a purpose that motivates and energises. Second, words help make connections. If we do not put words on things, if we do not label them, people may fail to see that they are in fact connected, that there is a unity to the whole [...] So we need a balance between words and deeds. We need to act. But we also need to articulate what we are doing and why.

(Ingstrup 1995b: 19-20)

In terms of adopting, embracing and encouraging new knowledge management techniques and technologies, this clearly is the case and is a prescription for the *route* that must be followed. Words must follow deeds but deeds must follow and be consistent with words as well! Despite prescriptions to get on with the future, how many executives still respond to Email and Internet from within their organisation only after their secretary pulls the message from their computer and then the secretary responds after having consulted the recipient?

How many managers and executives, if they use E-mail and Internet, print the message off to read it before responding - perhaps even by memo? If the top executives do not use it and do not articulate their vision, what philosophical message does this pass on to the managers and staff below who probably are already 'connected' and computer literate? The potential individual or collective knowledge or early warnings of staff who could post notes on the E-mail (where it exists) is not encouraged or reinforced. If the new skill for leaders is to be knowledge management, training and enlightenment is going to be required.

The research world is also not exempt from criticism. Some researchers have decried that even professional practitioners and researchers disregarded the supporting literature and especially that emanating from other domains and countries (Gendreau 1996). Gendreau called this 'paradigm passion and ethnocentrism' - the basic premise being that both individuals and groups appear to suffer from a lack of knowledge transfer among and between countries and various fields of practice and disciplines - such that they are able to adjust their own paradigms before it is too late.

Some researchers have criticised others for producing material only understandable by other researchers and academics:

Researchers (and especially academic researchers) have often been accused of addressing issues that are of limited relevance to day-to-day practice; of producing reports that are indigestible and obscure; and of failing to recognise the mechanisms by which, in organisations such as probation departments, policies and practices are developed and changed.

(McIvor 1995: 209)

Clearly, a systemic dysfunctional and often destructive separation exists between the 'professionals' who are writing books, articles, teaching, leading and conducting research and the probation organisational people (the consumers) who can translate and apply these findings into everyday practice. Sometimes clinical practice can be several years behind the current 'state of the art'. The 'dialectic' between leaders who run organisations, the research and communication specialists and the rest of 'public service' is worlds apart.

Perhaps of more significance for the criminal justice system, is that research studies seldom address the relationship of the organisational leader with the problems identified. Indeed, few research studies reach the desks of policy makers (Millman *et al.* 1990) or executives, and officials do not appear to rely heavily on policy analysis from research organisations (Lester 1993).

If this is true, it is probably even more true of the world of the practitioners who cannot be expected to understand or integrate 'what works' into practice unless they are part of a supportive and forward looking organisational structure that first can share them, or is able to implement these initiatives in a manner that they become part of the organisational menu of programs - not 'flavour of the day', and not 'flash in the pan' offerings. This requires programming and financial sophistication such that these new and often expensive protocols do not disappear under funding pressures the following fiscal year. All this promotes is an organisational cynicism that has seen the 'new' come and go.

In the face of this inability to affect changes, practitioners themselves become marginalised and described as 'inward looking', part of a criminal justice island belonging to an organisation that is 'practitioner led'. I would suggest that this may be because their organisational and political environment is such that it has been both a destabilising and demotivating factor on job performance as well as on personal organisational growth. It might also suggest that this is why probation officers have consistently aligned themselves with social work values as the very organisations that they work in have not been able to provide meaningful and convincing visions, values or directions. Unfortunately, probation, parole, police, prisons, courts and prosecution are also part of this same island and the tendencies of one often reflect the tendencies and proclivities of the other - that is to behave in a certain way until convinced to do otherwise. Not knowing what new avenue to explore next can hamper the search for new solutions and alliances.

Clearly, what is required is someone who is able to look at the past and the present, and extrapolate into the future the political problems and public pressures that organisational reform and new ways of doing things will bring, analyse them and design holistic, strategic and integrative solutions to address them.

New types of leaders are indicated because worlds (international and national), economic, political and organisational conditions are changing and redefining attributes and core competencies almost as rapidly. Additionally, the policy and bureaucratic world is changing and mutating, and this is especially true in probation and parole with multiple inner and external spheres of influence and pressure. They must step forward and gain the high ground as they cannot let the practitioners and researchers define what probation is within these new organisational, economic, technological and political pressures and societal reality.

Clearly, the role of probation leader(s) in the new century must change if the probation organisations are to achieve the high ground once again. The new leader must become one who can simultaneously direct, guide, explore, know and integrate the autonomous but interconnected work of highly skilled and professionally oriented people, new technologies and knowledge opportunities as well as network across and within boundaries and borders in order to ensure that the necessary supportive and comparative framework exists. This leader must also be able to negotiate the delicate ground within criminal justice and be a vehicle for advancing the strategic objectives and cohesion of the organisation.

And why will what exists have to change? Partly because there are few left! Executive leadership, especially in public organisations, has grown incredibly more demanding, difficult and dangerous over the last decade. The mortality rate is high! The trends and 'Golden handshakes' have meant that the managers who should support the leader through 'corporate history', common sense and connections to the line within an organisation have disappeared in large numbers in the decade of reengineering, downsizing and rightsizing. And many more will continue to leave under a variety of programs that amazingly encourage early retirement. A leadership void is potentially the 'black hole' that has been created by decades of organisational restructuring, empowering, and other outside directed fads but more so as a result of lack of consistent, dependable and vision driven managerial focus.

Politics, however, has also changed across the world and the advisory and policy making role of the senior administrator and agency head has changed dramatically. Governance and consensus building has become increasingly complex because of the rapidly changing fabric of our society but more so because of the explosion of knowledge brought on by information highways. It has also increased the sophistication, cynicism and demands of their audience(s) - the public and various lobby groups and made them far more expectant of a consultative and participatory arrangement. New techniques and concerns for not only the victims, but also for the staff and partners (police, courts, prosecutors, etc.) need to emerge from a new management and organisational strategy - one based upon consensus and understanding and not control and dictate. In developing public policy, organisations face an often hostile environment, where increasing amounts of information are transmitted more rapidly and more readily than ever. Citizens know instantaneously what is happening in all parts of the world and especially in their own country and particularly in their own neighbourhood.

As a consequence, citizen and interest groups can influence government and organisational policy leaders in more ways than ever. They will increasingly want a say in what organisations do. Political party members are now accessible by E-mail and can poll their constituents for a 'fix' on an issue. These very technologies provide citizens and the public with more venues to participate in the public policy process; and as a result to have greater control over policy decisions and outcomes which directly affect them. It also has the potential to diminish the reliance politicians have had on the bureaucracy for information. Probation leaders must, therefore, rapidly adjust to the information society and integrate it into its communications strategy, as well as policy and decision making.

Policymaking especially needs to be integrated into strategic organisational design structure that incorporates the new trends and business practices because all of this, too, is undergoing rapid transformation.

The organisation and politics of criminal justice policy making are currently in flux. One source of change has been the turning away from the once standard processes of internal consultation, from committee meetings, briefings and circulating files, towards procedures that are more fragmentary, centrifugal and loosely bounded. Portions of criminal justice policy making have become somewhat less cohesive, coherent, controlled, and centralised as they come under the sway of devolution, 'contracting out', Next Steps Agencies and external consultants.

[...]

The newest modes of policy making are themselves the fruits of a new politics of populism, moralism, and the market [...] ministers appear recently to have been impelled by a strong sense of the political, by personal volition, a doughty common sense, and appeals to what are thought to be popular sentiment. They have consulted and conferred less often with the experts, distrusting the professionals, the criminologists, officials and practitioners, who used to define much of the character of crime and criminal justice policy [...] and it has been an outcome that things have begun to go quite manifestly wrong in criminal justice policy making.

(Rock 1995: 2)

As a result of the political masters assuming the role of bureaucrats (and researchers), the theoretical rhetoric resembles the official party and the opposition - '[...] the community work theme is more of a public relations exercise for the probation service - interspersing policy statements with a sprinkling of the "appropriate community epithets".'

Yet another viewpoint is that interest in "community" among policy makers represents the liberal humanitarian wing of penal policy struggling to make itself heard' (Henderson and del Tufo 1991: 8). Add to this, voices of lobby groups, victims and the offenders themselves and you have a volatile mix of dialogue that makes the role of a probation leader an unenviable one.

It is, therefore, not surprising that given the current state of knowledge and technology transfer, so little is seen as useful and applicable by the end users. Articles, journals and books end up by gathering dust on office and library shelves (no one has time to search for and read them), which is perhaps reflective of the need for a new way to gather and disseminate knowledge, thoughts and experiences.

Not all organisations are in the same state of readiness to accept new technologies, let alone knowledge and research findings, given that Internet and computers are still not part of their day-to-day world.

However, seen in the developed world, the Internet offers a 'short-cut' solution to instantly available knowledge and opinion that will become indispensable to all practitioners. For the developing world, the UN Secretary General has stated that computers, the Internet and access to information and knowledge on it are what is required for the next stage of world development.

[...] Information and knowledge are central to democracy, they are conditions for development. It is that simple. What is so thrilling about our time is that the privilege of information is now an instant and globally accessible privilege. It is our duty and responsibility to see that gift bestowed on all the world's people, so that all may live lives of knowledge and understanding.

(Annan 1997)

I will also argue that in industrialised nations, the intention of probation to resist such innovations has not been not deliberate and simply that practitioners, leaders or researchers, perhaps because of either organisational or geographical isolation, have not grasped the immediate need for, or applied the new technologies to do new things the new way, just new and perhaps more things to do business the old way.

Less blame should be placed on the failure of trying to force a fit with new ideas and old ways of doing it, and instead advance towards selling those new ideas and visions and missions with an information and knowledge transfer method and technology that is right for organisational recipients of the new millennium. The information and knowledge revolution thus challenges the appropriateness of traditional models of service delivery and suggests that at least part of the solution for the new age of management is an abandonment of old managerial and organisational thinking, old technologies and old practices and the requirement for a new age leadership style which includes international centres for instant knowledge communication, management and transfer.

Probation needs to experiment with new ways of organising itself and addressing the shortcomings, perhaps along lines of 'single service centres' and associations instead of the myriad of organisational structures that exist across the world today. Until this happens and becomes a reality, staff can believe in resistance and old ways of thinking and doing, and 'wait and see' will continue to be commonplace and a transitional strategy that, left unchallenged and undirected, will only lead to more of the same!

TECHNOLOGY/KNOWLEDGE TRANSFER FOR PROBATION

Our age is [...] a period of transformation. Only this time, the transformation is not confined to Western Society and Western history. [...] in this Society, knowledge is the primary resource for individuals and for the economy overall. [...] at the same time, however, specialised knowledge, by itself, produces nothing. It can become productive only when it is integrated into a task. And that is why the knowledge society is also a society of organisations: the purpose and function of every organisation, business and non-business alike, is the integration of specialised knowledge into a common task.

[...]

In particular, we already know that the central tensions and issues that confront the society of organisations: the tension created by the community's need for stability and the organisation's need to destabilise; the relationship between individual and organisation and the responsibilities of one to another; the tension that arises from the organisation's need for autonomy and society's stake in the common good: the rising demand for socially responsible organisations; the tensions between specialists with specialised knowledge and performance as a team. All of these will be central concerns, especially in the developed world, for years to come. They will not be resolved by *pronunciamento* or philosophy or legislation. They will be resolved where they originate in the individual or organisation and in the manager's office.

(Drucker 1992: 96)

Knowledge management and transfer is becoming one of the most fashionable management themes of the decade. 'We have entered the knowledge economy. Suddenly, knowledge is hot. Conferences on knowledge are the rage.' (Manville and Foote 1996) In addition, companies are attempting to create, share and store their employees' expertise in an effort to stimulate innovation and offset the damaging effects of previous downsizing and in order to promote organisational survival and greater individual job mobility. The main reason, however, is that there is now a clear link and positive relationship of learning and developmental activities to organisational performance (Drucker 1992, Ingstrup 1995, Gendreau 1996).

Perhaps the rush to recreate and restore is because many, if not most, organisations are acutely aware that they do not know what they know. Corporate and organisational knowledge is widely dispersed in databases, filing cabinets, desks, file folders, notebooks, training manuals, policy and procedure manuals - but especially and primarily in people's heads.

This, and especially the latter, has become more difficult to access, let alone analyse, because many of the previous repositories of corporate knowledge, culture and history have been leveraged right out of the organisation, either by retirement, 'golden handshakes' or by the end product of a decade of continuous organisational restructuring assaults on the worth of staff and in particular, the middle manager, many of whom have by now taken the 'golden handshake'.

Secretarial and administrative support have supposedly been replaced by computers and LANS, and in their leaving, much of the data history, the technological and organisational process know - how has disappeared.

Thus, work, processes and ultimately mistakes, are duplicated and repeated simply because there is no way to remember, recover, keep track of, benchmark, analyse, impart or otherwise make use of knowledge, experience or lessons learned over the years and decades within an organisation and especially between similar and interconnected parts of the criminal justice system.

The ideal, that of using intranet (the organisational network) to share vision, direction, thoughts and ideas and to elicit the same from every level of the organisation and other criminal justice system organisations, has the potential to change how we do our day-to-day business and how both leaders and the led both impart and receive information and knowledge.

But if the lessons from the past, an understanding of the present, or the vision of the future are not coherent or consistent with the capability of the recipient to understand, comprehend and apply then to day-to-day activities and practices or add value to it in the organisational chain, what use are they?

Although there is a widespread recognition of the importance of knowledge management, discussions about it get bogged down in philosophical abstractions. Hands-on experience of knowledge management is difficult to find. Few 'knowledge managers' - the new breed of senior managers who are taking responsibility for managing and transmitting knowledge - are entirely confident about predicting the practical, organisational, and financial benefits of their efforts.

In the human services, technology is nothing technical, rather it is a practitioner's day-to-day systematic methodology. In other words, it is the practitioner's art and craft. It is how a practitioner interacts with a client or a co-worker, his or her boss, the organisation and the criminal justice system as a whole. Technology transfer, then, is an effort by one individual or organisation to change another's performance through a variety of interactions.

The success of this transfer depends on the relationship of the provider and user and whether or not the transfer is meaningful, decipherable, compelling, and of course, the end user must have the abilities to enact them. The technology may be the 'enabler' part of the transfer process but only as a means to an end.

Executing a knowledge transfer strategy is also not about managing knowledge; its about nurturing people with knowledge. As such, it must begin with a strategy that is based upon solving a recognised problem. Any output, therefore designed, must provide 'value added' to those consumers it intends to serve if it is to have any chance to make a difference.

The common definition and purpose of technology/knowledge transfer reflects the transmission of ideas, experience, knowledge, information, innovation, including people and equipment from the producer/provider (organisation, leader, manufacturer, researcher) or developer to the consumer/user (organisation, leader, practitioner, community). Knowledge and technology transfer is more than just utilisation by the end user, it is a voluntary interaction and is, itself, a technology. Organisations leverage knowledge through networks of people who collaborate - not through networks of technology that interconnect. Interconnectivity begins with people who want and need to connect.

After that, tools such as benchmarking, team-working, training, innovation, networking and technology can make that connection. More and more, the transfer of such methodologies and techniques is done through technological media, and has thus become the technology itself. Most of the genuinely novel aspects of knowledge management have been achieved through advances in computing technology, videoconferencing, Internet and intranet,

Providers and consumers meet at the front line. As the focus of intervention, the front line serves as the bottom line in technology transfer, for it is there that knowledge as technology is tested, accepted, utilised or rejected. It must meet the real life world of the consumers as well as the providers. When it works, the combination of people and technology produces networks of people who transform themselves into workers 'worknets', sub-organisations or informal groups whose collective knowledge accomplishes a specific task. The key to this worknet transition is that its members have compelling reasons to share their knowledge when asked and, in the technical sense, the technology and ability to effect this sharing.

That there currently are many gaps between the knowledge gained from research and everyday practice by practitioners, managers and communities has been widely recognised. Getting access to the right information at the right time for the right purpose is often difficult.

This is sometimes due to limited dissemination of research findings or new practices, especially across national and international borders. Sometimes, it is due to too much information, with no way to effectively sort out what is relevant. Faced with either prospect, practitioners, managers, executives and communities (however defined) often choose to continue current practices and ways of doing things or to obey them in order to meet an emergent situation - without the benefit of knowing what has been tried or done elsewhere and with what degree of success or failure.

UNICRI INTERNATIONAL WEBSITE ON PROBATION PROPOSAL

I will argue that the only way for probation to survive and prosper, is to come out and face the new millennium by embracing, owning and adapting what already exists from time honoured traditions and ways of practice into the research, organisational and political realities that are about to shape organisational life in the 21st Century.

The information and knowledge explosion can no longer be a sub-topic of academic discussion. It must become, first and foremost, integrated into new and interactive models for organisational and practice renewal and especially common knowledge building and sharing.

Only if we communicate, argue, discuss in 'real time' can perhaps some of the long outstanding barriers to moving forward be eliminated. Knowledge of international policies, practice, research findings and, most importantly, values from other cultures are absolutely essential for this probation and parole renewal process.

The dynamics of change as suggested above must, and will be, addressed at the individual, community, organisational and system levels, and incorporated into the UNICRI project proposal for the funding of an 'International Website on Probation' that, hopefully, through collaboration and consultation with practitioners, managers, researchers and other interested parties and donors, will result in a 'state of the art' international collaborative and interactive site that allows for an exchange of ideas, experience, knowledge and information.

So what are the advantages? It will provide access to the highlights of international activities, organisations and events constructed around those elements deemed essential to facilitate users' access to 'state of the art - knowledge/technology acquisition, management and transfer'.

We are all in a world of constant and rapid change, no longer with boxes or borders, and staff are increasingly working in non-traditional 'non-office environments' with links to the office. Thus, no one has time anymore to browse through the library stacks or file cards. Without librarians, gatekeepers or other local 'experts', who provides the update of the local, national or international developments and additions or, more importantly, the analysis of what it all means - a global and, more importantly, operational perspective? Where else can staff and managers explore, discuss, argue or benchmark their own policies and practices among and between systems, and where else can they convey, convince and sell a new approach or idea?

For practitioners, researchers and managers, such a site would provide a 'one-stop' site for bibliographical, research and statistical data, information and addresses for other similar 'like-minded' organisations and individuals as well as 'hyperlink' connections to other local, national and international probation, parole, correctional and criminal justice system sites. This will include one that is 'interactive' and allows practitioners and managers of probation and parole as well as other criminal justice agencies to compare policies, practices, ideas and experiences in an international comparative context.

For managers and leaders, it will allow an international, 'across border' exchange of ideas and experiences including links to centres of learning excellence. This would be especially useful for developing countries in the process of either contemplating, implementing or revitalising their probation/parole systems and where funds may be limited.

It is not that many criminal justice organisations do not have a 'Home Page'. Some very good ones exist and others are in the stages of development. Probation, however, appears to be slow to catch on to the unlimited potential, and consequently few individual offices in most countries have either connectivity or access to the vast amount of international information that exists.

Their policies and procedures may be buried within the network of the larger structure but in many major developed countries like Canada, the USA and Australia, the lines appear silent.

Most of what exists, however, is spread throughout the Internet world with confusing and often non-functioning or out of date addresses, and no practitioner or manager has the time to search, bookmark and integrate this. Training for 'explorers' has yet to take place in even the most advanced correctional and criminal justice systems. Thus, in the absence of national direction and priority, international organisations must have this as part of their 'knowledge transfer' mandate and covenant for world developmental and technical improvement aid.

This very global need and requirement for such technology and knowledge transfer to address structural inequities, especially in the developing world, has clearly been recognised and stressed by the UN Secretary General who spoke to the World Bank Conference on 'Global Knowledge' in Toronto, Canada on June 22, 1997. In his address he indicated that information and knowledge are central to democracy and are conditions for development.

The extreme inequalities in the world are morally untenable, economically irrational and politically indefensible [...] But how will we confront, how will we conquer them? How will we best work for development and against poverty in our time, in our context? [...] that will discover new ways of making information an agent for change and a tool for prosperity. We must, and will, make knowledge and information our partners for progress.

[...] Knowledge is power. Information is liberating. Education is the premise of progress, in every society, in every family. We at the United Nations are convinced that information has a great democratising power waiting to be harnessed to our global struggle for peace and development. The quantity and quality of available information is changing dramatically every day in every country in the world. Citizens are gaining greater and greater access to information too. And perhaps most importantly, the spread of information is making accountability and transparency facts of life for any free government.

[...] Access is crucial. The capacity to receive, download and share information through electronic networks; the ability to publish newspapers without censorship or restrictions; the freedom to communicate freely across national boundaries - these must become fundamental freedoms for all [...] That is the face of the new world created by the information revolution. But its consequences are felt in the field of human endeavour. In agriculture, health, education, human resources and environmental management the spread of information is transforming practices and revolutionising progress.

[...] What can we do, what can you do [...] promote greater, freer and fairer access to information for developing countries, through infrastructure improvement and technological advances [...] Foster environments of growth and communication between developed and developing countries so that the transfer of technology becomes faster and more effective. Initiate innovative approaches to education and learning at all levels, understanding the cultural contexts in order to ensure the greatest achievement of knowledge [...] Information and knowledge are central to democracy, they are conditions for development. It is that simple.

What is so thrilling about our time is that the privilege of information is now an instant and globally accessible privilege. It is our duty and responsibility to see that gift bestowed on all the world's people, so that all may live lives of knowledge and understanding.

(Annan 1997)

All of this, and more, is what we intend to achieve through our vision of what an international probation/parole interactive and hyperlink 'website' would, and will, accomplish and contribute, to the international world of probation specifically and corrections generally. With your suggestions, your direction, your concurrence and your help, it will become an international reality - accessible by, and for the benefit and advancement of, all.

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Session one

What works in corrections? A blueprint for action

Larry L. Motiuk *

Building a credible and efficient probation system is like home improvement. A detailed plan or outline of what is to be managed strategically has to be laid out completely, correctly and clearly. The following provides a problem statement for probation, blueprints it, and actively pursues some solutions by illustrating correctional procedures that work.

THE PROBLEM STATEMENT

Probation can be viewed as the home front of corrections. Often used, it is nearby where the offenders reside and the place they must report to. You can usually identify the focal issue there by asking those who spend their work lives a straightforward question - 'What challenges you most here?'. Usually, probation workers list key factors such as the offenders, other staff, volunteers and public opinion. Raising awareness of the major trends in these areas provides a clearer picture of the many challenges facing probation systems on any given day.

First, as constant as growth in the use of probation has been over the recent decades, it will likely continue into the next century. In North America, roughly two-thirds of those under correctional supervision (1995 - 3 million in the United States and 100,000 in Canada) are on probation (growing at a rate of nearly 3% per year).

One wonders if the 'apostle' of probation, John Augustus (1784-1859), who 'voluntarily attended sessions of criminal court in the late 1850s, and wilfully offered to take selected offenders into his home as an alternative to imprisonment' (Schmallenger 1995) could ever have imagined the staggering number of offenders who have been placed on probation since his lifetime.

For probation, statistical trends and initial research indicate that there will not only be increasing caseloads to manage but the offender population profile may be changing as well. More specifically, offender caseloads are becoming composed of older, culturally diverse, higher-risk/higher-need, sexually deviant, and/or mentally disordered offenders than ever before (Motiuk 1993, 1997; Motiuk and Belcourt 1996).

Second, a close look at entry-level workers to community corrections would reveal that younger staff are from a generation whose views of life and work are unlike those of their managers (Bradford and Raines 1992).

The core values and attitudes of these individuals, as all next generations, are different from those of their post war generation managers (also known as baby boomers) who had originally crafted the correctional service standards. Although better educated, younger staff often lack basic skills needed in today's high-tech corrections world (Kravetz 1993).

Managers of probation services will have to take action to understand these younger workers better and close their skills gap (Bradford and Raines 1992).

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A third factor affecting the home front of corrections is public opinion (Roberts 1993). Being acutely aware that the general public does not fully understand the inner workings of the criminal justice system, the community corrections worker of today and even more so tomorrow will be called upon to provide rapid responses and accurate information on the correctional process.

Realising too that the media has stretched public tolerance to the limit for any failure in the community means that probation staff and volunteers will have to learn everything there is to know about corrections and become actively involved in public relations.

To summarise the problem - offenders, staff, volunteers and public opinion will exert a significant influence over the realisation of probation service objectives. In particular, the task of safely managing offenders in the community will continue to fall squarely on the shoulders of staff and volunteers located in the home front of corrections - the probation office.

These individuals will be called upon to deliver more sophisticated services to an offender population constantly changing and for a public that is uncertain. And to top it all off, they must do so in an effective and efficient manner as possible. This then defines the problem for probation, however, to lay out the challenge completely and correctly, and clearly requires a blueprint.

BLUEPRINTING THE PROBLEM

Before deciding whether or not to renovate any home, it is common practice to examine the original blueprint. For probation, laying out the decision to strategically manage a change begins with looking at the services provided, from up close, then from several angles, at long distance and finally with an eye on the overall objective - reducing the fear of the public in the offender population under supervision and restoring confidence in probation.

The view from up close

As one enters the home front of corrections - the probation office - one finds front-line workers gathering information, assessing offender risk and needs, planning interventions, monitoring progress, and intervening when necessary. These activities are the foundation of risk management in community corrections. Any initiative to incorporate continuous improvement in these operations would necessarily result in quality supervision.

What works from here? In practice, the analysis of offender risk serves to structure many of the decisions made with respect to supervision requirements and program placement (Leis, Motiuk and Oglhoff 1995).

The cornerstone of any effective risk management program is to make decisions after having considered all of the available information.

However, the capacity to conduct formalised risk assessments is directly related to the amount of resources a correctional agency has at its disposal. It is not surprising, therefore, to find that objective assessment procedures for classifying criminal offenders have proliferated throughout North America (Austin 1986; Clements 1996; Van Voorhis 1988).

Most assessment instruments being used today were originally crafted during the late 1970s and early 1980s. Some examples include: the Salient Factor Score (Hoffman 1983); the Client Management Classification System (Lerner, Arling and Baird 1986); the Level of Supervision Inventory (Andrews 1982); and the Statistical Information on Recidivism scale (Nuffield 1982).

