

PROBATION IN EUROPE

Bulletin of the Conférence Permanente Européenne de la Probation

Electronic Monitoring: Big Brother is now watching you in Europe

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Two years ago, nobody was sure that a conference on monitoring would take place. High numbers gave the organisers a reason, however: Electronic Monitoring (EM) is still a topic of interest and, as it became clear during the conference, the possibilities for its use are more varied than ever. Applying the latest technology is crucial to this continuing to be true.

>> The presence of 125 participants from 23 countries at the CEP conference from 19th to 21st May 2005, organised again at Egmond aan Zee, when two years ago there were 45 participants from 7 countries, seems to confirm the need to continue to share information on EM internationally. As in the 1999, 2001 and 2003 conferences, the basic concept was to bring together those responsible for implementing EM, those producing the necessary equipment and the few university researchers working in the field.

Professor Hans-Jörg Albrecht, Director of the Max Planck Institute for Foreign and International Criminal Law (Institut für ausländisches und inter-

nationales Strafrecht) in Freiburg en Brisgau spoke of the current EM situation in a detailed introduction to his presentation while Peggy Conway, editor of the Journal of Offender Monitoring (Kingston, USA), described in hers the evolution of the subject in the USA. By doing this they cleared the way to allow next the various EM specialists present to ask their colleagues from other countries questions on points of interest. Peggy Conway pointed out that in the US it is often the case that new technology is put into action but analysis of its results can only be undertaken much later on. Some time before the conference, a written survey was carried out, where the states taking part provided information on their numbers of EM participants in 2004 and the number of cases ongoing at 31st December 2004 : >>

	PARTICIPANTS IN 2004	NO. OF CASES ON 31.12.2004
Belgium	1,377	280
England & Wales	52,923	10,601
France	2,911	719
Germany	---	---
Netherlands	3,742	---
Portugal	332	253
Scotland	---	---
Sweden	2,705	---
Switzerland	631	---
Total	64,621	11,853

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GPS Tracking in England

The scale of the English GPS (Global Positioning System) programme exceeds that of the programmes in other countries by a long way, and it is their intention to continue to invest in EM. It does not, therefore, come as a surprise that England is the first European state to have begun, since 1st September 2004, an EM scheme based on satellite surveillance.

Breath tests for drunk drivers

In the USA, as in Europe, alcohol at the wheel has become a problem. On this side of the Atlantic, however, it is little known that a framework of programmes entitled DUI (Driving Under Influence) is already in place in 45 US states, using what are known as ignition interlock devices. These are devices that make it impossible to start up a vehicle until the driver has taken a breath test to measure blood alcohol levels¹. By comparison, as many as 39% of breaches in the pilot EM project were incidences of drunk driving.

Exclusion zones

GPS Tracking allows exclusion zones to be created, or areas from which offenders are banned. This means they can be denied entry to restaurants, bars or pawnbrokers' shops where stolen goods can be stored, and GPS surveillance ensures that this ban is respected. It is said that the aim of this is to make it difficult, or even impossible, to commit certain crimes, by curbing the behaviour that leads to them.

EM Programmes for teenagers

A home curfew EM scheme during teenagers' free time has already been in progress for several years in England and Wales. This means that they are prevented from committing crimes for a while. These young people benefit from an intensive period of supervision – with, as much as possible, the help of their family – and have to learn to adhere to timetables and rules. This programme has the aim of keeping young people in their home environment, rather than surrounding them in the subculture of a prison establishment. A more lenient form of monitoring is the additional use of a voice recognition system instead of an electronic tag; the act of identifying the offender's voice by telephone confirms that s/he is there. GPS Tracking is also being used, in the form of a pilot project. This more

severe method of surveillance offers – particularly in cases of hooliganism and gang crime – the possibility of keeping young offenders at a distance from places where crimes are committed, such as stadia or certain areas where gangs operate.

The effects

The urgent need to know how effective the measures are, rather than compassion for the offender, has led research towards an emphasis on the feelings and reactions of offenders themselves. It goes without saying that the offender should be understood in relation to his personality, separately from the act committed. Directing research onto the offender's perspective serves firstly to widen what is known about the effect of different elements of a punishment. In order to achieve this, it is important to earn the interest of the person involved. Considering the average level of education of offenders, which is quite low, their relatively limited ability to express themselves in general and the great likelihood that they will not give honest answers because of various underlying motives, it can be a difficult undertaking. What is obvious is that, on its own, an electronic tag has no curative effect and does not lead to improvement. This is why it is important to find out what combinations of elements of surveillance and social work are most able to work for the offender.

EM in the asylum procedure

Similarly to the EM programme for adolescents, England and Wales are applying this format to asylum seekers with the use of voice recognition for the most lenient surveillance and GPS for the strictest. It is natural that here too direct personal contact plays an important part. Firstly, contact between the asylum seeker and the authorities has to be ensured throughout the asylum process. Moreover, it is necessary to monitor that certain territorial restrictions are respected, for example a ban on crossing the border. Knowing which methods are suitable depends on an initial risk assessment being carried out; this has to be re-evaluated and possibly adjusted after each phase of the process.