All of these instruments use objective scoring techniques and scientific approaches. Although better than chance predictions can be made using any one of these risk instruments, the fact remains that the amount of variance left unexplained in the prediction of correctional outcomes continues to outweigh that which can be explained by these tools. This reality has led the current generation of risk assessors in corrections to view offender assessment as an integrated process which incorporates a variety of assessment methodologies (Leis, Motiuk and Ogloff 1995).

Faced with the correctional challenges of the 1990s, one can use multi-method and multi-predictor assessment techniques and systematic re-assessment (Andrews and Bonta 1994; Motiuk 1991) to advance risk management practices. Basically, such an initiative puts forth a framework for establishing program priorities, implementing programs, and allocating resources to best meet the needs of offenders. Previous research on the predictive value of offender risk/needs assessments has found that criminal history factors are strongly related to community supervision outcome (Glaser 1987; Gottfredson and Tonry 1987); that a consistent relationship exists between the type and number of needs that offenders present and the likelihood of their reoffending (Bonta and Motiuk 1985, 1987, 1990; Motiuk 1993) and, most importantly, that combined assessment of the level of both risk and needs significantly improves our ability to predict who is likely to reoffend and who will not (Motiuk and Porporino 1989b).

Static versus dynamic factors in prediction is an age-old correctional dilemma. There is a body of literature supporting the belief that offenders do not change, however, there are many advocates of the rehabilitative model which is indicative that offenders can change. The underlying assumption is that if we do a good job in identifying risk factors and assisting offenders, then offenders can become law-abiding citizens.

Dynamic factors refer to case needs or criminogenic factors that are capable of reflecting change in an individual (Andrews, Bonta and Hoge 1990). This is a critical component of not only risk assessment, but also of risk management because this is where intervention takes place.

Little can be done about static factors (e.g., criminal record or criminal history). There is, however, considerable predictive power in those variables. While you should not ignore history, you cannot do much to change those variables; this is where dynamic risk factors come in. These dynamic risk factors (or case needs) are considered to be a sub-set of overall risk. The goal is to effectively target these factors and apply appropriate interventions to have an impact on the likelihood of a criminal future.

During the 1980s, there was a lot of debate on the use of static and dynamic risk factors. There was the position that static factors were the mainstay and that we could deliver supervision on this basis. However, using this framework is very problematic for community corrections because it is difficult to vary either frequency of contact, level of supervision or amount of service to be delivered if people do not change.

It is also problematic as there is no mechanism to demonstrate that an offender has changed. This situation has resulted in a conceptual shift towards a thorough examination of offender needs as a set of risk factors, thereby allowing some flexibility in service delivery.

In October 1988, as part of the field testing of new standards for community supervision (Motiuk and Porporino 1989b), case management staff of the Correctional Service of Canada were required to use a systematic approach to assess the needs of offenders, the risk of reoffending and any other factors that might affect successful reintegration into the community. In keeping with this standard, a Community Risk/Needs Management Scale was designed, developed, and implemented to provide case-specific information on criminal history and a critical set of case-need dimensions for the classification of federal offenders while under community supervision.

The Community Risk/Needs Management Scale was clearly intended to be used to focus supervision resources (such as frequency of contact) and monitor changes in the offender's behaviour, attitudes and circumstances while under supervision. However, its design and development had purposely followed the Case Management Strategies (CMS) approach to assessing offender needs (Lerner, Arling and Baird 1986), which used a protocol called the Force-field Analysis of Needs. The CMS approach to offender assessment had been developed in the mid-west United States for youthful probationers and was adopted by the Correctional Service of Canada for assessing the individual case needs of federally sentenced adult offenders. While the Force-field Analysis of Needs provided a way to make case management officer judgements of offender risk and needs more objective and systematic, it did not take into account the context (community versus institution) or changes across time and settings. As a result, the Community Risk/Needs Management Scale was designed, which essentially put into practice a simple scheme that would allow case management officers in the community to classify offenders.

To assess risk (of re-offending) systematically and consistently, case management officers use the Statistical Information on Recidivism (SIR) scale (Nuffield 1982). The SIR scale involves an extensive review of an individual's official criminal record to complete 15 risk-related items (such as age, number and variety of criminal convictions, breaches of trust, etc.). In addition, case management officers use another important source of information so that the level of criminal history could be determined in an objective, reliable and accurate way. This includes their own judgement of criminal history risk which is based on a thorough review of each offender's criminal record on their caseload.

The areas selected for the case needs component of the Community Risk/Needs Management Scale are typical of those included in need assessment instruments used in other jurisdictions (Motiuk and Porporino 1989b). A total of 12 need areas are covered: academic/vocational skills, employment pattern, financial management, marital/family relationship, companions/significant others, living arrangements, behavioural/emotional stability, alcohol usage, drug usage, mental ability, health, and attitude. Although each area of need is rated (factor seen as an asset to community adjustment, no current difficulties, some need for improvement, considerable need for improvement) according to specified guidelines, an overall rating of need is given simply by compiling case manager judgements into one of three overall need levels: low, medium or high.

The appropriate frequency of contact for community supervision is determined by linking the two types of assessments - criminal history risk and case needs - in a matrix format (such as high-risk/high-need).

Table 1 Risk/needs level and minimum frequency of contact

Criminal history risk	Case needs		
	Low	Medium	High
Low	1 / month	2 / month	4 / month
High	4 / month	4 / month	4 / month

The field test of the Community Risk/Needs Management Scale found that case management officers in the community could easily differentiate federal offenders as to the nature and level of risk and needs they presented, and these offender risk/need assessments were consistently related with community supervision outcome (Motiuk and Porporino 1989b). It was also found that, by simply combining case management officer assessments of criminal history risk with global ratings of case needs (see Table 2), as many as 47.5% of offenders who had been assessed as being high-risk and high-need were suspended within six months of their initial assessment. On the other hand, substantially fewer offenders assessed as low-risk and low-need were suspended (5.1%) while in the community. Of particular interest, this low-risk and low-need group was the largest category among the risk/need level groupings that were identified (representing one-third of the total sample of cases that were assessed). Therefore, reducing the frequency of supervision for these lower risk cases had important implications for the reallocation and refocusing of community resources (Andrews, Bonta and Hoge 1990).

Table 2 Field test distribution and (suspension rates) by risk/needs levels

Criminal history risk	Case needs		
	Low	Medium	High
Low	34.4% (5.1%)	9.7% (13.6%)	5.7% (26.9%)
High	16.8% (22.4%)	20.3% (41.3%)	13.0% (47.5%)

The early pilot work also explored the distributions of the twelve need dimensions of the Community Risk/Needs Management Scale. The purpose of the field test was to learn more about each factor in terms of managing cases.

The field research showed the proportion of offenders suspended within six months and other statistically significant relationships between specific need dimensions and the likelihood of suspension (see Table 3). Statistical analysis revealed that only two of the twelve need areas assessed did not significantly relate to failure on conditional release. The two need dimensions found not to be significant were mental ability and health.

Table 3 Outcome for cases with identified needs

Need dimension	% with identified need	% suspended within six months	Significant statistical relations
Academic/vocational skills	20.8	35.1	**
Employment pattern	35.0	36.1	***
Financial management	37.0	37.1	***
Marital/family relations	33.2	37.3	***
Companions/significant others	40.4	40.7	***
Accommodation	15.5	45.7	***
Behavioural/emotional stability	34.8	34.4	***
Alcohol usage	18.6	46.4	***
Drug usage	15.7	39.4	***
Mental ability	8.7	28.2	ns
Health	9.1	14.6	ns
Attitude	25.1	40.2	***

*Note: ns = non-significant; ** $p < .01$; *** $p < .001$.*

Identified need = some need and considerable need for improvement combined.

To proceed with the full implementation of new national standards for community supervision, a training team conducted a series (a total of 17) of one-day professional development workshops across the Service. It is estimated that over 550 individuals participated in these professional development workshops. While the majority of those who participated in the training were Correctional Service of Canada staff, there were also trainees from other organisations (such as provincial jurisdictions, service agencies and halfway house associations). The training workshops included the following: background to the project; history of frequency of contact; research findings from the field test of the Community Risk/Needs Management Scale; an overview of the new standards for conditional release supervision; clarification of exemptions and exceptions to the standards; Section 5 of the standards (Offender Assessment, Classification, Frequency of Contact); hands-on training with the risk/needs assessment tool; and feedback on results of assessment training.

In the hands-on training exercises, we were attempting to establish an acceptable level of agreement among community case managers for frequency of contact decisions. For each of the workshops, this entailed two types of training exercises or two different approaches. One was an individual assessment of a practice case and the other was a group assessment of a different case. It was expected that the individual practice approach would equip the parole officers with a thorough understanding of the Community Risk/Needs Management Scale assessment device.

Then, by following this up with a group assessment, there would be not only a reinforcement of prior understanding but also a pooling of the available on-site professional expertise in assessing a particular case.

The hands-on training exercises confirmed the ability of community case managers to apply the Community Risk/Needs Management Scale as a systematic method for assessing the needs of offenders, the risk of re-offending and any other factor that might affect the successful adjustment of an offender into the community.

The results of practice case assessments demonstrated acceptable levels of agreement amongst parole officers when assessing the same case for the first time using the Community Risk/Needs Management Scale with respect to frequency of contact considerations.

The variability in case needs level ratings at the different training sites also pointed to a need for ongoing clarification of the various needs dimensions being assessed with training and reference to guidelines. Furthermore, a combination of individual and group practice exercises can result in improved levels of agreement among community case management officers for risk/needs ratings.

A post-implementation follow-up of the Community Risk/Needs Management Scale was made possible by means of an Offender Population Profile System. Through the Offender Population Profile System, the overall risk/needs levels gathered since Scale implementation were systematically being stored and subsequently retrieved to provide monthly snapshots over the first three years of implementation.

According to the Offender Population Profile System, there was a steady decline of the proportion of cases assessed as being low-risk and low-need (31.6% to 27.0%) as opposed to the steady increase in the proportion of cases assessed as being high-risk and high-need (25.3% to 36.1%).

While the definitive answer to this change remains unclear, it may represent drift in risk assessment over time. That is, case management officers may be overestimating the level of risk.

This may be somewhat akin to the phenomenon of over classification that is found in many institutional populations (Bonta and Motiuk 1992). In any event, this kind of information told us how field staff had been responding to the conditional release population over time.

For certain, if frequency of contact guidelines were being adhered to strictly, then a substantially larger proportion of offenders were being supervised much more closely after the implementation of the supervision standards than ever before.

In advancing further the concept of dynamic assessment methodology (Motiuk, Bonta and Andrews 1990), it is also not surprising that when offender risk/need levels increase so does the likelihood of failure while under community supervision (see Table 4).

More specifically, offenders showing an increase in overall risk/needs level were more likely to be suspended than those who had either a decrease in risk/needs level or no change at all. Once again, this finding was particularly robust within the first six months of follow-up.

Table 4 Suspension rates by changes in overall risk/needs level

Follow-up period	Base rate	Overall risk/needs level		
		Decrease	No change	Increase
6 - 12 months	9.3% (288/3,112)	8.8% (38/431)	9.0% (230/2,553)	15.6% (20/128)
13 - 18 months	7.5% (160/2,121)	6.3% (22/350)	7.7% (127/1,642)	8.5% (11/129)
19 - 24 months	6.5% (100/1,534)	6.8% (12/176)	6.2% (79/1,268)	10.0% (9/90)

Presently, the Community Risk/Needs Management Scale is systematically administered and readministered to federal offenders under community supervision by case management officers across Canada.

It provides an efficient system for recording criminal history risk and case needs, level of risk and need, required frequency of contact and related background information on each offender (such as release status, sentence expiry). While the Community Risk/Needs Management Scale was first implemented in hard-copy form, the computerised version has been in use for several years.

Of particular interest from both an organisational and risk management perspective, there exists a computerised means to monitor offender risk/needs levels by using the Offender Management System (OMS). Using OMS, the overall risk/need levels that have been gathered since implementation of the Community Risk/Needs Management Scale are being stored systematically and can be retrieved to provide caseload snapshots.

As expected, the ability to produce an offender risk/needs profile of an entire conditional release population has proven to be extremely useful for raising awareness about community supervision, providing basic statistics with respect to risk/needs levels and estimating resource implications with respect to frequency of contact considerations. The ability to monitor the risk levels of Correctional Service of Canada's community supervision population has moved the organisation closer toward an effective risk management program.

Today, the automated version of the Community Risk/Needs Management Scale can produce a distribution of identified needs for the entire community supervision population. This case-based information is representative of some 600 case management officers spread across Canada, reflecting their collective experience and knowledge of the cases which they have under their direct supervision.

The distribution of identified needs indicates that employment, financial, marital/family, and behavioural/emotional problems are frequent among the community supervision population. Statistical analyses revealed gender differences for only two of the twelve need dimensions. Male offenders were more likely than female offenders to experience drug problems while in the community. In contrast, female offenders were more likely than male offenders to have health problems.

To sum what works, a dynamic assessment method serves to instruct us with whom we are dealing, where they are, what they are like, what kinds of problems they faced out in the community before they became in conflict with the law, and what kind of problems they experience while under supervision.

Such information can help direct limited resources to particular segments of the population under community supervision to reduce risk.

The view from several angles

While standards affirm many traditional community supervision practices, they transform correctional services into publicly acknowledged performance criteria. For example, standards for community supervision might include the following: Agency Mission Statement and Services, Basic Policy Information, Information Sharing, Officer Selection, Training, and Workload, Case Planning, Case Conferencing and Documentation, Initial and Ongoing Contact with the Offender and Others in The Community, Violation and Suspension, Police Liaison, 24 Hour Availability, Agency Policies, Volunteers who provide supervision services, Offender Files, and Community Services and Resources (CSC 1989).

For probation services, the aforementioned introduce standardised methods of risk assessment and case planning, promote uniform decision-making, and clearly define areas of discretion. Compliance with standards are vital for preserving the integrity of supervision and promoting a professional ethic (Luciani 1994).

What works from here?

Some focused research on compliance with community supervision standards has found from audit exercises a number of keys to success (Luciani 1994). First, community offices which had entrenched fundamental practices that would survive an audit exercise (as opposed to achieving immediate compliance) fared much better than those which had not.

Secondly, community offices led by managers who established clear operational standards, routinely monitored work, and rejected substandard performance underwent the most improvement. Finally, community offices whose staff co-ordinated their efforts towards meeting standards performance received the highest ratings.

A LONG-DISTANCE VIEW

Citizens deserve the best criminal justice system possible and correctional agencies can choose to do good corrections. However, to deliver good corrections an organisation must decide whether or not it believes offenders can change for the better and commit themselves to assisting in that change.

What works from here?

For strategic management, a Mission Statement defines what is good corrections. As an example, 'the Correctional Service of Canada, as part of the criminal justice system and respecting the rule of law, contributes to the protection of society by actively encouraging and assisting offenders to become law-abiding citizens while exercising safe, secure and humane control' (CSC 1997).

This statement sets the ultimate objective of the organisation (i.e., protection of society) and establishes major strategies (i.e., changing criminal behaviour) for achieving it. Also important is a set of core values (e.g., respect for the dignity of individuals, the rights of all members of society, and the potential for human growth and development) and guiding principles (e.g., all of our dealings with individuals will be open, fair and humane) which sets the foundation for strategic objectives (e.g., respect for social, cultural and religious differences of individual offenders) and organisational life. These core values are basic and enduring ideals of the organisation which guide one in fulfilling its mission.

An eye on the objective

Are interventions offered by correctional agencies effective in reducing criminal recidivism? There is growing evidence that as a program of rehabilitation, incarceration has shown no success as a method of rehabilitating offenders. Without other forms of intervention which directly address criminal behaviour and attempt to instil new patterns of behaviour, incarceration on its own lacks promise. Can we say the same situation exists for offenders serving sentences in the community? A major review of accumulated findings (Andrews, Zinger, Hoge, Bonta, Gendreau and Cullen 1990) provides clear evidence of the impotency of criminal sanctions when unaccompanied by appropriate rehabilitative programming. The results of their review also suggest that rehabilitation programming which takes place in residential settings (i.e., prison) appears to be less effective than programming which occurs in the community. Consequently, the notion that offenders can be sent to prison to be rehabilitated is challenged given the evidence that better outcomes are reported for programs operating in the community.

What works from here?

Recent reviews of studies on offender treatment have yielded overall average reductions of 10% in recidivism among treated offenders (Lozel 1996). However, with appropriate interventions the results are more impressive - around 30% reduction in recidivism (Gendreau and Goggin 1996). More importantly, there is evidence that programming, when delivered in the community, is more effective (Robinson 1996). In general, a review of the literature provides evidence of the impotency of criminal sanctions when unaccompanied by appropriate rehabilitative programming.

Andrews, Bonta, and Hoge (1990) have presented a number of principles to aid in the classification of offenders to promote effective rehabilitation. These include the 'risk', 'need', 'responsivity' and 'professional override' or discretion.

The 'risk' principle proposes that the more intensive correctional interventions are best applied with higher risk offenders (those who have a higher probability for negative correctional outcomes) while less intensive interventions should be reserved for lower risk offenders. The 'need' principle proposes that when offender needs are targeted well and interventions applied to meet those needs, then we should expect a reduction in the amount of recidivism. The 'responsivity' principle proposes that an offender's learning style should be matched with the appropriate method of service delivery. Finally, the 'professional override' principle asserts that after having considered 'risk', 'need' and 'responsivity', case workers exercise judgement in treating a particular offender.

When case-based principles for effective offender classification are coupled with a set of research derived principles of effective correctional treatment, the positive impact on correctional outcomes is optimised. Gendreau and Goggin (1996) note that correctional treatment must be of a length and intensity sufficient to deal with the problem; be delivered in a supportive environment, as it was designed and by high quality, well-trained staff; and program content must address factors known to be linked to recidivism.

Therefore, what works best in community corrections is delivering programs based on research. Those probation systems which use the most effective techniques, employ appropriate candidate selection, and deliver programs with content which specifically addresses risk factors known to be linked to recidivism will achieve better correctional results.

ACTIVELY PURSUING SOLUTIONS

To build a credible and efficient probation system one can use applied research related to corrections policy, programming and management.

Clearly, by using a systematic assessment and reassessment approach a probation system will have more information about offenders under community supervision. If it serves anything, this dynamic assessment method serves to instruct probation officers about whom they are dealing with, where they are, what they are like and what kind of problems they faced not only before they arrived on probation but also while under supervision.

While targeting key offender need areas (such as employment and substance abuse) for service delivery while on probation has considerable merit, the kind of intervention strategies one envisages to respond to offender needs continues to be the real challenge. There is ample research to guide probation in delivering programs that work.

Corrections is about people, and not just about numbers. Probation can come up with all the assessment tools, programs, and practice guidelines or standards necessary, but unless an organisation's people (staff) at all levels are committed to crime prevention and are supportive of various initiatives within their respective jurisdictions, they will be unable to move probation forward into the future.

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Report of the Working Group^{*} Types of supervision and ‘what works’

The following points were addressed in the workshop.

1. It was pointed out that Malta is still trying to establish a professional probation unit. Presently, probation officers have to rely on ‘straight’ probation which is primarily based on counselling. There is a lack of the element of control and practically no research that could be used for policy formulation and implementation. As a means of control, probation officers try to implement a form of intensive probation supervision, meeting with probationers 2 or 3 times a week. One major difficulty is that the judges/magistrates assign cases directly to a probation officer of their choice without making an effort to match cases to particular probation officers.

It was suggested that Malta tries to set up a broad guideline and separate probationers into high and low risk offenders. This procedure would enable the probation officers to decide on the intensity of supervision required. Risk assessment should be a means of calculating the probability of reoffending, the gravity of the offence and the response to risk. Furthermore, a good analysis of the probationers’ situation would enable the probation officers to start working.

An Irish representative suggested that, to persuade judges and magistrates to use the sanction of probation, one should identify the judges and magistrates who are receptive and build an information base that would reinforce their positive impression of probation.

2. Usually probation cannot be applied in the case of grievous offences. Canada tried to overcome this by adopting ‘double team supervision’. With this technique, two officers are jointly assigned the same case. ‘Double team supervision’ is mostly used for sexual offenders and hard-core criminals. Some offenders are given this sentence for life. However, it was pointed out that what works in one jurisdiction does not necessarily work in another. One should only take ideas from other countries and adapt them to the local context.
3. Data on offenders could be readily accessible from all the various criminal justice agencies. This is necessary as probation cannot function without updated criminal records which serve for risk assessment, the compiling of the pre-sentencing report, and parole board decisions both at the time of release and during supervision. Furthermore, research findings could prove to governments what works. These will in turn try to convince society (their voters).
4. A representative asked which countries’ probation units/departments had research officers and whether the information gathered ever came into the hands of the line staff. Various individuals present commented that their agencies did benefit from the contribution of such an officer, responsible for the gathering of criminal data on the offenders.

^{*} Reported by Sandra Scicluna, Assistant Lecturer (Institute of Forensic Studies, University of Malta) and probation officer.

Examples of probation systems which employed research officers were, amongst others: Singapore, Canada, Ireland, Japan, the United Kingdom and Sweden.

5. In Singapore data are collected in connection with the ministry concerned which makes it easier for the gathering of information, especially with regard to juveniles. They have a highly computerised system which is a great asset for the probation department. This system is analysed every six months.
6. Canada is going to introduce the 'single criminal justice file'. This is going to be introduced in most provinces and made accessible to all those involved in criminal justice. Presently, in Canada, there exists a form of risk assessment which calculates the probability of reoffending.

Evidently, the role of the probation officer since the time of John Augustus has changed radically. Before, the probation officer used to help the probationer to remain free. Nowadays, probation officers use the element of conviction much more. Furthermore, research has become an important tool especially in situations where the case-load is very high.

7. In Ireland, the criminal justice system is computerised. However, many individuals felt threatened by information technology and many found it difficult to adapt to this novel system.
8. In Sweden, probation officers utilise a database program in which facts are inputted to form a supervisory plan. This is first revised after three months and then subsequently after a year. A report has to be issued regarding the work of the probation officer during this time-span. Sweden has started a 'risk ward' where individuals who are sentenced to more than four years of imprisonment are sent. This place has been designed to meet the offenders' needs.
9. Attention was drawn to the fact that in Malta there was no strategic planning. This became evident from the fact that the authorities have decided to increase the capacity of prison when they could have encouraged the development of alternatives to imprisonment such as probation.

In reaction to this information, a representative commented that most probation systems do not work if there is no clear and efficient leadership from policy makers.

10. In Japan, research officers have previously occupied jobs, such as prosecutors, correctional supervisors and probation officers. Probation services in Japan rely mostly on volunteers. There are 40,000 volunteers compared to 800 parole and probation officers.
11. In India, probation services do not have access to policy makers. Therefore, it is imperative that the right data are offered to policy makers.
12. The concluding remark was that: 'What works?' is asked several times and there is an answer to it. However, the question 'Who works?' is hardly given any importance. The organisation of a probation department requires all the existing operational tools, however, such organisations are composed of individuals. The qualities of each member of staff should hence be given the appropriate attention.

Report of the Working Group^{*}

Community based offender programmes

INFORMATION ABOUT DIFFERENT PROBATION SERVICES

The meeting began with interesting and informative accounts of the workings of different probation services represented in the group. These included:

- *The Netherlands*, which has a well developed programme to address the welfare needs of offenders based on close collaboration with other criminal justice agencies; and which also offers a range of alternatives to prison;
- *Pakistan*, a less developed structure, but nonetheless a key division in non-custodial structuring; which is experiencing particular difficulties at present with drug-related crimes;
- *Kenya*, where the emphasis is on reintegration, but in the context of a sophisticated multi-agency approach;
- *Seychelles*, where probation has existed for 31 years; where facilities are best developed for juveniles including curfews and special requirements; and where difficulties are also being experienced with managing drug offenders; and
- *Malta*, a small but enthusiastic service, which is working hard to develop links with structures; to address the views of victims; to liaise effectively with NGOs (such as Caritas); and to develop further its skills in case management as well as casework.

A NUMBER OF KEY THEMES

1. The challenge of drug offenders for whom appropriate facilities seemed often to be lacking and whose need often required closer collaboration with health authorities than was always possible.
2. The need to ‘see’ probation work and transmit its values to an often hostile or uninformed public and politicians not just in terms of reducing recidivism, but also for other social benefits it provides.
3. Probation cannot stand alone in its activities; it requires:
system support locally and nationally;
a willingness among its own officers to work in an integrated way with other criminal justice agencies;
an awareness of, and capacity to respond to trends of globalisation of communications and localisation of the policy response to crime;
a willingness to evaluate its programmes, and to work in the most effective way; and
support of local informal systems as the return to community transforms itself from friendship networks to other varied forms of affiliation.
4. Probation must respond quickly to changing social phenomena - a recent example is migrants, likely to be a major concern in much of Europe for many years to come.

^{*} Reported by Robert Harris, Pro-Vice Chancellor of the University of Hull, Hull, United Kingdom.

Report of the Working Group * Use of volunteers

This Working Group on the 'use of volunteers' discussed several points. First, how volunteers are/can be used; second, why they are used or the benefit of using them; and third, the problems or disadvantages of using them. Finally, some recommendations were proposed. The Group also discussed briefly the meaning of 'unpaid volunteers' and of probation as non-custodial community sanctions or measures. And the potential for the use of volunteers was recognised.

HOW VOLUNTEERS ARE/CAN BE USED IN PROBATION SYSTEM

Volunteers are used as supplementary/adjacent probation supervisors to provide adequate supervision to the offenders, or as resource persons to deliver/provide support programs such as employment and training in skills. Volunteers may provide assistance in preparing the pre-sentence report or in the restitution process. They may also operate hostels where they provide welfare services as well as counselling and other social/psychological help for the offenders.

WHY VOLUNTEERS ARE USED (OR THE BENEFIT OF USING VOLUNTEERS)

The following topics were raised and discussed: community participation and strengthening of community ties, providing a broader range of services for the offenders, better opportunities for responding to the different cultural needs, cost savings, greater success rate of probation, career development and opportunities for volunteers.

THE PROBLEMS OR DISADVANTAGES OF USING VOLUNTEERS

The difficulties in finding qualified volunteers and in matching volunteers to offenders' needs, as well as the issue of confidentiality were described. Volunteers require training, supervision and support which may lead to overhead costs. The statutory limitations, inconsistent commitment and motivation of volunteers, potential for conflict in relationships, professional jealousy, lack of formal disciplinary control over the volunteers, potential for diminishing the confidence of other criminal justice agencies, and liability problems, were highlighted by the Group.

SOME RECOMMENDATIONS

When using volunteers in probation systems, it is appropriate to have handbook/guidelines for volunteers, to present clear definitions of role expectations, to have a clearly defined selection process, and to provide training relevant to the role. Proper supervision protocol and a formal redress system are also necessary. Finally, the use of volunteers should be consistent with the United Nations Standard Minimum Rules for Non-custodial Measures known as 'the Tokyo Rules'.

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Session two

Developing a probation capability: assessment, monitoring, evaluation and training

Michael Hough *

This discussion paper aims to cover a large amount of ground in a short amount of time. Inevitably, therefore, I have been highly selective. I see several threads of continuity in the topics which I have been asked to cover:

- *offender assessment* is a prerequisite for any structured approach to community penalties;
- without practitioner assessment, *monitoring and evaluation* is all but impossible; and
- the form of *training* needed by any agency delivering community penalties is determined quite largely by the nature and needs of the clientele with which they are engaged.

Whatever the linkages between my three topics, however, I have treated them separately. Each of the three sections of the paper aims to identify the key issues which deserve priority by any country which is aiming to establish or strengthen its probation service. I must apologise in advance for a perspective which is heavily derived from probation practice in England and Wales - even if there is little I can do to offset this bias. The paper also focuses on the *rehabilitation of offenders* as the core probation function. There are many community penalties, including some administered by probation services, which have other purposes - reparation or surveillance, for example. I have ignored the organisational demands made by community penalties other than probation.

OFFENDER ASSESSMENT¹⁷

Proper assessment of offenders is central to effective probation work. Research can now offer a fairly good guide as to the ingredients of effective supervision. The emergent consensus (Andrews *et al.* 1990; Gendreau and Ross 1987; Lipsey 1991; Lösel 1993; Hood 1995) is that rehabilitative gains are largest when programmes:

- target high risk offenders;
- focus on offending behaviour and the factors underlying it;
- are clearly structured and properly implemented; and
- are staffed by motivated and well-trained officers.

If this is so, it is clear that two sorts of assessment are essential: assessing *the factors which underlie offending*, to enable a sensible programme to be devised; and *assessing the risk of reoffending* - to make sure that effort is focused on people where there is scope for change. There is a third sort of assessment, related to the second: this is to assess *the risks posed to probation staff and the public*, whilst the probation order is in force.

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¹⁷ Some of the ideas in this section are considered more fully in Aubrey and Hough (1997).

Needs assessment - identifying the factors underlying offending

Two central principles of probation practice are that offending is often rooted in the social and personal problems of offenders, and that addressing these problems can effectively reduce offending.

People without jobs may have too much time on their hands and too little money, for example - an obvious precondition for some types of crime. Problems of drug dependency can often be implicated in property crime.

Again, poor social skills and low levels of emotional control can often lock people into forms of violent crime. Identifying the nature of offenders' problems or needs and assessing whether these are related to the offending are pivotal tasks in probation supervision.

The Home Office (1995) National Standards recognises this, in requiring proper needs assessment both when preparing Pre-Sentence Reports (PSRs), and when devising supervision plans for probationers.

Some probation areas in England¹⁸ have made better progress than others in formalising the process of assessing offender needs; few have got to grips with measuring the success of supervision in addressing these needs. Judging what it is that underlies someone's offending is certainly a highly complex process; and there is inevitably a large element of subjectivity and intuition to it. The process can be helped or hindered by diagnostic tools, but there is a strong case for a more systematic approach. As Burnett says,

A more systematic assessment of offending-related needs will enhance the accuracy and status of probation assessments, will foster optimum use of in-house and partnership specialists, and would facilitate integrated evaluation of the effectiveness of community supervision.

(Burnett 1996: 69)

There is thus a good case for developing systems or structures which help to:

- improve the quality of assessment;
- improve the consistency of assessment;
- improve the allocation of resources;
- document the needs of offenders under probation supervision; and
- assess the impact of supervision aimed at addressing offender needs.

The reasons for doing so are partly to improve the quality of professional practice and partly to ensure accountability to probation management, paymasters and tax-payers. Any public service is required not only to perform effectively but also to demonstrate that it is earning its keep.

In doing the latter, it has to be able to demonstrate both the *nature* of the job it is tackling and its *success* in doing so.

18 The structure of British probation is complex. There is one probation system covering England and Wales - hereafter called (with no disrespect intended to the Welsh) the English system - another covering Scotland and a third covering Northern Ireland. Home Office jurisdiction extends only to the English system.

A final but fundamental dimension in developing systems for assessing needs relates to the obligations and responsibilities which the service has towards the offenders it supervises. As a probation officer told Burnett (1996), 'Probation officers do exercise an awful lot of power in choosing what to offer.' An agency whose job is to offer help under conditions of coercion has some obligations to those whom it aims to help - not least to ensure that it is operating with equity.

Needs assessment scales

Over the last ten years, North American and British probation services have put considerable effort into the development of needs assessment scales. These vary in complexity and in their relationship to professional judgement. They can serve three distinct functions. They can:

- *structure* professional judgement in assessing need;
- supplement professional judgement in *diagnosing need*; and
- supplement professional judgement in *diagnosing risk of reoffending*.

Most needs assessment scales used in this country serve only the first function, of structuring judgement. Checklists focus officers' judgement on particular dimensions of need; for each dimension, they require a judgement to be made about the presence - or sometimes intensity - of need. Beyond this, however, they add nothing to the diagnostic process.

There is, of course, a great diversity of scales developed by clinical psychologists to measure problems, but many of these are not particularly appropriate to the probation setting. The context in which assessments are made sometimes makes it impossible to deploy complicated 'pencil-and-paper' tests. Especially when preparing PSRs, there is limited time and often limited commitment on the part of the offender - whose ability to complete scales may also be limited.

These considerations are less applicable when a supervision plan is being drawn up at the start of an order - and even less applicable in those areas which have set up specialist assessment units to do this work.

Work on needs assessment has been done mainly in North America, where scales have been used in conjunction with the assessment of risk for almost twenty years. The needs scales typically comprise lists of the main problems experienced by offenders such as unemployment, drug and alcohol misuse, mental health and personal relationships. Officers score each need in some scales simply as present or absent; in others they score for the intensity of need. And the most complex also attach differing weights to different types of problem - unemployment, for example, might score higher than homelessness.

Needs assessment scales are now quite widely used in Britain. Most probation services use a checklist of needs when preparing pre sentence reports (PSRs) and around half monitor social circumstances at the start and end of supervision.¹⁹ Research underpinning this scale is described in Aubrey and Hough (1997).

¹⁹ An example of a needs/problems checklist which South Bank University developed for the Home Office is attached at the end of the proceedings as Annex I.

Dimensions of need

There is clear evidence (e.g. Gendreau and Ross 1987; Farrington 1994) that persistent offending²⁰ is commonly associated in Britain and North America with many factors, some of the main ones being:

- low family income;
- poor housing;
- an unstable job record;
- poor educational attainment;
- delinquent family or friends;
- misuse of drugs and alcohol;
- mental disturbance;
- previous experience of violence or abuse;
- a remote father (not necessarily an absent father); and
- harsh and erratic discipline (at home or at school).

Evidence is more scarce that these associations are causal, but in our view, this is more a reflection of the difficulties of establishing causal links than of the impossibility of constructive work with offenders. Research on these factors is beginning to establish what sort of supervision programmes have the best chance of success (Lipsey 1991, Lösel 1995). One can envisage the possibility of a totally 'research-driven' list of needs, all of which would be (a) demonstrably related to offending and (b) demonstrably amenable to probation intervention. For the time being, however, this is clearly more an aspiration than a reality. Deciding the range of salient needs on which probation work should focus remains a matter for professional judgement and theory.

Many needs assessment scales predate the emergence (or re-emergence) of the emphasis now given to getting offenders to 'confront their offending'. It is worth recognising that the recent 'what works' body of research and practice has shifted the probation enterprise markedly away from a *social welfare* approach and towards one which emphasises the development of *personal responsibility*.

Less stress is now placed on social correlates of offending (e.g. poverty, unemployment) and much more on psychological ones such as impulsiveness, anti-social outlook and lack of victim empathy. Indeed, some English probation areas have gone so far as to label as 'primary' or 'criminogenic' factors anti-social outlook, lack of victim empathy, lack of self-control and substance misuse; and financial problems, emotional problems, housing and environmental factors are regarded only as 'secondary' or 'non-criminogenic'.

Though the language of needs, deficits and problems has been retained, it is arguable whether this language is especially appropriate to an enterprise which is intended to stimulate social responsibility (except as a device to smooth the transition).

20 There are, of course, some forms of crime whose offenders typically bear no resemblance to this profile - most obviously white collar crime.

Some of the more recent needs/problems checklists developed by, or for, English probation services give some salience to factors such as attitude towards offending, self-control and ability to empathise with victims.

Risk assessment scales - predicting reconviction

Assessing offence-related needs and assessing risks of re-offending are interrelated but discernibly separate processes. Scales can help in both processes. There are innumerable scales devised by clinical psychologists, for example, for diagnosing psychiatric or social problems. And the probation service has extensive experience of predictive scales identifying risks of custody (in the 1980s) and risks of reconviction (in the 1990s). The Home Office has recently revised its Offender Group Reconviction Scale (OGRS).²¹

These scales are usually actuarial devices enabling classification of a person on the basis of a small number of known (or easily ascertainable) characteristics. They are derived from statistical analysis of (usually large) samples of people, to identify what characteristics differentiate between those with the target attribute, and those without it (see Kemshall 1996, for a review). Statistically derived diagnostic scales designed to predict reconviction rates usually combine information about the offender's crime, criminal history, age, gender and (sometimes) 'social' variables such as employment, housing and substance misuse, to yield a probability of the offender getting further convictions.

Whether such predictive scales can outperform professional judgement is an empirical question. There is some evidence that they can (Kemshall 1996). A more relevant test is whether people make more accurate judgements with the help of a statistical predictor than without. Typically, a reconviction scale tells an officer that the offender belongs to a sub-group of whom x% are reconvicted. The officer has to judge whether the offender is one of the x% who will be reconvicted, or the 100-x% who will not. For example, a scale may place a young car thief with five previous convictions in a high-risk category, with a 75% probability of reconviction in two years: it is then a matter of professional judgement to assess whether or not the offender will turn out to be amongst the 25% who will not be reconvicted. By contrast, an adult sex offender with no previous convictions will probably emerge with a low risk of reconviction - perhaps in the region of 20-30% - but it will still be of critical importance for the supervising probation officer to assess accurately whether the offender is one of the minority who will reoffend and be reconvicted²². Thus the scale can be no more than an aid to the judgement of probation officers; it cannot be a substitute for that judgement. A PSR may properly reflect a different assessment of risk from that to which the scale alone might point, once the report writer has assessed all the relevant information about the offender's circumstances and background.

21 Two (fictitious) examples of the output of the OGRS scale are given in Annex II at the end of the proceedings. These illustrate both the information required by the scale and the range of scores which it can yield.

22 The value of actuarial scales which rely on *reconviction* data is limited, of course, where there is a large gap between reoffending rates and reconviction rates. Sex offences provide a good example.

One Canadian scale which has attracted attention in Britain is the LSI-R (Level of Service Inventory - Revised). This was originally developed by the Ontario Ministry of Correctional Services in the early 1980s, but has been subject to recent revision (Andrews and Bonta 1995). This combines risk and needs factors together, to yield a single score indicating both risk of reconviction and the level of supervision required²³. Sub-components of the scale can be separated out - sometimes confusingly referred to as 'risk' and 'need' elements. Completion of the scale takes around 45 minutes; a structured interview is carried out, and the answers to 54 questions are transferred onto a form from which scores can readily be calculated. Scoring is very simple: each positive answer scores 1, and all positive scores are then summed. The scale attaches different weights to each dimension of need, by the simple procedure of asking more questions about needs which are heavily related to risk of reoffending. The weighting system has been devised not by actuarial analysis, but by meta-analysis, extrapolating from a large number of research studies which examine predictors of criminal behaviour (Sutton and Davies 1996).

Assessing dangerousness

The assessment of dangerousness can be regarded partly as a sub-set of assessing risk of reconviction, as part of the process of devising a supervision programme. But there are other considerations as well. Some offenders present a significant risk of harm to various groups:

- themselves;
- the general public;
- children; and
- probation staff.

These risks need to be efficiently managed not only as part of the supervision process, but also to protect those at risk. Without proper risk management the credibility of probation is at risk; and, indeed, services could expose themselves to negligence lawsuits.

Managing dangerous probationers has been the subject of English research (Kemshall 1996) and audit by HM Inspectorate of Probation (HMIP 1995). Research suggests that the most effective way of assessing dangerousness is to combine clinical judgement with actuarial assessment. The Inspectorate report stressed the need for:

- proper training;
- a structured approach to assessing dangerousness;
- proper recording of the assessment process;
- regular review of assessments;
- a written statement of procedures when managing dangerous offenders; and
- open exchange of information with other agencies, governed by strict protocols.

23 In keeping with the 'risk' and 'need' principles - cf Andrews *et al.* (1990) - which constitute the probation equivalent to the emergency medical assessment process of *triage*.

MONITORING AND EVALUATION

This section discusses strategy for monitoring and evaluating probation work. It is premised on the assumption that most countries which are in the process of developing or strengthening their repertoire of community penalties will not have a great deal of money to put to expensive research.

Whilst it is important to encourage evaluation, it is equally essential to establish *realistic* expectations about what can be achieved. This section thus has two main aims:

- to establish a conceptual framework and terminology for monitoring and evaluation; and
- to argue the case for a *selective* and *progressive* approach to evaluation, so that some projects and programmes are given limited assessment and others are examined in depth.

Concepts

Evaluation is the process of checking if an organisation is achieving the impact it intends.

There is a burgeoning evaluation literature, in which different terms are used interchangeably and the same terms are used in different ways.

Groups of semi-overlapping terms include:

- research, evaluation and monitoring;
- aims, objectives, purposes and goals;
- costs and inputs;
- outputs, outcomes and impact; and
- targets, performance indicators and outcome measures.

There is no single 'correct' definition of these terms. Different manuals have different preferences.

The key terms used here are: objectives, inputs, outputs, outcomes and performance indicators.

The definitions used here are:

Objectives: the results that you want to achieve through a programme (goals and objectives are synonyms; aims restate objectives in more general terms).

Inputs: the resources, defined in cash or staff or skills, invested in a project.

Outputs: the products of the programme, narrowly defined in terms of what the organisation has done.

Outcomes: the broader consequences of the programme outputs.

Monitoring: keeping track of inputs and outputs - a rudimentary form of evaluation.

Evaluation: finding out whether a programme is achieving its objectives.

Targets: planned inputs, outputs and outcomes for a programme.

Performance indicators: statistics used to measure outputs and outcomes (output and outcome measures are performance indicators).

The limits to evaluation

Probation aims to affect social behaviour at its most complex. There are many competing theories about the best ways of rehabilitating offenders. The knowledge base about effective probation work is certainly developing, but there are still large areas where we don't know with any certainty what things 'work' and what things don't. The reasons are worth exploring. Assessing what has actually happened is complicated by problems of *measurement*, on the one hand, and by those of *attributing cause and effect*, on the other.

Even in a well-developed probation system such as the English one, it is hard to get good measures of reoffending. In the first place, large amounts of offending go undetected; the usual solution is to use information on arrests and/or convictions as a proxy. And secondly, even when re-arrest or reconviction data are used, it is technically complex to assemble and analyse a comprehensive data-base covering all reconvictions. The English system has only recently developed in such a way that reconviction data can routinely be supplied to probation services.

Measurement problems aside, accurately attributing cause and effect is also hard. People change their behaviour for all sorts of reasons. A reduction in offending may have been prompted by probation supervision, or simply by the experience of arrest and sentence.

Equally, an apparent lack of change in offending may look like a failure but actually be a success - if probation supervision has contained levels of offending which would otherwise have accelerated. The only way to get round these problems of assigning cause and effect is to adopt experimental or quasi-experimental research designs in which the performance of the relevant group of probationers is compared to that of a similar group who were not subject to the programme under examination. *Comparison* is intrinsic to the idea of probation evaluation.

As Lloyd *et al.* (1994) demonstrate, one of the clearest sets of findings to emerge in English probation research is that the risk of reconviction is very closely correlated with factors such as:

- age;
- age at first conviction;
- number of previous convictions; and
- offence type.

Outputs and outcomes: direct and indirect action

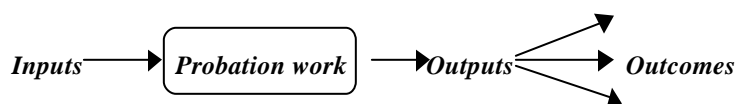
The distinction between outputs and outcomes is an important one for the evaluation of public sector services. Commercial organisations usually have simple objectives, such as survival or profit-making.

Assessing whether they are achieving these objectives is correspondingly straightforward. For example, when a supermarket chain establishes an out-of-town hypermarket, its performance is evaluated in terms of profitability. Broader outcomes - such as the impact on other businesses and on urban life - are considered peripherally or not at all.

Public sector services tend by contrast to have complex objectives, and they often achieve these in indirect ways. Take the example of probation work with drug offenders. The aim of probation supervision with problem drug users is often to remove the pressure to commit crime by addressing the problem of dependency. It is fairly straightforward to measure the output of probation supervision - whether the offender attended and completed the drug programme that was arranged, for example. It is rather more complex to assess precisely what outcome the programme had. The first thing to establish is whether drug use has been affected. Even where the offender manages to stay drug-free, other factors may have been at play. Then one needs to assess whether the final outcome has been reduced offending, as intended.

In other words, probation programmes can involve a complex means-end chain. The further one moves down the chain, the less certain are the links between the different elements. When thinking about evaluation, it is useful to have terms which distinguish between narrow and broad descriptions of organisations' actions. This paper refers to the former as outputs and the latter as outcomes.

Public sector organisations should always monitor outputs, checking that these meet project targets. They should be selective in evaluating whether projects are achieving outcome targets.



When a programme is being evaluated, the comparison group should match the programme group on such factors. Failure to do so will make it impossible to distinguish between differences in reconviction rates which are attributable to the programme effects and those which reflect differences between the two groups in basic risk of reconviction.

Scales such as the Home Office OGRS scale discussed in the previous section could help routinise probation evaluation. A good computerised case-record system should contain all the information needed to generate an OGRS score for each probationer. The aim of any programme, therefore, should be to improve on the average OGRS score of their clientele. For example, the average score of offenders going through a cognitive behavioural programme might be 66%.

This means that other things being equal, people with the criminal history and demographic profile of the programme group can be expected to have a 2-year reconviction rate of 66%. If the actual reconviction rate for the group turns out to be lower, this indicates that the programme has been successful²⁴. I predict that English probation areas will routinely compare actual and expected reconviction rates in this way for all offenders within a decade.

24 Though there could be other explanations - not least that the local police were very inefficient in actually catching offenders.

A research strategy for countries developing a probation service

The first principle in developing a research strategy must be to exploit the knowledge and expertise already accumulated elsewhere. To start with, at least, it is probably much better value for money to learn from other countries' experience than to spend large amounts of money on original research. It is almost certainly better value for money to do this than to spend *small* amounts of money on inadequate original research. The caveat is worth emphasising, however, that the results of probation research cannot be exported wholesale from one country into another. The findings will often not be transferable across culture (Harris 1995). However, it may well be possible to derive general principles from other countries' research, even if the detail is less applicable.

Secondly, it is important to ensure as far as possible that information for management and research is generated through everyday professional practice. The more management information is produced as a *by-product* of everyday work processes, the more accurate and reliable it will be. If data collection systems are 'bolted on' to probation work processes rather than integrated into them, the quality of the resultant data will be patchy without constant management intervention. In the language of quality management, therefore, one needs to achieve quality assurance by getting the processes right, rather than impose quality controls on processes which are poorly suited to generate management information. To take a specific example, if care is taken to develop a needs/risk assessment procedure that officers find useful, it should prove quite easy to exploit the research potential of the information generated as a consequence; trying to collect information on needs and risks as a one-off research exercise will be hard work.

Finally, any research strategy should recognise that research resources are scarce. Evaluation is a research task, and needs research skills. Monitoring, on the other hand, is a management function, which should infuse the organisation. The aim should be to *monitor outputs* as thoroughly and comprehensively as possible, but to *evaluate outcomes* in a much more selective way, as resources allow.

TRAINING

The training requirement of any probation service is obviously related to the skills and competencies which are needed to do the job. Fifty years ago, the United Nations identified these as grounded in the social and human sciences:

The scientific foundation of probation as a method for the treatment of offenders is to be found in the contemporary sciences of human behaviour, i.e., the social, psychological and behavioural sciences, and in the application of these sciences to the problems of criminal behaviour. (United Nations 1951: 268)

Until very recently, the training of English probation officers seemed set on 'professionalising' trajectory, with courses which were:

- located in universities;
- increasingly 2-year rather than 1-year in length;
- increasingly at Masters levels; and
- specialisms within a generic social work qualification (CQSW, then Diploma in Social Work).

In 1996 the Government abolished the statutory regulation which required probation officers to hold a Diploma in Social Work or equivalent. In the short term, English probation services are likely to recruit the graduates of DipSW courses, but in the middle term they will buy in training courses which are more tightly focused on the requirements of probation. Whether this represents a move away from social work values or simply a readjustment of focus is something which is hotly debated within the service.

In-service training remains an important feature of English probation; it provides the means of maintaining both the service's skills base, and its knowledge base. The considerable volume of criminal justice legislation over the last few years has required a substantial investment in training simply to keep officers' knowledge up to date.

In developing a training strategy, the key policy questions are:

- In what discipline are the core competencies of probation officers grounded (legal/social work/managerial)?
- Are these core competencies acquired largely through the development of skills, or through the development of a body of professional knowledge and insight?
- Are there economies of scale to be achieved by linking probation training to that of social work staff, or staff in other parts of the criminal justice system?

The more probation is seen as a *profession* in which professionals deploy a body of knowledge, the more there will be a need for a pre-entry qualification at degree level. The aim of such a qualification would be to equip recruits with this body of professional knowledge. The more probation is thought of as a craft requiring technical skills, the more appropriate will appear a training strategy which emphasises on-the-job learning, mentoring and continuing skills training. Where probation services are small, it may make sense to link probation training to that of other workers with similar skills and knowledge. In some systems these will be social workers, in others criminal justice staff such as prison officers.

Table 1 Requirements for becoming a probation officer

	<i>Max age</i>	<i>Min age</i>	<i>Prof/tech qualific</i>	<i>Psy test</i>	<i>Exam</i>	<i>No crim record</i>	<i>Minimum educ. level</i>
New South Wales	No	No	No	No	No	No	No
South Australia	No	Yes	Yes	No	No	No	Degree
Western Australia	Yes	No	Yes	No	No	Yes	High School
Canada	No	Yes	Yes	No	No	No	Degree
Hungary	No	Yes	No	No	No	Yes	Degree
Israel	No	Yes	Yes	No	Yes	No	Degree
Japan	Yes	Yes	No	No	Yes	Yes	No
Papua New Guinea	No	Yes	No	No	No	Yes	High school
The Philippines	Yes	Yes	Yes	Yes	Yes	Yes	Degree
Sweden	No	Yes	Yes	No	No	No	Degree
England and Wales	Yes	Yes	Yes	No	No	No	No
Scotland	Yes	Yes	Yes	No	No	No	No

Note: *The following abbreviations are used in the table; Max age: maximum age; Min age: minimum age; Prof/tech qualific: professional and/or technical qualification; Psy test: psychological test; Exam: Special exam; No crim record: no criminal record; Minimum educ. level: minimum educational level; High school: high school certificate; Degree: university or college.*

There is little unanimity across countries in the way in which training is organised. Table 1 is taken from the UNICRI/Home Office study of 'Probation Round the World' (Hamai *et al.* 1995). It summarises the qualifications required of probation officers in the twelve jurisdictions covered in our study. Almost all specified a minimum age, and half had a maximum. Seven out of twelve required a professional or technical qualification, and six required a degree. Whatever the formal requirements, except in Papua New Guinea, more than half of probation officers in the systems in the study had at least a degree.

Whether probation is thought of as a profession or a craft, it is likely to remain at heart a human enterprise built around the art of persuasion. There is a limit to the extent to which this art can be 'trained' into people. In thinking about training in the persuasive arts, one possibility that deserves serious consideration is that the precise content of the training is less important than the confidence and clarity of purpose that it may bestow on its graduates. I believe that it is this confidence and sense of purpose which is the central ingredient of successful training.

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Report of the Working Group * **Training**

More than fifteen participants in this Working Group shared the situation in their home country.

A. The discussion initially focused on current training practices. Speakers were requested to frame their responses in terms of the following general questions:

- Is a university degree required for entry into service? In what subject areas? Is it required subsequently for advancement or otherwise?
- Is there pre-service training?
- Is there on-the-job training?
- Is there in-service training? At what stage(s)?
- What is the usual age of entry into service?
- What is the usual age of supervisors/managers?
- What is the agency's level of satisfaction with the training?
- What is the staff's level of satisfaction with the training?
- What is the drop-out/separation rate as a measure of job satisfaction? At what stage is this attrition?

The following is a brief summary of the remarks which do not reflect the entire contribution of the participants.

The Netherlands

Probation is a growth industry in the Netherlands as more community-based sanctions are appreciated and utilised. A university degree is not required as there is a specialised academy which focuses on social work and casework utilised to prepare workers. In-service training needs improvement. On-the-job training is provided by managers within units.