A greater emphasis on quality standards

Technological progress tends to take on a speed of its own. For a long time EM has carved out a

¹ Following the most recent developments, the level of alcohol in the blood can now be determined through the skin or in sweat. The mass-assembly of this system in cars is already technologically possible. Despite this, American programmes are often criticised for creating admittedly more vehicles which cannot be started by drunk drivers – a positive step – but for not really lowering the number of people driving whilst drunk.

niche for itself in the huge market of the surveillance industry, and competition is fierce in the sector. It is not, however, just a question of manufacturing anything and everything. In cases where EM is replacing a prison sentence it is tempting to cast aside quickly various ethical considerations for the reason that an electronic tag represents rather less of an attack on an offender's freedom. Nevertheless, the intrusion into family life, combined with 24-hour geographical monitoring, raises new questions. These issues do not yet occupy enough space in national constitutions, the European Convention on Human Rights or in Council of Europe recommendations. GPS Tracking allows a colossal amount of data to be gathered. For how long should this be kept? Who has access to the data and how are the rights of a third party, for example someone visiting the person under surveillance, guaranteed? It has been debated for the first time whether or not GPS Tracking for life is feasible². Ethical principles need to be developed first so that adequate legal controls can be adopted.

Social monitoring (Net widening)

The advent of EM is accompanied by the resurfacing of a relic from sixties criminology. There is a seemingly widespread fear that introducing new forms of punishment with a low threshold will not replace existing punishments but will cause a greater number of people – who were living peace-

fully until now – to be included in the sphere of the sentence. This fear is only partly justified, and there are hardly any comprehensive studies on the subject. Just defining this phenomenon is already creating great difficulties and nobody can deny that widening the social net can prove to be positive when the offender and/or society feel a benefit.

Social work: assistance and monitoring

Although many countries make a very clear distinction between probation and social work, EM has contributed towards the realisation that different approaches, categorised for the sake of simplicity under the term 'monitoring and assistance', can be combined easily. Contrary to the practice in the USA, Europe has no EM programmes that are not accompanied by some form of social work in the broadest sense of the term. On its own, an electronic tag is no more than an instrument. While prisons involve a very high level of control, which does not leave sufficient room for social work, EM allows the resocialisation of the offender exactly where it should happen: in society. Here begins the research into the ideal combination of assistance and monitoring on the road towards an offender attaining freedom with full responsibility.

Next EM workshop

Preparations are already underway so that the fifth conference on EM can take place in 2007, as usual in May. This year's meeting has shown that international exchanges between EM specialists are highly useful.

(Report on the fourth EM Conference in the Netherlands, previously published in August 2005 in 'Info Bulletin', with the kind permission of the Federal Office of Justice, Execution of Sentences and Measures Division, 3003 Berne) <<



² Experiments conducted with sex offenders in Florida show that the strong probability of being caught makes them reluctant to commit new crimes while they are under surveillance.

Foreign National Offenders and Victims: Meeting the challenge to work effectively and equitably

In many European countries, there are increasing numbers of foreign nationals in prisons and under probation supervision. A conference in London highlights the challenges facing criminal justice agencies.

Nick Hammond

London Probation's Diversity Directorate



>> London Probation's Diversity Directorate hosted the above-mentioned national conference on 5th April 2005. It was designed to raise awareness of the issues and barriers to providing effective and equitable services to foreign nationals who offend or who are victims. The term 'foreign national' includes the whole range of people born abroad including EU nationals, asylum seekers, refugees and illegal entrants. The conference attracted over 90 participants from prison and probation services, as well as non-governmental organisations (NGOs), from London and elsewhere.

It should not be surprising that London has taken a lead in this area. The challenge is particularly relevant for London, where 25% of residents were born abroad, contributing to the remarkable diversity of nationalities, ethnicities, languages, communities and identities that make it a leading 'world city'. However, 60% of the total of 4.3 million people living in the UK, who were born abroad, live outside the capital and pose a similar challenge and concern to prison and probation services nationally.

It is known that foreign nationals represent one of the fastest growing groups of prisoners in England and Wales, as they do indeed in many other countries. They are disproportionately represented in prisons in England and Wales, where they currently comprise 12% of the prison population - up from 8% in the early 1990s. There are no similar figures available for offenders - being supervised in the community - who were born abroad, but there is no reason to believe that

the numbers are less significant. Working with foreign national offenders in the community is mainstream, everyday work for probation staff in metropolitan areas in the UK.

Keynote speakers from the prison inspectorate outlined what had been learnt from working with foreign nationals in prisons and what is applicable in the community. Representatives from NOMS (National Offenders Management Service), the new prison and probation organisation in England and Wales, explored how their establishment might impact on work with this offender group. The issue of foreign national offenders in the community was one of their priority areas for action; therefore they would be consulting with probation areas and others to see what direction was required from the centre.