There is also training for trainers. Managers claim they do not have sufficient time to supervise staff development and delegate this to senior social workers. Most staff enter service in their 20s, supervisors are in their 30s. At this time there is a need for more specialisation to handle the diverse work probation demands.

Malawi

Entry level staff have '0' level/high school certification. They experience 18 months of social welfare training and subsequently, at 5/6 year intervals, receive in-service training to upgrade their skills. A 6 month course leads to a diploma. These courses are held in Zimbabwe. Thereafter they may pursue a BA in Sociology or Psychology, including being sent to Ohio (USA) for 12 months of on-the-job training. The respondent felt that staff were 'grossly under-trained'.

* Reported by Nancy Grosselfinger, Professor of Criminology, Centre for Criminology, University of Malta.

Malta

Previously, social workers handled probation cases in addition to their social welfare clients. In 1994 this was no longer deemed acceptable as a university level course was developed specifically for probation. Entrants to the course are required to have at least a diploma (3 years) university preparation, preferably in a social science or humanity course. The course of study is one year, full-time, and intensive. Those who successfully complete the course receive a Diploma in Probation Studies which is recognised as the preferred credential for entering probation officers. Several of the graduates have already started or completed Master of Science Degrees in Criminology abroad on a distance learning scheme.

Jamaica

Entrants into service are expected to have a professional certificate in teaching. There is a three month pre-service course which includes aspects of supervision (of probationers) and counselling. Thereafter there is in-service training which includes more work in counselling and case management. On-the-job training also exists. There is the possibility of a one year certificate as a professionally trained social worker, followed by a three year degree program leading to a BA in Social Work or Psychology. Further on-the-job training is possible. Unfortunately, when persons receive their full preparation (BA) they tend to leave service for more lucrative social work in other areas.

Barbados

The preferred entrants possess degrees in sociology, psychology or social work. There is no pre-service training but there is in-service and on-the-job training for non-social workers. There has been some disappointment with those with sociology backgrounds who have no social work skills. There is some sharing of preparation with nearby Jamaica.

Papua New Guinea

Training is under the auspices of the Attorney General. Since 1986 entrants were expected to have high school, college, or teaching preparation and work toward social work credentials. There are six weeks of on-the-job training and subsequent follow-up on the effectiveness of the training. Most entry level personnel are in their 20s and those at the supervisory level are in their 30s and 40s.

British Columbia - Canada

Persons desiring to work as probation officers seek out the job. They often come from social science and social work backgrounds, including lateral transfers from prison work. They apply to take a 12 week, CAN\$2,000 course specifically on probation at the Justice Institute.

There is in-service and on-the-job training subsequently as well as the possibility of specialised training in domestic violence, anger reduction, etc. Most entry level workers are in their 20s although older workers are preferred for their experience and maturity. Where necessary, culturally appropriate workers are sometimes contracted to work with indigenous offender groups. There is low worker attrition and flat advancement opportunities.

Japan

While there are no specified requirements, persons with sociology, psychology, education and law degrees take government service exams and are evaluated in terms of three grade levels.

Those ranked lowest need 8 years of service experience, those in the intermediate grade 4 years, and those in the highest grade 6 months of experience to rise to the next level. Initially there is an intensive three-month training program followed by one year of on-the-job training supervised by senior probation officers. Thereafter, there are two to four weeks of mandatory in-house training per year. Each year three persons are selected to study abroad in two-year programs. In keeping with Japanese culture, probation is a lifetime career commitment.

The professional probation officers mentioned above number about 800. In addition, there are about 40,000 volunteer probation officers from among the distinguished members of the community who also commit themselves to a lifetime of part-time voluntary service. They are selected by the Minister of Justice based on recommendations. Initially they receive three days of training and thereafter have three further sessions per year. They are supervised by professional probation officers in their work and assigned cases in accordance with their competence.

Oxford Probation Services Unit - United Kingdom

Persons with diplomas, degrees and post-graduate qualifications in social work are desired for the eighteen month specialisation in probation. Some persons, especially the more experienced candidates, feel they are better qualified than appreciated and selectively engage in the course. There is now some discussion as to whether the National Vocational Qualification (NVQ) could be substituted for some of the existing entry requirements.

Following completion of the course, there are subsequent opportunities for specialisation in child protection, teaching, masters in business administration (for managers), assessment tool use, etc.

Due to shrinking job opportunities, most persons do not leave abruptly but some might be dissuaded from entering because it appears a dead-end occupation. In some cases probation work is contracted out to agencies. Probation officers can only be drafted into working in prisons if they consent.

Commonwealth Secretariat

Concern was expressed about the shortage of staff and insufficient resourcing of probation agencies and reliance on external resources. The question was raised whether it was possible to develop a cadre of 'probation fire-fighters' who could rush to the aid of distressed probation agencies.

India

Probation officers are recruited by the state public service apparatus. Entering workers tend to be between 20 and 26 years of age. They are grouped into districts and supervised by a state/provincial chief. There is no in-service training and occasional refresher courses.

Mozambique

Probation has not developed as yet. Persons who are from the area, have high school qualifications, and are twenty-one years old are trained by a lawyer and followed-up for one year. They function within a district and are supervised by managers who are university graduates.

Uganda

Probation officers come from criminology and social work degree and specialised programs. They may have no prior work experience in the field but are mature. Returning students are excited by the work.

South Africa

Desired entrants have degrees in criminology, psychology, or social work. There are also 'monitoring staff' who work parallel to probation officers. There are bursaries and loans for full and part-time study and short courses.

B. The latter portion of discussion attempted to probe more deeply into the sensitivity and adequacy of training programs in terms of the following:

- age;
- gender;
- cultural diversity;
- learning styles; and
- teaching styles;

This did not seem to resonate with participants and it would appear that these are not issues in their respective jurisdictions and training does not contemplate such variance.

C. The last portion of the discussion considered the adequacy of training for new technologies. Considerable concern was expressed about the growing bifurcation between the 'have' and 'have not' nations and whether we would not be further participating in this split by adopting technologies such as computer networking in probation. Interest existed in making the UN and Commonwealth Secretariat sensitive to this and leading to strategies to prevent or override this possibility.

Other means of co-operation were mentioned including the use of audio tapes for distance learning, exchanges of probation officers between jurisdictions (for long periods of time), exchanges within regions to better learn about each other's systems and operations, and 'north-south' exchanges, especially with countries with strong migration trends, to better understand each other's criminal justice culture.

Report of the Working Group *

Risk assessment

The Working Group agreed at the outset on the need for, and importance of, proper assessment of risks and factors which lead to offending.

In terms of reconviction risk, the importance of being able to establish a base was flagged to provide a landmark against which to assess performance. Several participants' public services were unable to get good quality data or criminal histories. The problems were either legal or technical. Overcoming these problems was important if risk assessment was to develop.

The Group discussed on how countries should set about developing scales. Fundamental points were:

- to see what was available elsewhere
- but to build something tailor-made to the local setting
- in close collaboration with problem staff (both to exploit their experience and knowledge and to get their technology transfer co-operation).

Clearly, this issue is one where further work and research would be useful.

It was also noted that achieved reconviction prediction scales allowed for comparison between different types of penalties and that this could be a powerful weapon in political negotiation. For example, Ireland's service could demonstrate that probationers had substantially lower reconviction rates over 5 years than did offenders sent to prison.

When making assessments of dangerousness, there would invariably be occasions when risk turned into reality and tragedies occurred.

The political difficulty and responsibility was observed saying that one cannot always contain and control risks. The political pressure to find social scapegoats was read. The important thing was to be able to demonstrate that proper procedures had been in place to (a) recognise risk, and (b) respond to risk; and that these procedures had been properly followed.

The Group noted the technical difficulties of developing effective procedures of assessing risk for special types of offenders of high political concern. The clearest example is sex offenders where when relatively low reconviction could result in serious consequences - a consequent political concern and the period of where the offender should spend this risk was a large one.

A little time was spent discussing how the profile of the criminal population changes over time - through demographic or other processes. For example, the average offender age may change, or drug-related crime may expand or contract. Such changes needed to be reflected in the assessment technology that was used.

* Reported by Michael Hough, Director of Criminal Policy Research Unit, South Bank University, London, United Kingdom.

How might assessment tools help with other sentences and make them more probation-friendly? Some countries, such as Sweden, had found that pre-sentence reports had been a useful device and that community sentences were viable alternatives to imprisonment, with acceptable risks to the public. However, others had found that once they stimulated demand for pre-sentence reports, this demand became overwhelming without changing their prison-centric century philosophies.

The Working Group ended by discussing ways of encouraging sentences to use probation and other community penalties more readily. It was agreed that proper risk assessment could play a part, but the key things were to legislate in ways which stimulated the use of community procedures, and to tackle sentencing cultures when they were sceptical about community sentences. Some countries - Singapore and Sweden, for example - took care to provide sentences with proper feed back about case outcomes.

Report of the Working Group *

Performance indicators and minimum standards

INTRODUCTION

The chair of the Working Group provided an overview of probation services in England. Some of the highlights/points of interest in her presentation were:

- Probation is not a national service, there are 54 probation services in England and Wales.
- The Home Secretary sets out the policy aims, priorities and standards to which the work of probation is carried out.
- Her Majesty's Inspectorate is an independent body which inspects the work of probation and assesses the quality of the service.
- The three primary goals of the Probation Service are:
 - to reduce crime and supervise offenders effectively ;
 - to produce high quality information, assessment and related services of the courts and other users of the service; and
 - to provide value for money whilst maintaining fairness and high standards of service delivery.

In pursuing its goals, the service undertakes to:

- challenge attitudes and behaviour which result in crime and cause distress to victims;
- work for and with communities to reduce crime;
- promote the welfare of the family; and
- treat all people fairly, openly and with respect.

As noted in the Handbook on Probation: Guidelines for Probation Practitioners and Managers, 'a necessary first step to developing performance indicators is to articulate the organisations' Mission and Goals'.

A final highlight of the Probation Services in the UK which may be of interest pertains to the number of reports prepared and the number of offenders supervised. In 1986 there were 220,000 pre-sentence reports prepared; 24,000 bail reports; and 8,000 parole reports. In the same year there were 48,000 probation orders; 46,000 community service orders; 17,000 combination orders; 25,000 adults on license; and 14,000 young offenders on supervision.

Although no specifics were provided, the key performance indicators in the UK pertain to:

- reconciliation notes;
- order completion;

* Reported by Brian Tkachuk, Senior Associate, The International Centre for Criminal Law Reform and Criminal Justice Policy, Vancouver, Canada.

- costs;
- timeliness;
- sentence satisfaction;
- national standards; and
- client satisfaction.

Following the presentation of the UK's probation, participants in the Working Group had a general discussion pertaining to aspects of probation.

The representative from New Zealand indicated that they have very much the same performance indicators as the UK. He also indicated that they use 'court service agreements' which stipulate the frequency of contacts.

The representative from New Zealand also raised the issue of staff/management accountability in meeting national performance indicators. In New Zealand managers are held accountable by performance pay (10%) for meeting identified targets.

Prior to entering into sub-groups, the chair and participants, through discussion, identified a couple of principles/issues which should be regarded in the process of developing performance standards and indicators. These were:

- 'Quality of services should be measured by those receiving it, and not by what the staff alone believe'.
- 'Inappropriate criteria/standards can solicit the wrong behaviour' - i.e. a criteria to reduce the number of special reports written by a probation officer could result in officers ceasing to report the/an incident.
- 'In developing standards it is easy to count - but much harder to judge' - quantitative vs. qualitative.

The Working Group then entered into a brainstorming exercise to address the fundamental aspect of minimum standards and performance indicators, namely: Why do we need them?

BRAIN STORMING EXERCISE

Q.: Why do we need performance indicators and minimum standards?

- Quality assurance - measure objectives
- Public accountability
- Consistency
- Benchmark for improvement
- Hardtack for performance
- Decision making
- Assess overall programme effectiveness
- Determine resource levels
- Planning and control
- Choosing a 'provider'/being a provider

- Staff evaluation
- Improve efficiency

Q.: Why not?

- Staff resistance - it is felt by many staff members that it reduces professional autonomy.

The Working Group concluded with practical (sub group) exercises to identify some performance standards and performance indicators in three areas related to probation:

- community service orders;
- probation orders; and
- pre-sentence reports.

Sub group I Community service order

Objectives of community service orders

- To serve as an alternative to imprisonment
- Rehabilitation and reintegration of offenders
- Restitution
- Obedience/compliance with the order

Standards

- Ensure successful completion of the order
- No re-offending in a defined period of time
- Performing good quality of work - assessed according to the level of the offender's ability
- Relevance of the work performed to society/community

Indicators

- The number of community service work hours completed
- Reconviction rates
- Beneficiary/client satisfaction (through survey)
- Community attitudes (through survey)

Sub group II Standards for probation orders

Standards

- Order should set clear and understandable expectations
- Compliance with reporting instructions
- Each case must be able to demonstrate that the most suitable type of supervision and treatment has been determined and that it is aimed at assisting offenders to work on their re-offending. Supervision and treatment should be periodically reviewed and assessed
- Timely action taken for all violations

Indicators

- % of clients/offenders who remain offence free 12 months after completing the order
- % of clients who comply with all the conditions of the order
- % of clients who completed case/treatment plan by termination of the order

Sub group III Standards for pre-sentence reports

- Family/social background (data collection)
 - Family
 - Personal history (personal skills, interests, holders, education, addictions/drugs/alcohol)
- - Social history/attitudes (opinion towards the crime [sorry - feeling of guilt], peer groups, possibility to change)
- Time limit (to prepare report)
 - Minimum two weeks (one can apply/ask for an extension, especially when there is a lack of co-operation from the offender's family, institution from where one gathers information, etc.)
 - The earlier the pre-sentence report is ready the better for the offender
- Ensure that the pre-sentence report must be readable, concise, factual, precise, and that it includes all relevant information.
- Report should include recommendations where necessary. To be diplomatic with one's recommendations. To strike a balance between the interests of the offenders and of society in general.
- Offenders must know the contents of the report (consensus not achieved due to different opinions).

Session three

Probation as a community-based programme

Joseph K. Gitau *

INTRODUCTION

Probation is defined as a method in the criminal justice system in which a juvenile delinquent or an adult criminal offender, adjudicated or found guilty of a crime upon a process of criminal hearing or a plea of guilt, is released to the community by the court without commitment to a juvenile institution or an adult penal institution, subject to conditions imposed by the court and under the supervision of a probation officer. Probation, where preferred, becomes the only sentence and serves as an alternative to incarceration. In this way it makes a contribution in containing the growth of the prison population. It is also considered much cheaper to place an offender on probation than in incarceration.

The primary aim of dealing with criminal offenders in the modern context is social re-integration of the offender and the prevention of recidivism, while retribution and deterrence have assumed secondary positions. The aims of revenge or retribution are no longer emphasised as in the past. Instead, alternatives to custodial sentences have also to serve the reintegrative role. Probation, however, is only applied when it does not jeopardise public security.

During the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana - Cuba in 1990 the congress adopted the Standard Minimum Rules for Non-custodial Measures otherwise referred to as 'The Tokyo Rules'. The aim of the Standard Minimum Rules is to provide a set of basic principles to promote the use of non-custodial measures. These rules have been formulated in order to be applied within different legal systems, and to meet objectives of the various criminal justice administration in different countries.

The Tokyo Rules are based on the recognition that an offender dealt with within the community has a greater chance in social conformity than one subjected to custody and deprived of the basic human rights of liberty, choice and full participation in society. However, during the application of non-custodial measures, careful consideration ought to be applied in order to maintain a balance between the interest of the offender and that of the society in terms of safety and security. In this case probation as a non-custodial measure must be applied on the basis of a selective approach with thorough understanding of the factors related to the offender and offence committed, as an integral part of the criminal justice system. On the other hand, custodial measures involve the danger of serious detrimental effects on those subjected to such measures and on their social situations.

In addition to reducing the use of custodial measures, which have a lot of disadvantages both financially and in social terms, the Tokyo Rules also aim at promoting human rights, social justice and social defence.

* Director of Probation and Aftercare Service, Ministry of Home Affairs and National Heritage, Nairobi, Kenya.

Keeping in line with the ideals of the United Nations Standard Minimum Rules for Non-custodial Measures, this paper attempts to highlight pertinent implications in the application of custodial rehabilitation of offenders in developing countries and recommends the use of community support network, politics and non-custodial measures as applied in Kenya.

CRIMINAL JUSTICE ADMINISTRATION IN DEVELOPING COUNTRIES

The criminal justice system in developing African nations, which was imposed on the traditional society, in the name of 'civilisation and progress' did not take the natives' value and beliefs into account, and therefore the natives consider it as an imposed system of 'white justice'. The system is not only difficult to understand but Africans view it with a lot of suspicion and distrust. James S. Read, a recognised authority on East African criminal law, speaking at a conference in Dar-es-salaam in 1966 re-emphasised the long-standing problem and said,

it appears to be largely true that especially in the rural areas in East Africa where the over-whelming majority of the people live, there is no confidence in the process of the sanctions of the present criminal law which would make laws fully and fairly enforceable.

(Clifford 1966)

The colonial rulers introduced formal systems of criminal justice based on their ethnic and common law norms implemented through the formal prison system. The colonial legal definition of specific acts or crimes with specific penalties for violation, the procedures for apprehension and charging of the offender, the determination of guilt through due process, the imposition of sanctions, and the carrying out of penalties all are foreign to the indigenous culture. On the contrary, the African's deep concern and procedure is to provide redress to the victims as well as to achieve social reconciliation. While the new concept of justice emphasises the protection of individuals and their rights, the tribal concept of justice aims at the good of the entire society. Many Africans do not believe that justice has been done unless the victim is compensated for damages suffered. The strict western penal sanctions imposed on the offenders without compensation for the victim seem incomprehensible to the Africans. They (Africans) also believe that a first offender does not merit the ensuing process of stigmatisation which poses a real threat to tribal solidarity as the stigmatised offender finds it difficult to lead a normal life in the society.

Some acts, which are deemed by western standards to be heinous crimes, such as revenge killing, ritual murders, female circumcision, witch beating, and stock theft amongst others may be committed by Africans out of a deep sense of personal duty and tribal loyalty. For example, among the pastoral tribes of Kenya e.g. Massai, Suk, and Turkana, theft of cattle has become a custom difficult to abolish despite the severe deterrent - minimum sentence of seven years of imprisonment imposed by the courts for stock theft. The culture of these tribes includes a rich folklore in which tales of heroism for stock raid hold a prominent place. It is therefore difficult for a young man among these tribes to perceive the old-age practice of cattle raiding as criminal, when not to steal cattle would in fact reflect negatively on his manhood.

Similarly, conservation laws to protect African wild game make little sense to those tribes whose very physical survival depends to a degree upon their slaughter. Sir Alexander Paterson, a former Commissioner of Prisons of England and Wales, on a visit to the Prisons of Kenya, Uganda, Tanzania, and Somalia characterised succinctly the type of criminality that stems from this conflict of conscience and crime.

It is at best a fulfilment of duty which is in conflict with the law, at the worst it is usually no more than an attempt desperate or desultory of a man who has little, to acquire a little more.

(Kercher 1981: 279)

Expressing the same sentiments, Mr. Lugimbana, the former Commissioner of Prisons in Tanzania, states,

In a nation comprised of different tribes, with different social values and ethics, the application of such common codes and sanctions creates a class of law breakers with no real criminal tendencies or intentions, who, nevertheless are herded along with, and branded as criminals in their generality.

(Kercher 1981: 223)

Another impediment to the application of the modern criminal justice administration in many developing countries is the high level of illiteracy and total ignorance of the law by the rural folks.

Although a strong push towards industrialisation has been accompanied by an equal emphasis on literacy and education in many developing countries, ignorance of the criminal law and the legal process is still high. To many rural African folks, the criminal law is totally obscure as it is written in a language that is foreign and like everyone else they hardly understand what goes on in the court. Beccaria in his book 'On Crime and Punishment' states the following on the obscurity of the law.

It is evil indeed where the laws are written in a language that is foreign to a people forcing it to rely on a handful of men because it is unable to judge for itself how its liberty or its members may fare [...] in a language that transforms a sacred and public book into something very like private possession of a family. When the number of those who can understand the sacred code of laws and hold it in their hands increases, the frequency of crime will be found to decrease, for undoubtedly ignorance and uncertainty of punishment add much to the eloquency of the passions.

(Beccaria 1963: 17)

PROBATION AS AN AGENCY OF CHANGE BETWEEN TRADITION AND MODERN JUSTICE SYSTEM

The originators of probation as a non-custodial sanction were driven by the Christian concern for others who were in a 'less fortunate' circumstance in the society, namely offenders.

Progressively, this alternative to penal custody has developed world-wide as a correctional system of dealing with offenders in the community. Administratively, the probation system varies from country to country but the attempt of providing a 'second chance' to an offender remains the principle philosophy.

As a social work oriented system, probation maintains the principles of confidentiality, non-judgmental attitude and upholds the client-self-worth of the offenders. These principles are epitomised in the tripartite concerns of advising, assisting and befriending offenders who are released under the care of probation officers.

In the African context, diverse customary law, norms and cultural traditions regulate the people's way of life, hence it is for this reason that the probation system becomes more favourable as a correctional sanction as it approximates the various customary laws which respect collective responsibility in the due process of the law. Within the context of cultural plurality, it becomes necessary to try and improve on what is just and fair to the majority of the people and endeavour to change people's way of thinking towards the modern social order. Traditional values which are in contrast to the new value of modern society have to systematically be changed and substituted with values that are in consistence with the due process of the law.

Probation oscillates between the formal justice and the customary laws as it provides for reconciliation between individuals and the community through restitution or reparation for any harm committed.

Other factors that favour probation as compared to penal institutionalisation is the fact that it is cheaper to rehabilitate an offender in probation than in custody. For this reason, it is very cost effective. Developing countries can ill-afford to spend heavy budgets on correctional institutions as they have priority economic programmes to consider in order to elevate the people's economic standards.

In countries where emphasis is given to custodial sanctions, often there are accusations of abuses of human right standards in such areas as poor diet, poor health conditions and overcrowding.

SOCIAL EDUCATION/CREATING AWARENESS THROUGH PROBATION SUPERVISION

As mentioned earlier in the text, some pastoral communities by strictly adhering to the traditional cultural patterns continue to violate the law as set out in the penal code. In other developing countries, some tribesmen are socialised in a habitat with standards and expectations that insist on behaviour, which is unfortunately unlawful from the view point of the law. They have no adequate exposure to the conventional legal codes, and therefore remain as determined to their customs as the individual who is law abiding to the convention of legal code. However, no country in the world will allow its laws to be broken by its citizens with impunity. On the other hand, strict application of the penal codes would have far reaching negative effects as many rural folks would be taken to penal institutions.

A compromise must therefore be developed whereby penal sanctions will be applied after an exploration of individual offenders' circumstances through the probation officer's report to court. Through this understanding, non-custodial treatment then becomes more favourable than penal sanctions. The offender's level of education, age and social environment will mitigate for the offender to receive a lesser sanction.

Through individual counselling sessions, an offender who has stolen cattle to satisfy customary standards is taught to be law-abiding and to respect other people's property. The individual offender is also taught about his rights and his relationship to others.

The probation officer has to solicit community support through kin groups within the larger society, to preserve order, encourage conformity and to reform those of its members who are in conflict with the law.

This way social solidarity is maintained by constant community sensitisation through education during public gatherings, in public schools and through other forms of public media. The probation officer has to educate the family and the entire clan of the offender, at the same time ensuring that restitution in any form applicable (monetary, service or property such as crops from agricultural tribes or livestock from pastoral tribes) are paid to the victims' satisfaction.

Through the application of the above process, excessive use of some negative cultural practices that are in conflict with the modern penal codes are systematically reduced and in place more and more of the penal code is gaining acceptance by the rural population.

PRISON CONDITIONS IN DEVELOPING COUNTRIES

Imprisonment as a penal sanction was in the vanguard of the colonial thrust in many African countries in the late 19th century.

Imprisonment as a criminal sanction was virtually unknown anywhere in indigenous African societies previously. Along with fines it soon grew and has continued to be one of the most widely imposed sanctions in many developing countries. The use of imprisonment rests on the widely held belief that crime deterrence is achieved by severe punitive justice. In fact, many would solve criminality by even longer prison sentences or even greater use of death penalties.

Yet, prisons today are under attack everywhere because of their failure to rehabilitate offenders. Conditions in several prisons have been found to constitute cruel and unusual punishment. They are over-crowded, and thus pose health problems. They contribute little to the national effort to reduce crime and it is maintained that time spent in prison is in fact counter productive.

Penal institutions, including approved schools and borstal institutions for youthful offenders succeed only in punishing but they do not deter. They protect the community but that protection is only temporary. They relieve the community of responsibility by removing the offender but make successful reintegration into the community unlikely. They change the committed offender but the change is more likely to be negative than positive.

Many developing countries can ill-afford to provide adequate funds to meet the Standard Minimum Rules as set out by the United Nations. What is evident is therefore a total violation of human rights, a situation that has made many developing countries very unpopular amongst the developed nations. What options do developing nations have in dealing with the criminal offenders?

Many scholars and authors say there is an urgent need to review the criminal justice systems of developing countries to make them simple and in harmony with the indigenous culture of the people. In an article entitled 'Juridical Acculturation in Black Africa, and its Effects on the Administration of Criminal Justice', the National Institute of Justice comments,

Ethnological research has shown the existence of traditional African Criminal Justice System, with its own norms, correctional measures, judicial institutions, procedures and verdicts. This already existing legal system was almost completely ignored in the penal codes establishment by the colonial powers and taken over by the independent African nations. Whatever our opinions of tribal laws and their future, we must acknowledge that they continue to exist and that in so doing, they have an impact on the official system of justice.

The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Caracas, Venezuela in 1980, noted that importation of foreign culture had a criminogenic effect on the developing nations. The delegates agreed that even if each country might gain from international collaboration, crime problems were nevertheless specific to every internal context, so that a universal approach to the problem could not be advocated.

During the same congress delegates also pointed out that in many developing nations, community adjudication which stressed on the elements of decriminalisation, depenalisation and deinstitutionalisation should be recommended. These forms of community based justice emphasise restitutive, rather than repressive sanctions and rely on public participation rather than professionalism and formal process, in meting out justice. The need for empirical exploration of these models in devising programmes of alternatives to prison was highlighted and singled out as ideal to the traditional African justice system. (Crime Prevention and Criminal Justice Branch 1981)

In a more recent review of the Kenya penal system, Leonard Kercher has gone further to recommend a reform where some acts should be decriminalised in order to conform with the concepts of the African views, or some crimes should be redefined. He states that

This would likely result in some re-defining of the concept of crime to bring it more in line with the traditional African view and also re-evaluate those crimes that have deep roots in the changing social pressures and inequities of contemporary Kenya. Likely too, is the selective decriminalisation of some 'crimes' that tend more and more to be perceived now as relatively unimportant, essentially victimless or a matter of private morality, all best dealt with outside of crime-labelling process.

(Kercher 1981: 279)

Moves in the above direction appear to be compatible with the traditional African ideas and methods of dealing with lesser criminal offenders. They will help to keep these non-dangerous convicts out of the penal institutions by giving them probation sentences and making them become more involved with their reference groups in an effort to prevent and correct antisocial conduct. William Clifford, out of this long experience in Northern Rhodesia, which is now Zimbabwe after independence, supports Kercher when he asserts,

Here it has always been traditional to rely upon the community [...] and in particular upon each kin group within the larger society, to preserve order, encourage conformity and to reform those of its members who misbehaved or seemed inclined to do so [...]

This is why some form of probation and parole system is the logical base from which to begin building a penal structure which is appropriate to African conditions [...] and why Africa begins with some real advantage in the movements to involve the community in the treatment of offenders.

(Clifford 1974: 203)

Some of the suggested reforms should be considered along with the introduction of equitable compensation to the victim as a way to restore social solidarity among members of the community. Payment of compensation to the victim will ensure his or her accountability for the crime. During the offenders supervision in the community the probation officers will ensure acceptance by the offenders, relatives and tribal elders of their responsibility in seeing that all the conditions of the probation order as imposed by the courts are carried out. This will no doubt ensure group harmony which is prized in the African extended family system.

HISTORY OF PROBATION SERVICE IN KENYA, ITS MANDATES AND SUCCESS

Probation of Offenders' Act Chapter 64 - Laws of Kenya, was passed in Parliament in December, 1943 but probation work did not start until 1946 due to World War II. The first principal probation officer in Kenya, Mr. Owen Collins, was appointed from the Prisons Department to set up a probation service in Kenya and therefore became its founder.

Additional officers were later appointed to assist in compiling the pre-sentence reports and, as at the end of 1946, there were 39 criminal offenders who had been placed on probation supervision. Probation operations were first limited to the capital city of Nairobi but following the establishment of criminal courts in the distant municipalities and the remote provinces, these operations were extended. Today, however, district probation officers are found in all the administrative district headquarters.

Probation is, and has always been, an independent department of correction within a Ministry of the executive branch of the government. The department has been moved from various government ministries since its inception and currently it is under the Ministry of Home Affairs and National Heritage along with Prison, Children Services, etc.

MANDATES AND ROLES OF PROBATION SERVICE

The probation services were started as one of the reforms of the progressive era. It was also considered much cheaper to place an offender on probation than incarceration. Probation services share the optimism of individualisation and rehabilitation ideology. Section 4(2) of the Probation of Offenders' Act which states:

Where any person is convicted of an offence by the High Court and the court is of the opinion that, having regard to the youth, character, antecedents, home surroundings, health or mental condition of the offender, or to the nature of the offence, or to any extenuating circumstances in which the offence was committed, it is expedient to release the offender on probation, the court may, in lieu of sentencing him to any punishment, make a probation order, and may require the offender to enter into a recognisance, with or without sureties, in such sum as the court may deem fit.

Probation where preferred as above becomes the only sentence. Probation is therefore an alternative to incarceration and this way it makes a contribution in containing the growth of the prison population.

The role of the Kenya probation officers is to provide individualised treatment to offenders by recommending to the court only the selected offenders who are amenable to community rehabilitative ministrations. The probation officer collects all the necessary information pertaining to the offender's social background before diagnosing problems and drawing a treatment plan which may be followed during probation supervision. The probation officer's report to court bears the following objectives:

- a) to focus light on the offender's personality and character;
- b) to offer insights into his/her needs and problems;
- c) to help understand the world in which she/he lives;
- d) to learn about his/her relationship with other people; and
- e) to discover those salient factors which underline specific offences and general conduct.

The court will address itself to the above objectives before making probation orders.

During the year 1995, the investigation cases referred to probation officers by the courts were 7,982 for adults and 2,525 for juveniles, i.e. 10,507 cases. Of these, 6,044 adults and 1,568 juveniles were placed on probation i.e. 7,612 probation orders. The rest of the cases, i.e. 2,600 constituting 1,657 adults and 943 juveniles, were dealt with in any other lawful manner as provided in the law.

The would-be probationer must express his/her willingness to be placed on probation and must promise the court to adhere to all the conditions of the probation in order.

Probation, like other systems of criminal justice, is viewed as a process through which particular goals and objectives are achieved. These include:

- a) to protect the community from anti-social behaviour; and
- b) to reintegrate criminal offenders back into the community.

Community protection objective

Protection of the community from anti-social behaviour is a prime objective of all criminal correctional programmes.

The process of achieving a secure community through the utilisation of probation implies a number of tasks.

Briefly, the tasks which the probation agency performs in order to achieve these objectives of community protection are:

- a) to assess the nature and degree of danger posed by persons referred for investigation or supervision by probation officers;
- b) to assess the probability that persons referred for investigation or supervision will relapse into crime;
- c) for persons under supervision, to exercise the degree of supervision and control necessary to protect the community, taking preventive or corrective action where necessary; and

- d) to promptly investigate reports or indications of behaviour which may result in danger to the community and initiate revocation procedures as indicated.

Section 8(1) of the Probation of Offenders' Act empowers the court to act accordingly.

If, after hearing information on Oath, it appears to a judge or magistrate that a probationer has failed to comply with any of the provisions of the probation order, he may issue a summon to the probationer requiring him to appear at the place and time specified therein or may issue a warrant of his arrest.

The supervision and control tasks of the community protection objectives focus on the probation agency's responsibility to keep the court informed of the progress of the individual probationer. According to the Probation of Offenders Rules, district probation case committees which are chaired by the respective district commissioners and attended by the local magistrates, are required by statute to meet at least once every six months to examine and review the work of every probation officer in relation to individual cases undergoing supervision. The Act states in its section 17(b), that:

A probation officer shall report to the appropriate case committee on the conduct, mode of life and general progress of every probationer placed under his/her supervision.

Through this information process, the magistrates gain a lot of confidence with the probation system. This provision ties the probation agency's relationship with the court and ensures that the sentencing magistrate is informed of the regular progress the probationer is making during the rehabilitation programme.

Re-integration of offenders into the community objective

The integration approach assumes that the failure and disorganisation of the individual offender can be handled best by the development and nurturing of solid and positive ties between the offender and his/her community.

Successful re-integration of the offender in the community will ensure the community's acceptance of the offender which assists in reducing recidivism - or the jail bird 'syndrome'. The probation agency performs the following tasks in order to achieve the objective of reintegration of the offender into the community:

- a) to assess the personal and social conditions of persons referred for probation supervision with an emphasis on needs and problems which must be satisfied or controlled to achieve successful re-integration into the community;
- b) to design and delineate a plan of action for each individual probationer referred which includes goals leading to law-abiding and socially-acceptable behaviour and appropriate methods for achieving those goals;
- c) to provide a level of supervision appropriate to re-integrative goals; and
- d) while carrying out the supervision plan, to continually re-assess and modify it as necessary to achieve the reintegrative goals.

These goals and objectives are achieved through social casework treatment by means of a professional relationship with the probationer. Section 3(f) of the Probation and Offenders Rules states:

It shall be the duty of the probation officer to ensure that the probationer understands the terms and conditions of the probation order and to endeavour by encouragement, persuasion and warning to secure his observance of all the conditions of probation order.

Sub-section 3(g) further states that it shall be the duty of the probation officer to advise, assist and befriend the probationer and, where necessary, endeavour to find him a suitable employment.

It is realised that a probationer is often faced with problems of broken relations, employment opportunity, education, health problems, etc. and therefore it becomes the responsibility of the probation officer to advocate for his/her probationer to overcome these problems.

The probation officer therefore renders practical help to the probationer by using authority and by enhancing the probationer's self-esteem and sense of responsibility. In practical terms, the probation officer is more like a social worker and less like a law enforcement officer. As a social worker, the probation officer has to use all the social work techniques in order to gain acceptance by, and the confidence of, the probationer. Through this acceptance and confidence, the probationer is free to express his or her innerfeelings and in this way his or her hidden problems are understood and therefore addressed to during counselling.

The probation officer has to work with other local welfare agencies in order to meet some of the needs of his/her probationers.

As a law enforcement officer, the probation officer is under an obligation to ensure that all the probationers under his/her supervision comply with all the conditions of the probation order including any special conditions such as payment of compensation as ordered by the court.

The probation officer has to re-act in case of any breach of the condition of the order. A good probation officer has however to bread both roles, i.e. as a social worker and as a law enforcement officer during the rehabilitation process.

In meeting the goals of protecting the community and the reintegration of the offender therefore, the probation officer has to ensure that compensation is paid to the victim of crime.

Compensation or restitution is used in the belief that such a gesture by the offender to the victim increases the offender's sense of accomplishment while at the same time promoting reconciliation with the victim thus reducing bitterness and resentment on both parts. The restitution payment is, after all, central to our African sense of justice or way of settling disputes and in rural areas many cases do not receive formal hearing but agreements are reached informally outside courts.

Success of probation corrections in Kenya

The success rate of probation supervision is over 91.1% of the probationers who complete their probation supervision satisfactorily. During 1995, a total of 7,861 probationers (i.e. 5,956 adults and 1,905 juveniles) completed their probation supervision. Of the total number, 5,500 adults and 1,730 juveniles completed satisfactorily while 456 adults and 175 juveniles completed unsatisfactorily.

This means that a total of 7,230 probationers (both adults and juveniles) completed their supervision satisfactorily against a total of 631 probationers (both adults and juveniles) who completed unsatisfactorily.²⁵

These simple statistics have important implications. The success of probation corrections will be to provide the means and opportunity for integration by directing the offender to the community resources. The probation officers have therefore to concentrate on helping their probationers to link appropriately with the normal resource channels that are available within their community. The delivery of services to meet the needs of the probationers involves an affirmative effort by the probation officers to ascertain the nature of such needs and to provide expert assistance or locate an agency outside the probation department which can provide the needed service.

Community rehabilitation will reach total success when the Kenya society will change its attitude towards offenders and begin to assist them to re-integrate in their community life with the assistance of community and church leaders, and when elected officials will begin to have some stake in the correctional operations in their locations. Volunteers, chosen due to their personal ability and willingness to relate within the offenders, will have to be involved in order to enhance active community participation in community integration of offenders.

All in all, probation in Kenya has established itself as an indispensable public institution with clear goals which are uniformly pursued in the whole country. Probation has shown a remarkable sign of growth both in number of professional staff and increased caseload and enjoys a prominent place amongst the criminal justice administration agencies.

Both the members of the public and government officials appreciate the non-incarceration role the department is playing and in particular its effectiveness in the reintegration of offenders in the community. Probation officers proportionately enjoy an autonomy in the performance of their professional duties and are accorded due public respect and assistance for their work within the community.

RECOMMENDATIONS

- (i) Efforts should be made to involve volunteers and the community-leaders in dealing with the offending members of their community. This would enhance the effectiveness of correctional service by both eliciting greater community support and by providing the offender with non-official contacts which he/she can identify with.
- (ii) More use should be made of community corrections and from this perspective, imprisonment which is both expensive and whose success is difficult to measure, should be viewed as an alternative to community treatment and not vice versa.
- (iii) Efforts should be made to decriminalise some behaviour that tends to be perceived as less dangerous to society, e.g. victimless crimes or those that affect private morality such as attempted suicide, etc.

²⁵ Data taken from the Kenyan Probation and After-Care Service Annual Report 1995.

- (iv) Deliberate efforts should be made to provide adequate funds in order to cater for the re-integration of offenders back into the community and, more particularly, the ex-offenders who have been incarcerated for a long time to avoid re-offending.
- (v) There should be general public education to create awareness of the plight of offenders and how they can be assisted.
- (vi) Non-governmental organisations should be encouraged to take interest in criminal rehabilitation programmes.
- (vii) Crime prevention programmes should be located within the communities which are prone to criminal activities. These should include playgrounds, recreational centres and income generating activities made up of local members.

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Report of the Working Group^{*}

Probation practice and the culture

The session focused on a discussion and information sharing forum on applying probation as both a concept and activity in different cultural contexts.

Probation was defined broadly by participants, to include both formalised sanctions and sentences as well as informal activities carried out by many non-official people, for example, church members, village elders, close relatives, volunteers, voluntary organisations and many others.

Papua New Guinea

Aspects of probation reflect both 'modern' expectations of punishment and social control, as well as local community custom, for example, criminal compensation order is supervised by probation. Also restitution and community work are doing good for local community groups. Volunteer probation officers assist and supervise offenders. There is also a village court system presided over by village magistrates.

Mozambique

The representative felt that probation could adapt to many cultures. In Mozambique there was no current probation system, traditions were both African and European; and probation work would need to embrace both. However, there was a system where lay men would advise the court as to whether the sentence they wished to give would fit both written and traditional laws.

Bangladesh

Community involvement is seen as essential to make a probation order work.

India

In India probation as a concept has been imposed but is not well understood by both the judiciary and the wider public. Yet if probation could be more widely known it would be used more often. Probation needs to be seen for the good work it does or already did. There is a strong case for more probation, also to have better motivated and better trained staff. Crime is increasing and prisons are overcrowded with poor conditions.

Kenya

Probation officers are community officers who live and work in the community they serve. They have a strong crime prevention, especially through educating children in the schools. One area where cultural sensitivity has been an issue is with the Massai tribe in relation to cattle stealing. They do not see cattle stealing as an offence but the law in the early '90s meant that heavy sentences were imposed on the tribe members - i.e. long prison sentences. But public opinion and outcry about the injustice of the sentencing means that cattle theft can now attract an alternative sentence of probation.

^{*} Reported by Anita Gibbs, Research Officer, Probation Studies Unit, Centre for Criminological Studies, Oxford University, Oxford, United Kingdom.

ELECTRONIC MONITORING

The Group also had a discussion about politically related probation culture and the question was asked about specific technologies of supervision, for example, how does electronic monitoring apply/relate to different cultures?

Portugal

Electronic monitoring will be in the pre-sentence stage instead of remand into custody next year. It is accepted because it is not being used at the supervision stage where it would be more contested.

Canada

Little research has been done to ascertain the impact and/or links to recidivism that electronic monitoring has. In Canada the probation service is working with a multi-cultural case load and has to deal with issues of language barriers, settlement problems for new immigrants and cultural sensitivity to indigenous peoples. Two traditional methods of dealing practised by indigenous people include the use of fasten and sweat lodges.

Ireland

The representative felt that with new technologies such as electronic monitoring we are in danger of forgetting about the impact of the environmental and personal background of the offender. We also need to make more use of ex-offenders.

Sweden

Electronic monitoring in Sweden is used to empty the prisons of people with short sentences (up to three months). Offenders have an electronic device usually attached to their ankle. Electronic monitoring helps keep them in the community, stay with their families and keep their jobs. The sentence is seen as a good alternative by most of the sentenced people. The stigmatisation effect is also lessened. Electronic monitoring is not forced on people but is totally voluntary. In the future electronic monitoring may also be used at the end of prison sentences, for example allowing people out of prison 3 months early if they agree to be electronically monitored.

CONCLUSION

Probation can absorb/enable many options, philosophies and perspectives. Probation is uniquely placed to act as a bridge between different cultural realities. A balance between care and control is required.

Report of Working Group ^{*}

Introducing and revitalising probation: political dimension

The following is a summary of the main points raised.

1. It was decided that the starting point should be a clarification of the concept of probation to ensure that everyone understood the basis of what was being proposed. This would include a consideration of the needs and shortcomings of the existing system.

In this respect, the starting point for the Handbook expected to result from the workshop was a concept of non-custodial treatment following conviction but subject to prescribed conditions. The concept was not an exclusive one and could involve a variety of orders, the focus of which, however, was their non-custodial nature.

The group recognised the various prevailing situations regarding the probation services in the countries represented.

It was noted that in some countries probation is yet to be introduced. In those countries where probation was established the level and scope of operations as well as qualitative standards of service delivering performance differed. Consequently, different approaches would be required to revitalise the service.

2. It is important to stress that it is an on-going process of stocktaking which should not operate in isolation but in conjunction with other processes.
3. There is, in reality, no criminal justice 'system' but processes, and a serious effort should be made to convince governments that the time has come for a common system shared by all the agencies involved in the prevention and treatment of criminal behaviour.
4. Revitalisation is not a problem for probation alone - other parts of the criminal justice system involved in combating criminality must be involved in the search for the solution to break the vicious circle of criminality.

This would include such important players as the police, the judiciary, social welfare personnel and the community, each group having a stake in the total process, but there must also be political commitment.

5. New hard core research is essential to avoid the perception that work is being done simply to undo what others have done.
6. Note should be taken of a major Council of Europe Report which suggests that lack of inter-agency communication was a problem militating against the use of probation.

A fully fledged public relations exercise is essential to counteract the bad image which probation has to contend in a largely hostile environment.

* Reported by Eric Kibuka, Deputy Director of the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI), Kampala, Uganda.

7. Patch protection by other agencies and victim involvement/participation in the justice system were causing problems which improvement of the services offered by the probation service and reinforced by a regular review of such services can help to overcome. It is necessary to take care not to give the impression that the victim was being required to give more to the offender.
8. Probation has lost some of the credibility it may have had in some countries but could regain this by repositioning itself at an appropriate level in the justice system tariff using the cost-effective prison versus probation argument to sell it politically.
9. An open and free press could be an ally and should therefore be cultivated in the fight to win both the economic argument as well as the high moral ground but it is always better to own the product to be sold to the press in the form of feature stories or articles with little given to it by way of editorial licence. The professions, who are often slow in responding to appeals for sympathy, could also be cultivated as potential allies.
10. To gain political support, important people in the community should be encouraged to become active community members as they are usually better equipped to articulate issues and have easier access to politicians who need to be convinced that things are happening locally from where they derive their own political support.
11. There is a need to empower communities to contribute meaningfully and effectively to the operation of the criminal justice system. This could best be achieved by separating community values from state policy. One experiment that has worked well in Canada and which was borrowed from New Zealand is the use of community conferences to advise the court in the disposition of some cultural processes which may have been overridden by giving them a sense of ownership of contribution to the revival of effectiveness of the system.
12. There was a general consensus that as a result of an apparent shift in the political balance, particularly in many western countries, there is now an ambience which presents perhaps unprecedented opportunities for revitalising probation.
13. Although there was complete agreement that both the industrialised and developing countries could gain through the exchange of experiences at workshops of a similar nature to this, the Group, nevertheless, ended its discussions on a note of uncertainty as to the right definition of probation. However, some comfort was gained from an assurance by the workshop organisers that the Handbook which participants will take away would provide some guidance on the matter.

Session four

Leadership in the management of the criminal justice system

Don Demers *

INTRODUCTION

I have been asked to focus on the issue of leadership in the criminal justice system. As administrators and practitioners in the delivery of correctional, and more specifically probation services, we contribute a great deal to the functioning and success of the criminal justice system. We do not often hear, however, of probation services taking a leadership role in the system.

This paper explores some of the reasons that can be assigned to probation's low profile in criminal justice, and presents a number of approaches for probation services to pursue a more substantive position in the system.

For the purposes of this paper, I would like to offer the following definitions of 'leadership' and 'probation'.

I have conceptualised 'leadership' to encompass more than a group of individuals directing the activities of others towards a common goal. We are also delegated leadership responsibilities that give us the capacity to organise social resources towards some end.

In addition, I have fashioned a loose interpretation of the term 'probation' to emphasise the adaptability of probation to the characteristics of local justice systems. I suggest that probation be viewed simply as a set of strategies used to maintain positive and active supervision of the offender within the community.

In the justice systems of many western industrialised countries, probation has become identified as one program along a loose continuum of community options for offenders. Based on a scale of increasing interventions, probation activities range from prevention and diversion programs through to intensive community supervision for higher risk parole and 'early release' cases.

Probation has also come to be associated as a facilitative mechanism whereby many other community-based programs derive their authority to encourage participation of the offender. In Canada, this comes in the form of a 'probation order' as defined by the criminal code statute and proclaimed by a criminal court.

So I am treating probation services as encompassing all community programming along this continuum with the possible exception of prevention programs that do not involve the management of alleged or actual offenders.

Readers will note the number of references to 'public safety' throughout this paper. In my view, the probation service has a high level of social accountability in ensuring public safety.

* Assistant Deputy Minister, B.C. Corrections Branch, Ministry of Attorney General, British Columbia, Canada.

As my Canadian colleague Ole Ingstrup, the Commissioner of the Correctional Service of Canada, so aptly put the case,

[...] to a very significant degree, people in correctional systems [...] are among the principal custodians of two of the most cherished values in most societies: public safety and human freedom.

(Ingstrup 1995: 13)

I believe that probation must focus on its responsibility to increase public safety by developing alternatives to incarceration that work. While protecting the fundamental rights of the accused and the offender, incarceration should be used only when necessary to protect the public. Leadership is critical if we are to fully accept this mantle of accountability.

In my view, there are four main components that are linked to the leadership that is required in the criminal justice system. They are:

- visibility;
- credibility;
- professionalism; and
- technology.

I consider these to be the cornerstones of our leadership platform, and I will touch on each of them briefly.

LEADERSHIP AND VISIBILITY

One of the most essential elements of leadership in the delivery of public services is the visibility achieved by the programs we offer and by the organisation itself. To bring about a meaningful level of visibility within the public eye, the basic mission and key strategies of the organisation must be, and appear to be, clear and understandable. Confusion in the public mind regarding the purpose and role of our program or agenda leaves the organisation vulnerable in the competition for increasingly scarce resources.

Our partners in the criminal justice system, such as police, prosecutors, and even prisons have a high degree of visibility in society. The need for police services, correctional institutions and Crown prosecutors is rarely questioned by the public or politicians. In spite of the fact that there are ten offenders serving a community sentence for every one offender in jail, the media and public remain focused on the 'Big House' where they believe all the bad people go.

There are other reasons for this. Whether accurate or not, the public believe that these sectors of the system have a clear idea of their missions and how to pursue them. For example, members of the public are generally confident that enforcement agencies such as the Royal Canadian Mounted Police, the Federal Bureau of Investigation or Interpol are organisations led by trained professionals.

The public perception of these organisations is that they are committed to a mission, and use well defined, even scientific, approaches in achieving their goals. The police are not viewed as simply processing cases. They are seen as trying to achieve some important social outcome - public safety.

The esteem for police can reach mythical proportions. An old saying in my country, and popularised in Hollywood, is that 'the Mounties (R.C.M.P.) always get their man'. Nothing remotely similar connects the probation service to the public consciousness.

Yet, we are aware that for every offence known to the police, only 20 to 30 percent are cleared by the laying of a charge. Why is it that probation - which has a 60 to 80 percent success rate - fails to inspire such mystique and credibility? The public has only a vague idea of what the probation service is attempting to achieve.

It is difficult to excel in the public mind when the goalposts are unclear. Perhaps we need to create visible centres of excellence such as the police training schools of Scotland Yard or the FBI. In addition, there are few, if any, leaders of probation services who are visible beyond their own immediate circle of colleagues. While there are well known jurists, lawyers, police, and criminologists, I am not aware of any probation professionals who have achieved a public profile through their work.

Leadership denotes something that is visible. Invisible leaders may exist in stories of mystical experience. In the real world, however, leaders in the public sector need to be seen to be responsible for public safety. To gain a position of leadership, we require greater public visibility and a recognition that we provide a credible response to breaches of public safety.

There are a number of things we can do to achieve this:

- organise more forums such as this workshop that foster ongoing training and awareness across criminal justice systems and jurisdictions;
- educate the public on the role and activities of probation;
- clarify our mission among ourselves, and pro-actively broadcast the consensus of our mandate to public stakeholders; and
- honour and promote the professional accomplishments of our staff.

LEADERSHIP AND CREDIBILITY

There is a conspicuous pessimism, within the criminal justice community and public mind, regarding our ability to achieve the goal of public safety. A more direct and realistic assessment is that probation lacks credibility and is considered ineffective. In part, this is a consequence of the 'nothing works' notion, rising public fears about crime, and fiscal constraint.

As a result, there was an overall decline in our appetite to innovate, and in some cases operate, community-based supervision programs as alternatives to incarceration. Funding decisions became based on a new rationale, and driven by cold calculations. The monetary lifeline that kept programs afloat was controlled by the fiscal interpretations of economists occupying key positions outside the criminal justice community.

While the backlash against probation and community programs ensued, we observed an unprecedented investment in the idea that incarceration seemed to be the only answer. In the United States, the prison population doubled between 1980 and 1991, and the reincarceration rate quadrupled due to violations of conditional release. Given the lack of leadership in the criminal justice system, there was a flagrant overuse of incarceration as a strategy to improve public safety.

Since that time, of course, we have conducted extensive research that has revealed that we can change offender behaviour. We are increasingly able to accurately assess the risks offenders pose to the community, match treatment needs with specialised programs, and affect recidivism rates. By working more efficiently to direct offenders to targeted programs that address their needs, we are saving taxpayer dollars while promoting public safety objectives.

The movement against community programs in the 1980s taught us a significant lesson. In the absence of a proven, credible alternative to incarceration, managers within the criminal justice system failed to assert a leadership position in this debate. If the media and public wanted incarceration, and the experts could not agree on alternatives, then the traditional method could be justified. And it was applied in spades.

This reveals the crux of the leadership and credibility issue. In the face of media-driven public opinion, probation requires leadership that can guide constructive dialogue and develop collaborative approaches with the communities we serve.

If we fail to believe in ourselves, however, we fail to establish currency in the form of public trust. If we fail to believe in ourselves, we remain invisible, and the inertia of public pessimism corrupts what we value most: professional integrity.

Of the many professionals I have met during my 25 years in this business, I have yet to meet someone who feels comfortable with doing nothing. In our business, credibility is based on the 'doing', not on the 'knowing'. While we might believe we know what needs to be done, we do not deserve credibility until we take action to demonstrate our knowledge.

So what can we do?

As a community of probation professionals, we can start by:

- building a consensus on the appropriate use of alternative forms of supervision - both custodial and community;
- establishing standards on the delivery of these programs, and informing the public of these standards;
- promoting the effectiveness of community programming, and taking the credit for being the guardians of public safety; and
- embracing the implied mandate given to us by legislative authority to change the criminal behaviour of offenders within our communities.

LEADERSHIP AND PROFESSIONALISM

When we speak of leadership in the criminal justice system, it is essential that we understand the key role of employees in affecting positive changes in our organisations.

Having recently directed the reorganisation of our entire Branch, I recognise that the structure might look different from what it was a few months ago, but the real change that is evolving rests with our employees.

While staff - at least at some point - resist change that is imposed on them, leaders at all levels in our organisations are responsible for helping employees overcome the hurdle of their fear of change.

Acceptance of change is a prerequisite for public service professionals, and leaders must provide resources to support any significant change agenda.

Last year, for example, the B.C. Corrections Branch completed staff training on the risk/needs assessment process. By engaging all staff in the risk/needs initiative, we are fundamentally changing our response to criminal behaviour by altering the way we:

- plan correctional responses;
- measure the outcomes of those responses; and
- explain our services, and participate in the public debate on crime and safety.

A concurrent development within our Branch is the development of ‘core programs’ and concomitant movement towards specialised programs such as those for sex offenders, mentally disordered offenders, spousal assault, and violent offenders. The reorganisation of staff into specialised units will also improve our efforts to implement the risk/needs assessment process.

Initiating these changes requires leadership in the form of establishing standards of professionalism. The key resource for our correctional and community services is a well-trained staff. While this principle relates to maintaining the knowledge base of our employees with current research and tools, it also applies to our recruitment strategy.

In British Columbia, for example, all probation officers must meet minimum educational standards in addition to understanding current policies, procedures and legislation.

Many of our staff, however, are highly educated with university and graduate degrees. We also require probation officers to complete a standardised 12-week Community Program Worker Employment Readiness Program that is offered through the Corrections Academy of the Justice Institute of B.C.

Although rarely acknowledged, such employment standards for probation officers are comparable or exceed those of professionals in other segments of the criminal justice system.

While training and education ensure that we know what we are doing, our participation in the criminal justice process demands professional integrity. Leadership is required to avoid having our professional interests relegated to a less significant position in the process than we deserve. To cite an example of this, let us consider the conflict over the use of incarceration in the criminal justice system.

While incarceration may be used by corrections professionals as part of a strategy, it is not an objective, or an end in itself. Incarceration is one option to be used in managing offender behaviour, thereby promoting the goal of public safety. The goal is public safety, not incarceration.

The application of incarceration by the courts, however, all too often treats it as a consequence or an end. The professional corrections manager, however, applies incarceration much like a mechanic uses a tool kit. Without a complete tool kit or range of alternative responses to offender behaviour, we are unlikely to succeed in our mission.

As the courts determine the primary response or dictate the types of tools that can be used, we are often not fully in charge of case management decisions.

Given that the judiciary is not responsible for modifying offender behaviour, and that we are limited in providing our professional input in the courts, offenders are more likely to pass through the system unchanged.

This is likened to a bad auto repair job: The car backfires as soon as it hits the street, only to return to the garage soon after. The results can be damaging to society, and discrediting to those who are held accountable for recidivism.

To function with professionalism, we need access in the courts, resources in our programs, and confidence in the body of knowledge that is the basis of our professional expertise. To be effective, the corrections professional must become a key player in court decision-making.

The role of probation officers within the court is critical in ensuring that the offender is managed as a case over time - not simply for an isolated infraction. As we know, changes in offender behaviour occur over time, and often span a lengthy duration. Similar to illnesses that have chronic symptoms requiring several treatments, probation officers recognise that offenders might require repeated and varied interventions. Moreover, while the court is the arbiter in the sentencing process, probation officers must ensure their own professional standing in the court to advise what types of intervention should be prescribed.

One example of this kind of involvement will soon be found in British Columbia. A pilot project is planned that would locate a probation officer in the office of the Crown attorney or prosecutor. The probation officer would review specific cases with the Crown, defence and judiciary, identify suitable options for community sentencing, and contribute to the final court decision.

This pilot exemplifies a central principle of professionalism: accept the responsibility to lead ourselves rather than be led by others. Professionalism is not a status symbol that can be purchased or confiscated; it is an inherent standard or benchmark that can be identified when actions are taken. We must adopt our own standards and expectations, or run the risk of reinforcing professional mediocrity and being the servant of many masters.

LEADERSHIP AND TECHNOLOGY

The last item I wish to address is the role of leadership in technology. By technology, I mean all devices, concepts and strategies that become tools in helping us get things done.

All forms of technology are relevant to this discussion and can include computers and typewriters, manual and electronic storage systems for records and statistics, simple and advanced assessment tools, electronic monitoring, communications software such as electronic mail, and hardware such as telephones.

We are also starting to learn more about the next phase in corrections technology: location tracking. This technology can follow every movement of offenders serving community sentences.

In British Columbia, we have adopted certain kinds of technological support to enhance the services we provide. On any given day, approximately 310 offenders are supervised by electronic monitoring.

We have also deployed what is known as an automatic bail machine that enables those on bail supervision to check in at a computerised terminal without direct intervention by a supervisor. Currently, 100 individuals are supervised on bail this way in our province, and we are considering an expansion of the program.

To assist us in the important steps of processing, tracking and archiving information on offenders, we use sophisticated computer data services. These enhance the effectiveness of admissions, records, and case management.

My caution is simply this: let us not be blindly led by the enthusiasts of technology who prescribe a microchip fix for human and social problems.

I am convinced that the only way probation services can maintain the upper hand in the escalation of technological controls, is to ensure that we are led by a set of clearly defined principles.

Let me be clear, technology has been, and will continue to be, an enhancement to our mission. But our work also takes us into territory that often presents unexpected surprises - both positive and negative. These are the intangible, and sometimes subtle, factors that require human insight and intuition, rather than linear and mechanical responses.

I would like to take a moment to reflect on the words of the American philosopher, Henry David Thoreau (1854): "Our inventions are wont to be pretty toys, which distract our attention from serious things. They are but improved means to an unimproved end"

Such advice compels us to proceed mindfully in our acceptance of technology. It also begs the question: is technology aiding us in our responsibility to ensure public safety, or is it leading us to an 'unimproved end' as Thoreau suggests?

As we look to the future, we need to consider our responses to the following questions:

- What professional principles are guiding our acceptance of technology in the criminal justice system?
- Are we measuring the success of these tools according to our stated principles?
- Are we taking the time to evaluate the technology that we already have before blindly accepting new gadgets and concepts?

CONCLUSION

I was recently reviewing a general information brochure on probation that our Corrections Branch distributes to the public.

It states: 'Probation officers are neither social workers nor police officers. They are not on the side of the offender nor of the police. They are officers of the court whose most important responsibilities include protecting the community from further offences.'

As officers of the court, probation officers are professional advisors to the court. But we also serve as watchdogs for the community, and are important contributors to public safety.

Given the complexity of our mandate and the challenging environment in which we must function, leadership is indeed a 'requisite for a credible and efficient probation system', as suggested in the program for this international workshop.

Whether in the process of creating a new probation service, or managing an existing service, we must assign ourselves a leadership role in the criminal justice system.

I acknowledge that some of the factors that exist within the Canadian criminal justice system might not be applicable for probation practitioners in other parts of the world. I trust, however, that the components of leadership as they relate to visibility, credibility, professionalism and technology are relevant to the jurisdictions in which you operate.

We have seen how other partners in criminal justice have derived significant benefits from their leadership in these areas. I encourage all leaders in probation to think and act strategically, and do the same.

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Report of the Working Group *

Knowledge transfer and international co-operation

The time at the disposal of the Working Group to cover this broad and important issue was extremely short, but the Group was helped by the fact that the issue was linked to the demonstration of the envisaged UNICRI International Website on Probation presented in the plenary session by Mr. Jon Klaus just prior to the Working Group. The discussion, however, did not focus on the UNICRI website, but on the use and utility of Internet in general.

THE MAIN POINTS OF DISCUSSION

1. The first and obvious issue which was raised by some of the participants was the gap between the requirements for using Internet and the reality of developing countries and, to some extent, of practitioners. In other words, the question/message was 'Internet is recognised as a useful and important instrument for the transfer of knowledge, but what happens if the level of technology is too low, if there is no possibility to have access, if there is a lack of know-how?' Internet was perceived as a too technologically advanced instrument and far from some operational and organisational realities.

To cancel - or at least to reduce - this gap, two main elements were identified: training and transfer of technology. It was, however, highlighted that what is needed is not training for specialists (such as web master), but basic training for normal users. With respect to the transfer of technology and the needs of developing countries in this area, the efforts made by the UN in providing these countries with computers (although not always the most advanced types) was stressed.

2. In response to these legitimate concerns about the implementation and use of Internet, the representative of Canada explained to the participants of the Working Group the importance and potential of Internet in research activities, transfer of knowledge, and contacts between researchers located all over the world. Internet was defined as THE research tool.
3. It was however recognised that when doing a normal search on Internet on a specific topic, a large part of the identified sites are not relevant. And it is therefore up to the user to open, check, control and select site by site the results of the search. This is obviously a time consuming task which is not really attractive for a busy person.
4. The interest of the UNICRI website with respect to probation was underlined, in the sense that UNICRI would be expected to do all these time consuming operations in order to offer its clients an already prepared 'user friendly', clear and selected product. The user searching through the UNICRI website should expect a kind of quality control of the links and documents available in the site. The credibility of the server would, therefore, depend on its capability in controlling the quality of the information provided.

* Reported by Renaud Villé, Associate Research Officer, United Nations Interregional Crime and Justice Research Institute (UNICRI), Rome, Italy.

5. The difficulty of having access to such technology was again raised. It was highlighted that it is useless to have everything at the same time and then to be blocked for financial and/or technological reasons. Access to Internet could be made in two stages. The first stage could be the installation of an E-mail address with the possibility of increasing the communication, and the second stage could be the building of a home page with the possibility of increasing access to information.
6. But the increase of communications and information is often beyond human limits. In other words, it becomes difficult - if not impossible - to absorb the quantity of information made available. The only way to use the information is to synthesise it, to build a knowledge base. But not only in one shot. This must be updated regularly in order not to lose the work done.

The problem, however, is not only related to the quantity of information but also to its diversity. Making a search on Internet, one cannot know in advance where one will arrive. To this long and time consuming 'surf' on Internet, should also be added the problem of the unintentional access to sites for leisure, which can divert the attention of the user. Internet provides access to all kinds of information without discrimination.

7. The most recurrent issue debated among the participants in the Working Group remained, however, the gap in technology between industrialised countries and countries in development, and hence the difficulties in introducing Internet in an efficient way in countries with a level of technology which often does not guarantee the use of computers and/or reliable telephone line connections.
8. It was pointed that it is also of great importance to see the introduction and availability of this 'evolution' at the regional level, because often countries from the same region have a similar level of technology and share common problems. This aspect is essential when technical and/or international co-operation policies are designed.

The importance given to the regional level was also highlighted by the expressed wish for the organisation of follow-up activities to the International Training Workshop on Probation, such as regional training workshops.

The representative of UNAFRI described, however, the difficulties faced by the African Institute in receiving information from, and communicating with, African countries. He also pointed out the vital necessity to use local/regional human resources.

9. The last remark concerned the fact that there are many possibilities for exchanging information and having contacts at the regional/international level, but most of the time these opportunities are not used.

CONCLUDING REMARKS

There is without doubt a very wide gap in technology between developed and developing countries, and this should be taken into consideration in the promotion of the implementation and use of Internet.

Access to Internet should be linked with training on the use of computers and Internet.

People should be informed about the positive (but also negative) aspects of Internet, in terms of communication, contacts, and access to information, as well as in terms of real financial and human costs.

The UN should and must, as part of its mission and mandate, ensure that the benefits of this new information technology be made available to all developing countries.

Report of the Working Group *

Probation, law enforcement and social welfare

There was some initial confusion about the Working Group title and how it should be discussed.

It was subsequently decided that the discussions could pursue two avenues of debate:

- The interaction of probation with other criminal justice sectors and the welfare section as well as other sectors.
- Issues of organisational structure, i.e. is probation more effective, more powerful in a justice department or another department, inside the justice system or outside it.

The Working Group participants were being asked to consider the age-old issue of the 'true' role of probation, i.e. is the role one of controlling offenders versus helping offenders. As can be imagined, the discussion was a lively one.

A number of representatives outlined their structures and identified abundant issues. Others discussed their concerns about potential structures.

One participant indicated that while probation was located in the justice sector in his country probation officers were required to assume a wide variety of roles, i.e. dealing with criminal/youths/family matters simultaneously. As a result, the service was experiencing a great deal of stress which could be relieved by role clarification. The justice section was favoured.

Another participant suggested that a social welfare emphasis was preferable if rehabilitation was the fundamental objective. Stigmatisation of the offender was also avoided by public identification of the offender with the social welfare rather than with the criminal justice systems.

Another option was offered, that of the Netherlands where probation is independent and interacts with other sectors in order to work productively with offenders.

Opinions and positions varied. Considerable concern was expressed about the implications of social work overruled probation officers in lawyer-dominated justice ministries. Would they be supervised by lawyers? Would career advancement be negated? Would they become second class citizens?

Ultimately, a rough consensus emerged in that organisational location need not be the major consideration if probation has a well defined mandate and clearly established relationships with other relevant agencies.

While partnership is an often used term, it is difficult to put into practice, e.g. the historical antipathy between police and probation officers. A possible strategy for probation was to adopt an objective of providing security through reintegrating rather than isolating in the case of prisons and establishing friendships by stressing the commodity of interest on ensuring public security. The importance of developing protocols with other agencies was underlined and widely supported.

* Reported by Don Demers, Assistant Deputy Minister, B.C. Corrections Branch, Ministry of Attorney General, British Columbia, Canada.

Session five

The draft Handbook on Probation Services: Guidelines for Probation Practitioners and Managers

Renaud Villé *

It is always a bit embarrassing for a person to speak about something - in this case a Handbook - which is not his or hers. And this is especially so when the owner or author is present. I would like to take this opportunity to thank Mr. Jon F. Klaus very much for his work, but also for his friendship.

Having had the opportunity and privilege to work with Mr. Klaus at UNICRI, I was witness to the conceptualisation and birth of the draft Handbook on Probation Services: Guidelines for Probation Practitioners and Managers and I hope therefore that I will not misrepresent the spirit in which the draft Handbook was produced.

All the participants in the International Training Workshop on Probation discussed probation and its characteristics for three long and intense days. I will therefore not base my brief presentation on the content of the draft Handbook - a copy of which was distributed to all the participants - but more on its history, structure, objectives, current status and, finally, its future.

HISTORICAL BACKGROUND

UNICRI has a long tradition of activities in the field of alternatives to imprisonment, which started with the preparation and holding of a Research Workshop on Alternatives to Imprisonment within the framework of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1990). The Eighth Congress adopted the UN Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) and the resolution on Principles and Directions for Research on Non-Custodial Sanctions, highlighting the need for training and research on the use and effectiveness of non-custodial sanctions in order to facilitate informed decision-making, administration, credibility and acceptance. The Research Workshop Document (Vols. I and II) was then published and disseminated.²⁶

With the adoption of the Tokyo Rules, the General Assembly of the United Nations, in its resolution 45/110 (8) requested the Secretary-General to take the necessary steps to prepare a commentary to the Tokyo Rules. The Commentary on the United Nations Standard Minimum Rules for Non-custodial Measures, finalised in 1993, 'is an attempt to provide guidance in the implementation of the Tokyo Rules, as well as basic material for advisory services, including workshops and seminars, to Governments'.²⁷

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26 An updated version of the Research Workshop Document is published in: Zvekic, U. (1994) *Alternatives to Imprisonment in Comparative Perspective*, Vols. I & II, Chicago: Nelson-Hall Publisher.

27 United Nations (1993) *The Commentary on the United Nations Standard Minimum Rules for Non-custodial Measures*, New York: United Nations, p. 2.

Following the outcome of the Eighth Congress and in order to continue activities in this field, UNICRI and the British Home Office decided to commence a study on probation systems and services for adult offenders in ten countries. The results of the project²⁸ indicated a number of important issues in need of further study and practical development in order to promote probation as a credible and effective non-custodial sanction, especially in developing countries which, as a result of a large increase in prison populations and overcrowding, are looking at alternative and more cost-effective non-custodial options in order to more humanely deal with the offender and to divert offenders away from the prison system.

THE DRAFT HANDBOOK ON PROBATION SERVICES

With the wish to implement follow-up activities aimed at promoting probation, a first draft project regarding an International Training Workshop on Probation (ITW) was prepared in the middle of 1996.

In addition and complementary to the ITW, it was considered useful to envisage the drafting of a Handbook on Probation Services. But when Mr. Klaus, seconded by the Correctional Service of Canada, joined UNICRI as Visiting Fellow in September 1996, nobody had a clear idea of what should be done and how. All that we knew is that we wanted to produce something that is different from the previous project, and that at the same time is a continuation of the results of 'Probation Round the World'.

It was therefore decided that what is missing is an instrument, a tool useful for

- the revitalisation of probation services; and
- providing assistance and guidance to countries which are in the process of introducing probation or which are interested in doing so.

The first step of the work was to collect the necessary information using three main sources: books, reviews and other literature; existing guidelines, standards and rules; and Internet. With respect to the use of Internet to search for information, it should be noted that although it was time consuming, it permitted important access to information and, at the same time, allowed us to get into direct contact (through E-mail) with many key persons all over the world. However, one 'danger' of using Internet is the fact that it is no longer possible to be exhaustive and really up-dated in the search. Every time the work was considered completed some more information was found. Regarding the literature, in addition to 'Probation Round the World', some other key publications and existing national handbooks were used. Finally, the two main guidelines and rules used were the Tokyo Rules and the European Rules.

Following various discussions and attempts, it was decided to base the draft Handbook on four principles: (i) that it be divided into two main parts, i.e. one dealing with professional responsibilities, and the other with managers and administrators; (ii) that the Tokyo Rules were to be used as a structure and references; (iii) that it should be short and easy to read; and (iv) that it should be neither too general nor too specific.

28 Hamai, K., Villé, R., Harris, R., Hough, M. and Zvekic, U. (1995) *Probation Round the World*, London: Routledge.

Almost each topic covered by the draft Handbook (see its Table of content at the end of this chapter) is first introduced, and then followed by the related articles of the Tokyo Rules. The key issues of the topic are then discussed and finally some operational guidelines (or so called ‘good probation practices’) are proposed.

After the preparation of a first draft - in the winter of 1996 - it was felt necessary to organise an expert/preparatory meeting in Rome in order to receive confirmation (or not) that we were on the right track.

The meeting took place in UNICRI on 14 and 15 April 1997. The objectives of the meeting were: to discuss, comment and amend the content of the draft Handbook on Probation Services; to consider the form and visual presentation of the Handbook; to finalise the content and agenda of the International Training Workshop on Probation; and to select the key speakers.

Following the meeting attended by 10 experts (8 of whom are participating in this training workshop), the draft Handbook was amended and the material for the International Training Workshop prepared. The participants were selected and contacted all over the world.

WHAT DO WE HAVE IN OUR HANDS TODAY?

As its title indicates, despite a lot of work and effort, the draft Handbook on Probation Services is still a draft. This point is of great importance because it is for that reason that all the participants to the ITW will be asked to play an essential and active role.

This draft and its future final version can be seen as a tool for further operationalisation of the Tokyo Rules and/or as basic material for training courses. But, first of all, it should be seen as an important document to promote probation all over the world.

However, before the Handbook can fulfil its expected role, some of its negative elements must be eliminated. This is because despite the recognition of the high quality of the work, it is not yet perfect.

As all the persons who had a look at the draft Handbook were able to see, its main fault is that it is totally biased towards the USA, Canada and UK probation systems and culture. In other words, its ethnocentricity. We were well aware of this from the beginning, because it was clear that, having based the search for information on Internet, we would have access almost exclusively to developed countries.

There is no need to stress the fact that this bias is unacceptable and that it limits considerably the chances of the Handbook of being recognised as a basic document world-wide. Being aware of this fact, the organisers of this International Training Workshop on Probation found the solution. The solution is the involvement of all the participants.

More than 30 countries covering almost all the regions of the world and different legal systems are represented at this meeting. It is the first time that persons from so many different countries are together to discuss probation and learn from each other’s experience of the issue.

It is therefore a unique opportunity for all those present to make contacts and exchange information, but it is also a unique opportunity for the organisers to receive inputs from all participants on the draft Handbook on Probation Services. It is the only chance we have to give to the draft Handbook what it currently lacks: a real international perspective. What we need are inputs based on personal experiences, on the specificity of probation systems, and on their positive (but also negative) practical aspects. This is the reason why three working groups on the draft Handbook have been organised. Each group will discuss and comment a specific part of the draft Handbook and have the opportunity to improve the international perspective by providing inputs from the countries the participants represent. It is therefore essential to underline that no one country is more important than another. And the new experience of a small developing country is just as important as the mature experience, for example, of the USA.

CONCLUSION

The interest shown by representatives strengthens the Commonwealth Secretariat and UNICRI' belief that there is an important need for such an instrument, and we do hope that the future Handbook on Probation Services will have a world-wide success.

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European standards in the area of community sanctions and measures

Wolfgang Rau *

In 1987, the Committee of Ministers adopted the European Prison Rules. They constitute a comprehensive body of guidelines for the treatment of prisoners which, although not legally binding on member States, have become a standard source of reference for legislators and law enforcement agencies, as they reflect the consensus of the community of European States on all those aspects of prison administration that are essential to humane conditions and positive treatment.

Over the last 10 or 15 years, most member States of the Council of Europe have introduced and expanded recourse to penal sanctions which are not enforced behind the walls of penitentiary establishments but in the community.

With a view to developing international norms for the creation, imposition, and implementation of such sanctions, the Committee of Ministers adopted, on 19 October 1992, Recommendation N° R (92) 16 on the European Rules on Community Sanctions and Measures. The aim of these new rules, conceived as a parallel instrument to the European Prison Rules of 1987, is threefold:

- to establish a set of standards to enable national legislators and the practitioners concerned to provide a just and effective application of community sanctions and measures;
- to provide guarantees against the infringement of the human rights of offenders subject to such sanctions and measures; and
- to lay down rules of conduct for the persons responsible for their implementation.

The Rules are based on the theory, increasingly accepted by penologists, that community sanctions benefit the offender as well as the community. Since the offender remains in a position to assume his social responsibilities, the implementation of penal sanctions within the community itself rather than through a process of isolation from it is expected to offer, in the long term, better protection for society.

The reason for using the term 'community sanctions and measures' is simply that it was felt necessary to find a phrase which both was more explanatory than 'alternative measures' or 'non-custodial measures' - felt to be too rooted in the custodial/non-custodial debate - and clearly indicated that community sanctions and measures existed in their own right. The idea behind this is very well expressed in another text of the Council of Europe, namely Recommendation No. (92) 17 concerning consistency in sentencing, which was adopted on the same day as the European Rules.

This Recommendation sets out that custodial sentences should be regarded as a sanction of last resort, and should therefore be imposed only in cases where the seriousness of the offence would make any other sentence clearly inadequate (para. B.5a).

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In order to promote the use of community sanctions and measures the legislator should indicate a non-custodial sanction or measure instead of imprisonment as a reference sanction for certain offences (para. B.5c). Adopting a rather innovative approach in that connection, the Recommendation suggests that non-custodial sentences should be understood as 'real' penalties not only from the point of view of the sentencer but also from the point of view of the general public which is supposed to support, and to participate in, the implementation of these sentences. Grading the available non-custodial sentences in terms of relative severity and harshness would also contribute to that end and, possibly, enable courts to select the non-custodial sentence appropriate for the offender from a group of sentences which also reflect the relative seriousness of the offence (para. B.6).

I do not intend to describe the history of the European Rules in the Council of Europe context. It might however be of interest to know that the Rules originate in the conclusions of the 7th Conference of Directors of Prison Administrations, held in April 1985. And ever since it was mainly the highest officials of national prison administrations that promoted our activities in this specific field.

AUDIENCE AND SCOPE OF THE RULES

The rules are a counterpart to the 1987 European Prison Rules. The two sets of rules have the same status, being contained in recommendations of the Committee of Ministers. Although in international law these are not truly binding instruments, unlike conventions, they do exert an undoubted influence, placing moral and political obligations on the states which accept them.

The target audience is broad: through the governments to which the recommendation is addressed it is intended that the rules reach the national authorities which lay down domestic law (parliaments and regulation-making authorities); authorities empowered to impose penal sanctions or measures (the judicial authorities and, in some cases, the administrative authorities); and lastly, authorities, agencies or departments responsible for enforcing such sanctions or measures.

The rules are comprehensive in scope: the term 'community sanctions or measures' covers a large number of penal sanctions and measures applicable to adults. All of them have three things in common: they keep the offender in the community; they involve some restriction of freedom in that they impose conditions and/or obligations; and lastly they are enforced by specialist agencies. In addition to sanctions proper, they also include any measures taken before the decision to impose a sanction and, indeed, those replacing a sanction (conciliation or mediation, for instance).

Drawing on the principles which the Council of Europe endeavours to promote in criminal justice, the rules seek to maintain a necessary and desirable balance between protection of society and resettlement of the offender. They contain several references to victim concerns which should play a crucial role in decisions relating to the imposition and implementation of community sanctions and measures. They clearly recognise the punitive dimension of possible penalties.

The rules are also concerned to maintain a fair balance between the offender's rights and the requirement of effective sentence enforcement; they give the offender safeguards without interfering with enforcement staff's discretionary powers; staff too are provided with safeguards enabling them to perform their duties properly and fairly.

THE CONTENT OF THE RULES

The rules contain a preamble and three parts, which are divided into 11 chapters. Appended to them is a glossary of keywords to ensure terminological consistency. The glossary has the same standard-setting status as the rules themselves.

1. The first part sets out a number of rules under the heading 'General principles'. This does not mean that these rules are of greater importance than those in the other two parts; all the rules have equal worth.

However, as both their position and title indicate, they are high-order rules of general validity whereas the rules in the other two parts deal with essentially practical matters.

The four chapters which make up the first part deal with the primary areas on which European law on community sanctions and measures is based: the principle of legality, judicial guarantees, respect for the fundamental rights of the offender and his family, and the very necessary co-operation and consent of the offender.

The very strong focus on legal safeguards for the offender originates in the European Convention on Human Rights, and in particular in its Article 6.

2. Significantly, the section immediately following the fundamental principles deals with human and financial resources; an indication of the important bearing which resourcing has on enforcement of community sanctions and measures.

The sound enforcement, and therefore credibility, of this type of sanction or measure very much depends on having properly trained staff.

Needless to say, it also depends on the financial resources which governments allocate to enforcement.

Lastly - perhaps above all - it depends on a third type of 'resource': participation by society itself, in one way or another, in the enforcement process, presupposing genuine community commitment.

The glossary gives a broad definition of the term 'community participation': all those forms of help, paid or unpaid, carried out full-time, part-time or intermittently, which are made available to the implementing authority by public or private organisations or by individuals.

3. The third part of the rules deals with management aspects of community sanctions and measures. It is essentially methodological in that the rules laid down are aimed more particularly at the administrative authorities or departments in charge of sentence enforcement.

They cover implementation arrangements, working methods and dealing with breaches of the sanction or measure. As well as detailing the optimum requirements for implementation of community sanctions or measures, they state the objectives which must guide their implementation - that is, the techniques employed in daily practice.

These need to be of proven effectiveness and constantly updated. Supervision must entail as little intervention as possible so as to avoid needless intensification or proliferation of checks. It is probably better to develop a variety of informal social controls than to have frequent formal controls.

The third part of the rules is also forward-looking in that it stresses research on and evaluation of how community sanctions and measures perform; it recognises that in Europe there has not been enough quantitative evaluation or sufficient qualitative appraisal of the way in which community sanctions and measures work and are perceived.

THE FUTURE OF THE RULES

The European Rules on Community Sanctions and Measures are a part of a dynamic process.

They are the culmination of a lengthy reflection within the Council of Europe on the status of non-custodial sanctions and measures within the existing sanction systems. Over the years they have been accepted widely as credible, penologically recognised and constructive options available to sentencers.

Within the Council of Europe framework a new fact has to be taken into account:

The Rules were elaborated within the context of the 'old' Council of Europe which was composed up to 1989 exclusively of Western European countries. In 1989 there were 23 of them.

To-day the Council has 40 member States. 17 former East Block countries participate as full members of the Council.

There was no need to convince our old member States of the usefulness of community sanctions and measures. Their sanction systems already provided for a vast array of non-custodial alternatives when the Rules were adopted. The focus was therefore on legal safeguards for the offenders.

The situation of our new members is different. Most of them still do not have a comprehensive set of community sanctions and measures and they sometimes find it difficult to have them accepted both by justice officials and by the general public; they also often lack the human and material resources and infrastructure required for the effective implementation of community sanctions and measures.

For the Council of Europe two new tasks originate from this situation:

- to assess the current implementation of community sanctions and measures, their forms and the legal context in which they are applied - and to evaluate the convergence between this implementation and the rules contained in Recommendation No. R (92) 16; and
- to think about ways and means for promoting community sanctions and measures as a particularly humane and constructive way for dealing with certain categories of offences and offenders, paying particular attention to members of the Council of Europe who might wish to receive additional guidance in this area.

These questions will be on the agenda of a new intergovernmental committee which will start its work in October.

The outcome of this activity would be an evaluation report and a guide of good practice which would describe programmes which proved efficient and which might assist sentencers and probation services in finding appropriate solutions in the area of community sanctions and measures.

INTRODUCTION TO A NEW RECOMMENDATION ON STAFF CONCERNED WITH THE IMPLEMENTATION OF SANCTIONS AND MEASURES ²⁹

There is widespread recognition of the fact that the satisfactory implementation of community and custodial sanctions and measures requires the use of a highly competent, qualified and committed staff if the purposes of the sanctions and measures are to be achieved.

The existing Council of Europe instruments in this area ³⁰ were felt to require some updating and supplementing.

The idea came up to prepare a new text on staff policy that would take into account new developments which are already reflected in the European Prison Rules and the European Rules on Community Sanctions and Measures, but which have not appropriately come into expression in the aforementioned Resolutions.

Among these developments, the following are of particular significance:

- the desirability of reducing reliance on imprisonment as much as possible;
- the desirability of reducing the traditional isolation of the prison from the external world as much as possible;
- an increasing awareness of the human rights retained by suspected and sentenced offenders; and
- the need to use the human and financial resources of the services responsible for the implementation of sanctions and measures as efficiently and effectively as possible.

In the light of these considerations an expert committee placed under the authority of the European Committee on Crime Problems (CDPC) recently approved a new draft Recommendation on staff concerned with the implementation of sanctions and measures.

The Recommendation contains two sets of norms:

1. Principles for the recruitment, selection, training, conditions of work and mobility of staff concerned with the implementation of sanctions and measures (51 paras).

2. European guidelines for national ethical guidelines for staff concerned with the implementation of sanctions and measures (19 paras).

The first set of rules is basically a text on staff policy - the first comprehensive text in this area within the Council of Europe context - and the first text which explicitly promotes a unified approach to the work of probation and prison staff.

The second set of rules is an attempt to make explicit the ethical basis of implementation work at both community and prison level.

The ethical guidelines set out in these rules are intended to cover only the most important aspects of staff obligations in the implementation of sanctions and measures and for that reason are not exhaustive.

²⁹ Recommendation No. R (97) 12 of the Committee of Ministers to Member States on Staff concerned with the implementation of sanctions and measures (adopted by the Committee of Ministers on 10 September 1997 at the 600th Meeting of the Ministers' Deputies).

³⁰ Resolution (66) 26 on the status, recruitment and training of prison staff, Resolution (68) 24 on the status, selection and training of governing grades of staff of penal establishments.

They are not a code of professional conduct (which would define whether professional work is well done or not) nor a disciplinary code (which would define what conduct constitutes a breach of rules on professional conduct and what can be the consequences of such a breach). They are rather concerned with the values that should inform personal behaviour outwards, towards other people. They mainly apply to relations with:

- the service(s) concerned with the implementation of sanctions and measures and its/their employees;
- those working in other parts of the criminal justice system;
- those working in the services and organisations with which the service concerned with the implementation of sanctions and measures collaborates, for example, housing and employment agencies;
- the community in general; and
- the suspected or sentenced offenders subject to the sanctions and measures to be implemented.

This means that they are relevant to every aspect of the organisational environment and deserve therefore to be expounded in national guidelines and followed in national professional practice.

The 19 rules contained in this section of the Recommendation address such matters as:

- the responsibility of the service for making clear to staff the ethical basis for their work (Principle 2);
- the obligation of the staff member to abstain from using service resources improperly (Principle 4);
- the provision of information on suspected or sentenced offenders (Principle 5);
- the contacts staff members might have with the media (Principle 10);
- the promotion of the purposes of the sanctions or measures (Principle 12);
- informing suspected or sentenced offenders about their obligations and rights (Principle 16);
- confidentiality (Principle 17); and
- correct professional relationships with suspected or sentenced offenders and their families (Principle 19).

The Permanent European Conference on Probation and Aftercare (CEP)

Peter Gründler *

The Permanent European Conference on Probation and Aftercare (CEP) was set up in 1981 by a group of farsighted people from all over Europe. Today there are 18 countries represented by private organisations, government departments and individuals. It is governed by a triennial General Assembly. The last Assembly was held in Helsinki in 1995 and the next one will be held in the Netherlands on the 175th anniversary of Dutch Probation. CEP is run by a board of nine members coming from 9 countries and with a good balance between northern and southern members. The President is the Chief of the Irish Probation Service.

It is mainly financed by members' subscriptions but also receives generous support from the Dutch Probation Federation as well as from extraordinary contributions by other members. Its offices are situated in the Netherlands at 's-Hertogenbosch near Utrecht in the premises of Reclassering Nederland.

Today, a key concern of all governments is the reduction of crime. The main causes of crime are the social marginalisation and exclusion of a growing part of the population. With this in mind, CEP sees its main objective as effectively reducing crime through the promotion of social integration of the offender. This is the best means of protecting the public.

The main elements of this policy are the following:

- access to jobs;
- access to secure accommodation;
- access to educational and leisure opportunities;
- programmes aimed at reducing the harm caused by addiction; and
- attention to the special needs of minority groups;
- combined with:
- effective assessment and management of risk;
- programmes aimed at behavioural change;
- consistent enforcement of the obligations entered into by offenders; and
- victim reparation.

It is obvious that in a region such as Europe with its great diversity of political, historical, cultural and economic backgrounds, the probation systems, legislation and even the actual tasks of probation services differ greatly. Nevertheless, it has been proved that community sanctions and measures work in all of these countries.

There is no doubt that, if properly used and implemented, they offer the offender a greater hope of future integration into the community and thus help to protect the public from further harm.

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It has also been proved that although this diversity is sometimes a problem, just as different languages are a problem, it is also a source of innovation and ideas. Probation, having different backgrounds, necessarily fosters different approaches to the problem. These differences should be considered as an asset.

WHAT ARE THE TASKS OF CEP?

CEP has to offer a market place for these different approaches. First, CEP has to organise exchange of knowledge and experience among members and practitioners of all levels. CEP does this by means of workshops and seminars.

Workshops, which are single language events, mostly deal with specific national services, their tasks, organisational structures and problems, etc. It addresses 20 to 30 probation officers and social workers of other member countries who learn about the way probation is executed in their host country. They hear about other methods and means and take home new ideas for their own work. Such events have been organised by Italy, France, England, Germany, the Netherlands, Portugal and Denmark. Workshops are very cheap.³¹ The participants find them mostly very stimulating and helpful. And it helps the managers to acknowledge the work of outstanding probation officers.

Seminars, on the other hand, are always held in the three official languages of CEP (German, French and English). They address a larger public: between 70 and 100 persons participate in them and include, alongside probation officers, judges and service managers. The topics are of common interest and deal with current problems in all the member countries such as drugs (Seminar in Switzerland 1991), intensive supervision (Norway 1994) or effectiveness of probation (Edinburgh 1996). This year, CEP is organising a seminar in Wittenberg/Germany dealing with Reconciliation.

The costs of these seminars are higher than those of the workshops. This is mainly due to expenses related to the use of simultaneous translation and to the publication of a conference report in three languages.³²

All these seminars are designed to promote improvements in probation practice. Understandably, the main beneficiaries are the participants who gain knowledge and understanding of different and sometimes new approaches, which they then seek to implement in their own countries. The publication of seminar reports allows for a wider dissemination of the findings. Reports go to all CEP members on whom CEP relies for internal publication. Reports are readily available to other interested parties and may be ordered from the Secretariat in the Netherlands.

CEP organised a first interdisciplinary conference in Switzerland in 1996. The conference dealt with drug couriers and involved participants from some 25 European countries embracing all the professions dealing with these people, i.e. from the police and customs, through judges and prosecutors, to prison staff and probation officers.

Another task of CEP is to develop and promote international standards by supporting and co-operating with European supranational organisations such as the Council of Europe.

31 Participants seldom pay more than \$ 200 for one week, including full board but not travel expenses.

32 Participants pay between \$ 600 and \$ 800 for a 5 day seminar.

CEP has an observer status at the Council of Europe through its different committees, such as CDCP (European Committee on Crime Problems) and PC-R-CP (Council for Penological Co-operation) which established the European Rules on Community Sanctions and Measures (Recommendation No. R(92)16). CEP experts are also involved in the definition of standards for the employment and training of prison and probation staff.

It goes without saying that CEP contributes to parliamentary hearings, conferences and other events to which we are invited by the European Parliament.

CEP is striving to extend its links with the European Union and, through a group of non-governmental organisations concerned with crime problems, with the United Nations.

In the future, CEP hopes to intensify interdisciplinary work and co-operation. If it is true that crime problems are neither solely a judicial nor solely a social or medical problem, all the services involved - from the police to prosecutors over courts to prisons and to probation - must acknowledge that they have to tackle the problem together. In most cases only a joint and co-ordinated effort has any real chance of success. And success means reducing harm to society by providing adequate treatment and support to those offenders who need it.

- CEP hopes also to give the idea of value for money a greater chance.
- In the field of probation this means, for example:
 - to bring together people and services with similar probation programmes;
 - to establish consistent evaluation procedures including costing; and
 - to help in the process of bench-marking.
- In the field of criminal justice this could mean:
 - to work in interdisciplinary groups to define co-operation aimed at:
 - crime-prevention and
 - reintegration of offenders into society while minimising harm; and
- to help setting up standards for interdisciplinary evaluation and costing.

It is obvious that, up to now, very little has been achieved in all these fields.

WHY?

There are many 'reasons'. Those of us working within probation are convinced that we are doing a good job. We have never questioned ourselves, nor have we been questioned by others. Perhaps we have been looked upon as the court jester who has some liberties.

This has changed dramatically and rightly so. Now we have to prove that our activities are worth the money society invests in them. I believe that we have a good chance of doing so, especially when comparing probation to other sanctions.

But I hope that the evaluation does not stop here. To compare probation with other sanctions is not enough. We have to help make the criminal justice system more effective as a whole. And for this reason we have to opt for interdisciplinary co-operation.

We need a new approach to the problem of crime control. To do so in our countries we have to convince other professions. In countries that have not yet introduced probation, the problem seems, at the same time, easier and more difficult to tackle.

It is easier because co-operation could well be an aim of the new service and a task for all the existing institutions in the field of criminal justice. It is more difficult since there could be a lack of self-confidence in the new service or lack of confidence vis-à-vis the new service by the established players in the field of criminal justice.

Perhaps CEP could lend a hand by offering its experts, experience and know-how.

Closing statement

Charles Mangion, Minister of Justice of Malta

There are various reasons why it gives me great pleasure to be able to address you this afternoon.

Oscar Wilde once said that 'every sentence is a life sentence. However, probation can make an offender a useful citizen instead of a prisoner'.

As you have undoubtedly heard before, the Government of Malta attaches great importance to probation. It is not the only reformatory community based alternative to incarceration that we have, but it is the one alternative that has withstood the test of time in spite of the various vicissitudes that the system has had to pass through since its birth in 1961.

Perhaps there is a simple explanation for this capacity of probation to survive. It is based on the belief that many offenders can be brought to see sense without having to be incarcerated. It is based on the good that there is in every person, every offender. It is based on trust and on good will and the dedication of all those who choose to work as probation officers. It is also based on the fact that probation works in a good percentage of cases.

Each time an offender is brought back to the fold of law-abiding citizens as a result of a successful probation order, society has a good reason to rejoice and such instances have been many in Malta and, I am sure, in your respective countries.

It is also true that there have been - and will continue to be - instances where probation did not work. The reasons for such failures can be various, and I am sure you have identified most of them, but certainly never such as to undermine the efficacy of probation as a service in general.

I am sure that in the course of this International Training Workshop on Probation which UNICRI and the Commonwealth Secretariat have jointly organised here, you have identified the various real, theoretical and practical dimensions of probation and have widened your knowledge of the subject - those of you who are practitioners as well as those who are policy makers or who run the service in your respective countries.

Probation is relatively unknown in many countries but is a standard measure in many others, particularly countries belonging to the Commonwealth. Probation, however, is internationally recognised as a system which works and I feel it is the duty of those countries where a probation service is run to get together periodically and compare and contrast their experiences which they can then impart to the international crime prevention and criminal justice community. This is why this initiative of UNICRI and the Commonwealth Secretariat is of paramount importance and the Government of Malta was very pleased to host it.

One of the most important outcomes of this meeting has been the preparation of a Handbook on Probation Services - a set of carefully drawn up guidelines for probation practitioners and managers. I notice that the basic purpose of this handbook is to assist in the revitalisation of existing services and in raising the profile of the utility of probation where emphasis has diminished or shifted.

It is also intended to provide assistance and guidance to those countries which are either in the process of, or are interested in, the establishment of probation/parole or after-care services with a set of practical guidelines and needs assessment tools that will further define and guide the development, implementation and evaluation process. You will, therefore, agree with me that the importance of this handbook cannot be emphasised enough as it will provide each and every country represented here today as well as others with a treasure of information and guidelines.

I am also sure that the exchange of information among you during these four days has been very useful and that you will make practical use of it when and where necessary.

Last but not least, I wish to thank you all for coming to Malta for this important international workshop. A particular thanks goes to UNICRI and the Commonwealth Secretariat with whom we have co-operated on many previous occasions for choosing my country as the venue for this meeting. We hope that we have been good hosts to you and that you have enjoyed your stay amongst us.

General report

International co-operation in probation

Robert Harris *
General Rapporteur

INTRODUCTION

Following previous activities carried out by the United Nations Interregional Crime and Justice Research Institute (UNICRI) in the field of alternatives to imprisonment and other non-custodial sanctions, UNICRI and the Commonwealth Secretariat jointly organised an International Training Workshop on Probation (ITW).

The workshop, held from 2 - 5 July 1997 in Valletta (Malta), brought together 67 participants from 31 different countries and a number of international organisations

. Almost all regions of the world were represented, as well as numerous probation services and/or other related agencies.

The general objective of the workshop was to promote probation as a credible and efficient alternative to imprisonment, by increasing the exchange of information and improving contacts at the international, regional, national and local levels, by preparing a Handbook on Probation Services and examining the possibility of establishing an international web site as well as the potential for an International Probation Association and by furthering training, technical co-operation and research work at the international plane.

ACKNOWLEDGEMENTS

Thanks are due to the main organisers of this event, UNICRI and the Commonwealth Secretariat.

It was excellent also to see representation from the Council of Europe and UNAFRI, as well as from so many countries round the world. I wish we could have had this meeting before we wrote 'Probation Round the World'.

Particular thanks are due to Mr. Justice Agius for his excellent work in Malta in preparing for the workshop and for his personal commitment to, and enthusiasm for, the project.

I was especially pleased to hear also the firm commitment of His Excellency the Prime Minister of Malta, Dr. Sant to the development of probation in this country; and in addition, therefore, to thanking His Excellency the Prime Minister for honouring us in opening the conference.

I hope members will also endorse strongly his expressed determination to develop the presently very small probation service here in Malta.

It is clear that the Maltese Probation Service, though small in number, is enthusiastic, dedicated and well-trained; and I hope this workshop constitutes also a landmark in its development.

* Pro-Vice Chancellor, University of Hull, Hull, United Kingdom.

AIMS OF THIS REPORT

1. To classify and summarise the main themes of this workshop.
2. To draw from that classification some draft recommendations, variably directed at:
 - supranational bodies (UN, Commonwealth Secretariat, Council of Europe, CEP);
 - regional bodies;
 - national governments; and
 - local administrations/management of probation.

THE INTERNATIONAL TRAINING WORKSHOP AND EFFECTIVENESS

In my view it is the concept 'effectiveness' which best encapsulates the debates of this historic international training workshop. By this I mean not only the technical effectiveness of probation in achieving reductions in recidivism (so eloquently discussed by Dr. Motiuk and Professor Hough) but effectiveness in a much broader sense. Any criminal justice intervention must be judged against political as well as scientific or administrative criteria if it is to gain and maintain a place at the heart of national criminal policy. So it is in this broad sense that probation must be understood, and in which probation was discussed at this workshop.

I have created for the purpose of this report an eight part typology of probation effectiveness. In preparing it I asked myself 'what have I learned from this workshop about what probation has to do to make its mark?' My eight categories, each of which I will address briefly in turn, are:

The establishment of infrastructural prerequisites

If probation - or any other piece of justice administration - is to be measurable, baseline statistical data need to be established. In the West we have 150 years or so of experience with statistics in this field (and it took us a very long time to get to even our present imperfect state of knowledge) but without data on criminal records, judicial dispositions, criminal justice expenditure patterns and so on, progress on measuring effectiveness and value for money will be modest.

In countries where such prerequisites do not exist, however, it seems to me that this is not an excuse for doing nothing. It is possible for probation administrations to show the way by at least maintaining their own records designed in such a way as to be helpful to them in pursuing their own organisational objectives. This is much better than nothing; but it is inevitably a second best stop-gap measure.

The creation of cultural consonance

A key theme of *Probation Round the World* was that probation was not a 'thing' to be exported, lock, stock, and barrel, to distant lands, but a flexible framework within which national jurisdictions can, within the framework of the Tokyo Rules, solve certain local problems of justice administration better solved by this than by other means. This theme also emerged strongly at the workshop:

1. For the former British colonies in particular there is the question of what to do about the colonial heritage: in Malta, Kenya and throughout much of the former Empire and colonial administration, probation is very similar in statutory form.

And while I have no reason to believe that this heritage has been unhelpful it is a heritage which is now 'more British than the British', since in Britain itself the statutory basis of probation has been transformed within the last decade or so; and in a number of jurisdictions it may similarly be helpful to review the character and purpose of probation in a post-colonial context.

How can probation help you now? And how can it best fit into your own developing culture of criminal justice?

2. In many developing countries the economic costs of prison-centricity are very great, as are the social costs. But in many countries public opinion and political tendencies are predominantly punitive.

How can probation help you reconcile the urgent need to divert scarce resources to more constructive ends with a popular and political desire to punish?

Can probation, if conceived and presented appropriately for your country, help you get away from prison-centricity - or, more realistically perhaps, help you contain further expansion of prisonisation?

3. The essence of probation is to build on community strength and patch up community weaknesses. This is especially important at times of rapid social change and development.

And it involves co-opting community resources - tribal chiefs, volunteers, church leaders, youth workers - as well as NGOs to augment the work of the professionals. It can be a mistake for developing countries to professionalise their services too quickly, because professionals are only necessary when community supports are inadequate to the task in hand.

The achievement of political acceptability

Closely allied to cultural consonance is the need for probation leaders to ensure that they play an effective part in the political process.

Between political rhetoric and political action lies, often, a big gap; and it is of the utmost importance that probation makes its presence felt in the 'corridors of power' by ensuring questions are asked in Parliament, ministers are briefed, powerful friends are secured - for example in the judiciary and among other opinion formers - so that probation's achievements and potential are understood, and so that probation leaders are themselves made aware of, and so are able to respond to, changing political demands.

To secure political acceptability in the face of unavoidable scepticism among some it is necessary for probation to present itself as offering a persuasive answer to political problems which are otherwise damaging to governments.

Examples of this include drugs, migrants, minors, mental illness, unemployment, homelessness, crime prevention, victims' needs.

This is why it is so important not to cast yesterday's good cause in tablets of stone; not to fall into the trap of what social scientists call 'reification' - of saying there is something immutable about probation - but to be responsive, flexible, and politically astute.

Communication of effectiveness

Again related to the last two points is the urgent need for probation, both nationally and – increasingly so following this workshop - internationally, to ensure that its many benefits and achievements are highlighted.

This implies investment at some level in marketing and public relations (this is however perhaps less relevant in countries of the South). The kinds of benefits to be highlighted include:

- reductions in recidivism (where the national figures are not clear, I recommend the use of anonymised, human interest success stories);
- cost savings over the prison;
- social benefits such as improvements in educational attainment, job skills, marital/family life;
- similarly, removal of the social costs of prison; and
- relevance in helping member states to conform to supranational treaties and conventions of which they are signatories, and to international rules which they have voluntarily adopted.

Systemic involvement

Throughout the workshop, people have said time and again that probation cannot stand alone, because it is a part of the wider criminal justice ‘system’ and, indeed, of the even wider ‘social system’.

In fact, as a ‘bridging’ organisation between criminal and social policy, probation is especially obligated to ensure that its organisational boundaries are permeable. It is therefore most unfortunate that it does not always proceed as though this were the case.

For the purpose of this presentation I identify the systems only geographically - as local, national and international - though a more sophisticated matrix, which would take longer to devise, would embrace also functions which would intersect with other public and private sector activities such as drug rehabilitation, immigration and mental health.

Local systems

- formation of local partnerships with the other criminal justice agencies;
- formation of alliances with potential victim groups - Neighbourhood Watch, Victim Support Schemes, Chambers of Trade;
- identification, with appropriate action, of what *constitutes* local communities, which, as was highlighted at the workshop, now go far beyond traditional kinship networks into occupational, neighbourhood, ethnic and numerous non-geographically based groupings;
- co-option of volunteers, both to increase available manpower and to increase participation. In particular, evidence and experience suggest that participation in working with offenders decreases punitive public attitudes: it is desirable to confront members of the public with the complex realities which are the daily experience of professionals;
- by this and other means, helping effective offender reintegration.

National systems

- influencing policy (as described previously);
- influencing resource allocation;
- identification of, and support for, clear professional leadership. To influence national political systems involves the legitimation by probation services of professional spokesmen: where, as has sometimes occurred in Britain, probation employers, managers and unions are in public disagreement, the Service is a house divided against itself, and it accordingly fails to play a full part in the political process. Hence, in developed countries at least, clear trade union agreements are required if a divide and rule situation is to be avoided.

International systems

- international communication and information exchange, including at the regional level, are crucial;
- supranational conventions and rules require much higher profiles - in many if not most countries they are not at all well known to managers and practitioners, and certainly do not drive the strategic development of policy or practice;
- identification and comparison of national standards as a basis for considering moving toward international standards of performance;
- 'big issues' which cross national boundaries can be shared on the international stage;
- while technological potential must be exploited where it exists, especial care needs to be taken not to exclude those countries where access to new technologies is limited or even non-existent.

Technological capability

This issue extends the previous point. We have heard much about the potential of new technologies, and also some words of warning of which I have just mentioned one. Another was the reminder that probation is about 'people not machines'; another might have been that the machines are only as good as the data we input into them.

But technological capacity has been identified at this workshop as having some specific benefits:

- establishment of an informational database on probation round the world;
- providing up to date and accessible literature with abstracts on-line and original papers available for purchase, either as hard copy or, ultimately perhaps, downloaded;
- facilitation (particularly via an Intranet) of appropriate in-house communication at informal as well as formal levels;
- obvious and fundamental uses in research and training (see Point 7 below);
- for all these reasons the creation of the UNICRI International Website on Probation is to be greatly encouraged and applauded.

Research and evaluation

These must be central to any professional activity, and the 'what works' theme which has permeated much of this workshop is likely to be critical to probation's future development. If, as seems to be the case, probation's *motif* in the immediate future is to be risk management, the creation, dissemination, utilisation, monitoring and evaluation of appropriate tools is going to be crucial both in the national and comparative contexts. Further work in these areas is crucial, I believe, for international leaders, including UNICRI, UNAFEI, UNAFRI, and CEP to undertake.

It emerged strongly at the workshop that research and evaluation have been blighted by a lack of systematisation and by a concentration on numerous local initiatives, often short-lived and based on unique (and therefore hard to evaluate) variables and working assumptions. While it is good that many flowers should bloom, it is hard to escape the thought that the establishment of national and supranational definitions, technologies and protocols would considerably improve the robustness - and hence value - of such enterprises.

Training

Training was one of the main themes of this workshop, though from what was said I formed the view that in many countries relatively little thought had been given to what training was required to meet the challenges identified:

- Is it still appropriate for probation officers to be trained as social workers?
- Do traditional social science-based curricula need revising?
- Are students equipped adequately to deal with multi-agency work, community collaboration, drugs, new technologies, evaluation techniques?
- What academic levels are required and appropriate?
- In countries where training levels are not matched by salary scales and career opportunities, what is to be done to ensure staff retention?
- Is sufficient thought being given to in-service training, as probation services change in the face of new trends in social organisation, crime patterns and political priorities?

Technical co-operation needs

INTRODUCTION

Promotion of international technical co-operation was one of the main goals of the International Training Workshop on Probation. It was with a view to facilitating the identification of technical co-operation needs that the organisers of the International Training Workshop on Probation decided to distribute a brief questionnaire on technical co-operation needs. The ITW represented a unique opportunity to describe the situation in terms of needs, and the following analysis will serve as a basis for future technical co-operation projects.

The short questionnaire was attached to an information sheet - the World Directory of Probation Services - in which information regarding personal and organisational profile, staff, programmes, clients, facilities and organisational design was solicited. With respect to the above technical co-operation needs questionnaire, it should be noted that item 6 refers to the presentation, in the plenary session during the International Training Workshop, of a preliminary draft version of the envisaged UNICRI International Website on Probation. The answers to question 7 related to the draft Handbook on Probation are not part of the technical co-operation area and, therefore, will not be dealt with in this analysis.

Two options for presenting the answers received were possible: either to present them country by country or question by question. The latter option was chosen for two reasons, the first being that not all the countries replied, and the second that the answers were similar. It was, therefore, more informative to present the information by issues.

THE ANALYSIS

The questionnaire was distributed to all the participants in the International Training Workshop on Probation, i.e. 67 persons. They represented 31 countries and 5 international organisations.

The organisers expected to receive back one questionnaire from each country, which meant 22 questionnaires from the developing countries and 9 from the developed ones. Due to the nature of technical assistance it was expected that most of the questionnaires would come from the developing countries.

The questionnaire

1. What do you see as the major obstacles in your day to day work within the probation service?
2. What would be the best ways of overcoming these obstacles?
3. Can international training seminars assist in overcoming these obstacles and how?
 - a) What topics would you like to have seen included?
4. What other types of technical assistance from international organisations in overcoming these obstacles in your country would be helpful?
5. Do you see other ways of promoting probation as an effective and efficient non-custodial sentencing option?

6. Would linkages to an International Probation and Criminal Justice 'Web site' be of benefit to you and the other staff, including managers, within your organisation?
 - a) In what way?
 - b) What elements would you like included?
 - c) What would be required in your country and service for this to become a reality? (i.e., training, equipment, knowledge and technology transfer).
7. You have been provided with a copy of the draft Handbook on Probation: Guidelines for Probation Practitioners and Managers. We would appreciate your very specific comments on this Handbook and its contents. Please write or print clearly and use the additional sheet if necessary.

As predicted, out of the 22 questionnaires expected from the developing countries, 10 (45%) were sent back by September 1997, while only 3 out of 9 from the developed countries were returned.³³

The 10 developing countries include Africa (4 countries), Asia (4 countries), and the Pacific Islands (2 countries).

Without diminishing the importance of the replies provided by the three developed countries, it was felt more appropriate to present only the needs of the developing countries. However, the information provided by the representatives of the developed countries will be very useful for guiding future activities in the area of probation.

With respect to the question concerning the identification of *the major obstacle* in the day to day work of the probation service, the three main and equally important obstacles were listed as: lack of personnel, lack of funds, and lack of training courses. Other obstacles were mentioned by some countries such as the absence of public opinion support and that of the judiciary. This shows that the problem is not only resource related but also has to do with professional culture and the mentality of the actors concerned. In many countries, imprisonment is still perceived as the only appropriate punishment by both public opinion and the judiciary.

What would be *the ways to overcome these obstacles*? Obviously, the main suggestion for overcoming the lack of resources is to receive more support from the government both through the provision of funds and in kind (such as computers, vehicles, etc.). The provision of training courses for probation staff was also encouraged. Yet, it was noted that the key success factor is that of the political will and commitment. It is, therefore, important to change the reluctant attitudes toward probation, including through exposure to positive international experience, by educating the public, and by a provision of reliable information on the effectiveness to judges and public prosecutors.

The role of international training seminars and/or workshops in overcoming these obstacles was also recognised as being very important in upgrading a level of professionalism, providing a broader view, exchanging experience and knowledge, promoting co-operation and presenting new ideas.

33 The organisers thank all those (from both the developing and developed countries) who spent time and effort in filling in the questionnaire and sending it back, and apologise in advance to all those who filled in the questionnaire and sent it back but not in time to be included in this report. Technical co-operation is a developmental process, and all the questionnaires will be taken into consideration.

Many *topics* were proposed for inclusion in future seminars/workshops, such as: electronic monitoring; client and caseload management; the variety of measures of effectiveness; theories of crime and crime prevention; rehabilitation of offenders; use of computers; risk assessment; supervision; use of volunteers; interaction between the probation service and the social welfare and other agencies of justice administration; programmes that 'work' for specific clientele; etc.

Some *other types of technical assistance* were mentioned: assistance in carrying out research (equipment, data collection and analysis), short term use of experts and consultants, exposure to computer and info-technology, involvement of decision makers (such as ministers) in seminars/workshops, study visits to other countries, etc.

Three equally important *ways of promoting probation* as an effective and efficient non-custodial sentencing option were identified as: (i) involving of the community (public at large, NGOs, religious communities, etc.); (ii) ensuring political commitment; and (iii) improving co-operation, collaboration and co-ordination among all the involved agencies and organisations (probation service, police, court, prosecution, social welfare, school, NGOs, etc.). The importance of research and training was also stressed.

The presentation of the initial draft version of the future UNICRI International Website on Probation was part of the programme of the International Training Workshop, and was seen by the organisers as a potentially important tool for exchange of information, contacts, transfer of knowledge, access to data, up-dating on new achievements, etc. In other words, it was considered a useful tool for technical co-operation. In this context, *linkage to the UNICRI International Website on Probation* was considered beneficial by all. In view of improving the draft version of the UNICRI International Website on Probation, the inclusion of the following *elements* were suggested: statistics, recent national practice, research achievement, directories of probation departments in the world, new publications, up-dated information, etc. However, in order to successfully and properly implement and use this technology, four main *requirements* were mentioned: provision for training, equipment supply, expert advice, and assistance in technology transfer.

CONCLUSION

The above presented information indicates the range of technical co-operation needs as well as strategies to promote and revitalise probation.

While specific needs for particular countries are not described here, it is important to note that the participants appreciated the involvement of international community both in assisting in the strategic development of probation, including international networking, as well as in direct provision or solicitation of support by other donors to meet specific technical co-operation needs. The results of the technical co-operation needs analysis will be taken into consideration in the framework of future UNICRI and Commonwealth Secretariat activities. Countries are encouraged to formulate specific technical assistance projects and submit them to the various donors including regional and international agencies and organisations.

INTRODUCTION

To meet the professional and personal expectations of some 70 participants is obviously not an easy task. but it was, however, one of the most important goals set by the organisers of the International Training Workshop on Probation during both the preparation and holding of the Workshop.

It should also be stressed that the persons involved in the organisation of the event showed a shared sense of responsibility for its organisation as a whole. This short preamble is important, because it is obviously impossible to predict the results of an evaluation questionnaire, which may sometimes be quite critical. The aim of the evaluation, however, is not only to evaluate the work done, but also to provide the bases for improving future similar exercises.

The organisation of this type of International Training Workshop is very complex, and all its aspects were carefully discussed among the organisers. Decisions, however, had to be taken concerning key elements, such as the duration and location of the workshop, names of speakers, number of working groups, etc. All these decisions were taken in good faith, but may have been perceived by the participants as wrong or at least not really appropriate. It was therefore decided to ask the participants for their opinions on a number of selected issues through an evaluation questionnaire which was distributed on the penultimate day of the event.

All the participants (except the organisers) were expected to fill it in and give it back to the organisers before returning to their country. The questionnaire was anonymous. 67 persons were present at the International Training Workshop, of whom 8 were organisers and 59 were participants. By September, 35 out of 59 questionnaires were returned to the organisers, i.e. 59.3%. This response rate could be explained by the fact that not all the participants stayed for the whole duration of the ITW and therefore some of them may have not received the questionnaire.

Also, some questionnaires might still be returned in the near future, hence increasing the number of questionnaires received.

THE QUESTIONNAIRE

The aim of this questionnaire is to assist us in the evaluation of this International Training Workshop in order to improve it in the future. Please indicate your assessments by answering the questions below. Most of the time you are requested to circle just one number.

Your answers will be kept strictly confidential: You are not required to sign the questionnaire.

1. Please indicate your rating for the overall impression of the training workshop (1 is low and 5 is high). Please circle one number only!
1 2 3 4 5
2. What did you think about the duration of the Workshop?
1. Too short; 2. Short; 3. About right; 4. Long; 5. Too long

3. What did you think about the facilities for the training workshop?
1. Very poor; 2. Poor; 3. Average; 4. Good; 5. Excellent
4. How did you find the Hotel accommodation?
1. Very poor; 2. Poor; 3. Average; 4. Good; 5. Excellent
5. Would you say that the length of the experts' presentations was:
1. Too short; 2. Somewhat short; 3. Appropriate; 4. Somewhat long; 5. Too long
6. Would you say that the average length of the Working Groups following each key note address was:
1. Too short; 2. Somewhat short; 3. Appropriate; 4. Somewhat long; 5. Too long

Note: You may wish to make suggestions to the organisers regarding future seminars and their effectiveness and relevance to your organisation. Please use the space below. Please write clearly.

Although the questionnaire was anonymous, 7 copies (20%) were returned with a name attached. This was mainly the case with question 6 related to practical comments and/or suggestions. It was probably perceived more pertinent to sign personal comments. The anonymity was, however, largely respected.

It is also interesting to note that 22 persons (62.9%) made some substantive suggestions and/or comments, which shows their interest in improving future similar activities and confirms their active involvement in the ITW. They were critical but in a constructive sense.

These comments and suggestions will, to the extent possible, be incorporated in the following analysis. They are also very useful because the tendency to provide an average evaluation reduces the substance and quality of the evaluation.

Since the final and overall evaluation is 'average/appropriate' it was considered more useful to highlight the negative aspects in order to find ways to improve similar exercises in the future.

THE EVALUATION

Overall impression of the training workshop

	1	2	3	4	5	n.a.
No.	0	3	3	17	4	8
%	-	8.6	8.6	48.6	11.4	22.8

Although 22.8% of the respondents did not reply to this first general question, the overall impression of many of them was good.

Duration of the training workshop

	too short	short	about right	long	too long	n.a.
No.	0	8	21	4	2	0
%	-	22.8	60	11.4	5.7	-

The duration of four working days (for an average stay of six days) was considered as the right duration by the large majority of the respondents.

Facilities for the training workshop

	very poor	poor	average	good	excellent	n.a.
No.	1	2	10	18	3	1
%	2.9	5.7	29	51.4	8.6	2.9

The International Training Workshop on Probation took place in the building of the Foundation for International Studies. Three rooms were at disposal: a large conference room (for the plenary sessions and working groups), and two smaller rooms (for working groups).

Hotel accommodation

	very poor	poor	average	good	excellent	n.a.
No.	0	0	8	17	6	4
%	-	-	22.8	48.6	17.2	11.4

All the participants and organisers were located in the same hotel and were provided with full accommodation.

Length of the experts' presentations

	too short	somewhat short	appropriate	somewhat long	too long	n.a.
No.	1	3	25	3	2	1
%	2.9	8.6	71.4	8.6	5.7	2.9

All the experts invited to present a paper during the plenary session were allowed 30 minutes for this. There was no time at the disposal of the participants for discussion and questions during the plenary sessions.

Average length of the working groups

	too short	somewhat short	appropriate	somewhat long	too long	n.a.
No.	1	9	18	4	3	0
%	2.9	25.7	51.4	11.4	8.6	-

The length of the working groups varied between 1 ½ and 2 ½ hours.

CONCLUDING REMARKS

The ITW was generally well appreciated and considered by many of the participants as a unique opportunity to exchange information, make contacts, learn from each other's experience and speak about their own probation system.

They were very pleased to have been given the opportunity to take part in this event. Their critical comments and suggestions are most welcome in order to improve similar activities in the future.

Annexes

The Needs/Risks Assessment Record developed by South Bank University*

NEEDS/RISK ASSESSMENT RECORD

The Needs/Risk Assessment Record is designed as a set of five forms to be incorporated into probation services' assessment and review records. These are:

- Section 1: a risk assessment form.
- Section 2: a form assessing factors associated with risk of re-offending.
- Section 3: a summary of the supervision plan.
- Section 4: a quarterly review form.
- Section 5: a final review form.

The forms are intended for use with offenders serving probation, combination and supervision orders, and those under statutory pre- and post-release supervision. Some aspects of the forms will need amending to dovetail with existing recording systems. However, there are considerable advantages in leaving pages 3, 5 and 7 unchanged, not least in maintaining a degree of consistency between those areas which favour an overall approach of this nature.

The purpose of the forms is to provide a structured way of recording judgements about risk and decisions about supervision. Following the process will be straightforward for experienced officers and beneficial for the less experienced. The forms are not in themselves a diagnostic tool. Completing the record is a process of *recording*, not *making*, the assessments.

We have not devised instructions for the forms, thinking that these will depend on the precise way in which they are incorporated into existing forms. However, we envisage that Form 1 will be kept at the front of the supervision record, and will be updated if and when relevant factors change. Section 4 will generally be used quarterly, but we do not intend to rule out more frequent reviews, especially at the start of supervision.

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SECTION 1 INITIAL RECORD OF RISK ASSESSMENT

Enter date of assessment: / /19

Likelihood of reoffending

Likelihood of reconviction (and reoffending) is statistically associated with various static factors:

- Age at first conviction (the younger, the higher the risk) in years
- Age now (the younger, the higher the risk) in years
- Gender male / female
- Number of youth custody sentences (more = higher risk)
- Principal current offence
- OGRS score

Risk of reconviction is also associated with several factors where change can occur:

- Anti-social outlook
- Criminal associations
- Impulsiveness/lack of self control
- Lack of close emotional ties
- Lack of empathy with victims
- Substance abuse
- Unemployment
- Financial problems
- Poor housing

Bearing in mind static and changeable factors, how do you rate the risk of reoffending over the supervision period?

very high high average low very low

Dangerousness and risk of harm

Once you have made an assessment of dangerousness in line with established procedures, record the results below:

- Probability of reoffending** *v. high high average low v. low*
- Risk of harm to the public** *v. high high average low v. low*
- Risk of harm to staff** *v. high high average low v. low*
- Risk of self-harm** *v. high high average low v. low*
- Registered as Schedule 1 offender?** yes no
- Are there Child Protection Register issues?** yes no
- Registered as dangerous offender?** yes no

SECTION 2 FACTORS ASSOCIATED WITH RE-OFFENDING AT FIRST ASSESSMENT

Factor	Adds to risk of reoffending?	Action planned?	If 'yes', who will take action?
1 Level of motivation to stop offending	Yes No n/a	Yes No	PO Other Probation Other
2 Awareness of impact of offending on victims	Yes No n/a	Yes No	PO Other Probation Other
3 Self-control/ anger management	Yes No n/a	Yes No	PO Other Probation Other
4 Life-skills/ social skills	Yes No n/a	Yes No	PO Other Probation Other
5 Accommodation	Yes No n/a	Yes No	PO Other Probation Other
6 Pressure from friends/neighbourhood	Yes No n/a	Yes No	PO Other Probation Other
7 Problems with personal/family relationships	Yes No n/a	Yes No	PO Other Probation Other
8 Finance	Yes No n/a	Yes No	PO Other Probation Other
9 Employability	Yes No n/a	Yes No	PO Other Probation Other
10 Education/vocational skills/literacy	Yes No n/a	Yes No	PO Other Probation Other
11 Drugs	Yes No n/a	Yes No	PO Other Probation Other
12 Alcohol	Yes No n/a	Yes No	PO Other Probation Other
13 Physical health	Yes No n/a	Yes No	PO Other Probation Other
14 Emotional/mental health	Yes No n/a	Yes No	PO Other Probation Other
15 Problems arising from sexual/physical/racial abuse	Yes No n/a	Yes No	PO Other Probation Other
16 Problem solving capacity	Yes No n/a	Yes No	PO Other Probation Other
17 Other needs (specify)	Yes No n/a	Yes No	PO Other Probation Other

SECTION 3 SUMMARY OF SUPERVISION PLAN

Desired overall outcomes	Planned actions
Supporting objectives and time-scales	
Methods used to address offending	
Nature and frequency of contact with Probation Officer/other agencies	

SECTION 4 QUARTERLY REVIEW

Review No: 1 2 3 4 5 6 7 8 9 10 11 (circle) Date: / /19

Factor	Have there been changes?	What changes? What amendments are needed to supervision plan as a result?
1 Level of motivation to stop offending	Yes No	
2 Awareness of impact of offending on victims	Yes No	
3 Self-control/anger management	Yes No	
4 Life-skills/social skills	Yes No	
5 Accommodation	Yes No	
6 Pressure from friends/ neighbourhood	Yes No	
7 Problems with personal/family relationships	Yes No	
8 Financial problems	Yes No	
9 Employability	Yes No	
10 Education/vocational skills/literacy	Yes No	
11 Drugs	Yes No	
12 Alcohol	Yes No	
13 Physical health	Yes No	
14 Emotional/mental health	Yes No	
15 Problems arising from sexual/physical/racial abuse	Yes No	
16 Problem solving capacity	Yes No	
17 Other needs (specify)	Yes No	

QUARTERLY REVIEW OF SUPERVISION PLAN

Supervision Plan: Quarterly review No: 1 2 3 4 5 6 7 8 9 10 11 (circle)

Date: / /19

Changes in risk of re-offending

Review of objectives in initial Supervision Plan

Revisions to Supervision Plan

SECTION 5 FINAL ASSESSMENT OF IMPACT OF SUPERVISION

Assessment date: / /19

Was order: [] completed successfully? [] breached? [] n/a

Factor	Has supervision helped?	What changes did supervision achieve?
1 Level of motivation to stop offending	Yes No	
2 Awareness of impact of offending on victims	Yes No	
3 Self-control/anger management	Yes No	
4 Life-skills/ social skills	Yes No	
5 Accommodation	Yes No	
6 Pressure from friends/ neighbourhood	Yes No	
7 Problems with personal/family relationships	Yes No	
8 Financial problems	Yes No	
9 Employability	Yes No	
10 Education/vocational skills/ literacy	Yes No	
11 Drugs	Yes No	
12 Alcohol	Yes No	
13 Physical health	Yes No	
14 Emotional/mental health	Yes No	
15 Problems arising from sexual/ physical/racial abuse	Yes No	
16 Problem solving capacity	Yes No	
17 Other needs (specify)	Yes No	

Annex II

Examples of the output from the Offender Group
Reconviction Score developed by the Home Office*

EXAMPLE 1

Offender Group Reconviction Score (Version 1.04)

Home Office Research and Statistics Directorate

Name: Mr. A.

Offender reference: 1234/97

Sex: male

Age at first conviction: 15

Age at current conviction: 22

Number of previous custodial sentences while under 21: 2

Total number of previous court appearances at which convicted: 12

Current offence type: burglary

The Offender Group Reconviction Score for this offender is:

91 per cent

It is essential to bear in mind that the score is an estimate of the probability that offenders with the given history of offending will be reconvicted within 2 years of commencement. It does not define the probability that a particular offender will be reconvicted.

The score is only one aspect of risk assessment-many other factors have to be taken into account when assessing the risk posed by a particular offender.

The score is an aid to judgement. It is not a substitute for that judgement.

Officer: Mr. C.

Probation Area: South Bank

Date: 19/06/97

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EXAMPLE 2

Offender Group Reconviction Score (Version 1.04)

Home Office *Research and Statistics Directorate*

Name: Mr. A.

Offender reference: 1234/97

Sex: male

Age at first conviction: 35

Age at current conviction: 49

Number of previous custodial sentences while under 21: 0

Total number of previous court appearances at which convicted: 2

Current offence type: fraud and forgery

The Offender Group Reconviction Score for this offender is:

7 per cent

It is essential to bear in mind that the score is an estimate of the probability that offenders with the given history of offending will be reconvicted within 2 years of commencement. It does not define the probability that a particular offender will be reconvicted.

The score is only one aspect of risk assessment-many other factors have to be taken into account when assessing the risk posed by a particular offender.

The score is an aid to judgement. It is not a substitute for that judgement.

Officer: Mr. C.

Probation Area: South Bank

Date: 19/06/97

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Annex III Programme

FIRST DAY (WEDNESDAY 2 JULY)

- 10:00-10:30 **Opening statement** by the Prime Minister of Malta, Alfred Sant
Introductory statements by Herman F. Woltring (Director of UNICRI) and Richard C. Nzerem (Assistant Director of the Legal & Constitutional Affairs Division of the Commonwealth Secretariat)

(Chair: Lino Agius)

- 10:30-11:00 Key presentation on **International trends in non-custodial sanctions** by Ugljesa Zvekic
- 11:30-12:00 Key presentation on **Developments in probation: an international perspective** by Robert Harris
- 12:00-12:30 Key presentation on **Knowledge transfer and its mismanagement: the ‘what works’ for administration and leaders** by Jon F. Klaus

(Chair: Richard C. Nzerem)

- 14:30-15:00 Key presentation on **What works in corrections? A blueprint for action** by Larry Motiuk
- 15:00-18:00 Working Group (1a) on **Types of supervision and ‘what works’** chaired by Sandra Scicluna
Working Group (1b) on **Community based offender programmes** chaired by Frans Lemmers
Working Group (1c) on **Use of volunteers** chaired by Takashi Kubo
Reception hosted by Charles Mangion, the Minister of Justice of Malta

SECOND DAY (THURSDAY 3 JULY)

(Chair: Herman F. Woltring)

- 09:00-09:30 Report of the Working Groups 1a, 1b and 1c
- 09:30-09:45 Presentation of the **European standards in the area of community sanctions and measures** by Wolfgang Rau
- 09:45-10:15 Key presentation on **Developing a probation capability: assessment, monitoring, evaluation and training** by Michael Hough
- 10:15-13:00 Working Group (2a) on **Training** chaired by Nancy Grosselfinger
Working Group (2b) on **Risk assessment** chaired by Larry Motiuk
Working Group (2c) on **Performance indicators and minimum standards** chaired by Jane Furniss
Social programme: St. John’s Cathedral, Barrakka Gardens and The Three Cities

THIRD DAY (FRIDAY 4 JULY)

(Chair: Eric Kibuka)

- 09:00-09:45 Report of the Working Groups 2a, 2b and 2c
- 09:45-10:15 Key presentation on **Probation as a community-based programme** by Joseph K. Gitau
- 10:15-13:00 Working Group (3a) on **Probation practice and the culture** chaired by Noah Tade
Working Group (3b) on **Introducing and revitalising probation: political dimension** chaired by Richard C. Nzerem

(Chair: Richard C. Nzerem)

- 14:30-15:00 Key presentation on **Leadership in the management of the criminal justice system** by Don Demers
- 15:00-15:15 Presentation of **The Permanent European Conference on Probation and Aftercare (CEP)** by Peter Gründler
- 15:15-16:00 Presentation of **UNICRI International Website on Probation** by Jon F. Klaus
- 16:15-18:00 Working Group (4a) on **Knowledge transfer and international co-operation** chaired by Jon F. Klaus
Working Group (4b) on **Probation, law enforcement and social welfare** chaired by Peter Gründler

FOURTH DAY (SATURDAY 5 JULY)

(Chair: Ugljesa Zvekic)

- 09:00-10:15 Report of the Working Groups 3a, 3b, 4a and 4b
- 10:15-10:30 Presentation of **the draft Handbook on Probation Services: Guidelines for Probation Practitioners and Managers** by Renaud Villé
- 10:45-13:00 Working group (I) on **The draft Handbook** (pp. 9-27) chaired by Jon F. Klaus
Working group (II) on **The draft Handbook** (pp. 29-46) chaired by Ugljesa Zvekic
Working group (III) on **The draft Handbook** (pp. 47-60) chaired by Renaud Villé

(Chair: Herman F. Woltring)

- 15:00-15:30 **Preliminary Report** of the International Training Workshop on Probation
- 15:30-16:00 Closing remarks by the organisers
Official closing by Charles Mangion, Minister of Justice of Malta
Walking Tour in Mdina
Dinner

Annex IV

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