Concern has been expressed that accredited offending behaviour programmes, delivered in both prison and the community, might not be appropriate for offenders born abroad and might not be accessible to those with limited literacy or those whose first language is not English. A speaker from the National Probation Directorate and an accompanying workshop explored the issues of referral, inclusion and responsivity for foreign national offenders.

Training is key to providing probation staff with the skills, knowledge and confidence to engage with offenders from widely different cultures and backgrounds. Staff in criminal justice agencies need to be culturally sensitive and possess an enquiring mind in working with offenders who are increasingly diverse, born abroad and recently resident in the UK. With a London colleague, I presented London Probation's Foreign Nationals Strategy and the staff training modules devised to assist in its implementation.

There is evidence that foreign nationals are disproportionately represented as victims. With Probation Services in England and Wales having a statutory duty to engage with victims of violent and

sexual offences, a conference workshop explored how appropriate services should be made available.

Communication issues were highlighted as central to effective work in addressing offending behaviour and attitudes. Practical issues such as working through interpreters and the use of translated material were reviewed by a keynote speaker from the Metropolitan Police.

When an offender is placed in a probation hostel for public protection - or for reasons related to offending - particular issues can arise to ensure compliance with rules and requirements and meaningful engagement between staff and resident. A workshop discussed the needs for hostel staff to work appropriately with foreign national residents. NGOs, refugee and asylum community organisations and immigration advice services, (represented at the conference), working both in the community and prison, were seen as crucial partners in working effectively with this group of offenders and victims. NGOs often possess specific knowledge and understanding of foreign national groups and this can give them a credibility that statutory organisations can utilise to achieve shared objectives. There is a trend for prison governors to give NGOs paid contracts to provide specific services to foreign national prisoners, such as individual casework facilitating support groups and the provision of immigration advice. There is scope for this to be expanded into enhancing community supervision of foreign national offenders.

With the establishment of NOMS and the 'end-to-end' management of offenders, the conference was timely in raising the particular challenges posed to criminal justice agencies in working with foreign nationals. In the present absence of a national policy, guidance or performance targets from the National Probation Directorate on working with foreign national offenders, probation services need to ensure that their services are effective and appropriate and do not disadvantage a significant and growing section of the community. >>

In the UK, better liaison between the immigration and prison services will mean that few foreign national offenders, who can be deported following completion of their sentence, will remain here once they have served a prison sentence. The possibility also exists that the UK government may, as several European states have already done, sign the protocol regarding the additional transfer of foreign national prisoners¹. This will effectively remove the requirement for foreign national prisoners to consent to their transfer to serve a prison sentence in their own country.

However, even if this were to occur, it would only affect a small proportion of foreign national prisoners. The reality for most Western countries, certainly the UK, is that the majority of foreign national offenders passing through its criminal justice system will be released on completion of their sentence to be supervised by the probation service in the community in exactly the same manner as any other prisoner. The challenge is to ensure that foreign national prisoners have access to the full range of rehabilitative services available in prison and that they are appropriately supervised by the probation service on release. In addition, community sanctions and penalties need to ensure that they address any criminogenic needs specific to foreign national offenders.

Foreign national offenders have frequently been a focus for CEP workshops and seminars since its inception: in Vienna (1981), Helsingor (1982), and more recently Männedorf (1996), Cambridge (1997) and Barcelona (2001). This attention should continue,

as the prominence of foreign nationals in our criminal justice systems will only become more significant in the future.

Summary

- Working with foreign national offenders is becoming increasingly mainstream, everyday work for probation staff in metropolitan areas of the UK, especially London.
- Even with the increased removal and deportation of foreign national offenders, a significant proportion will be supervised by the probation service on community penalties and on release licences.
- Probation service delivery policies need to take into account those groups of offenders born abroad, as they pose particular challenges to staff striving to work effectively and equitably.
- Probation staff need to be culturally sensitive, possess an enquiring mind, and gain additional skills and knowledge to enable them to engage effectively with foreign national offenders and victims.

Copies of the conference report are available from London Probation, Diversity Directorate, 71-73 Great Peter Street, London SW1P 2BN, UK.

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¹ *Additional Protocol to the Convention on the Transfer of Sentenced Persons. ESTno. 167. Council of Europe*

The Need for an International Prison and Probation Network

Janine Plaisier and Eric Bezem

Focused on evidence-based multimodal approaches for reducing re-offending

The problem

>> Many countries are faced with a high incidence of re-offending. Every country devises its own measures to reduce re-offending. Although information is sometimes exchanged, this is not always the case. It is not unusual for a country to embark upon a strategy that has just failed in a neighbouring country.

Setting up an international network would help. Why? Because setting up a network is relatively simple, and it will result in extra information about how to reduce re-offending. This will help every country that takes part.

Incidence of re-offending is high in many countries

The incidence of re-offending amongst prisoners is high. 70% of all prisoners released from Dutch prisons in 1997 came into contact with the law again within five years. Other Western countries are facing a similar problem. The first and most important reason for preventing or reducing the incidence of re-offending is to reduce the number of victims. The second reason is to limit the high cost to society (the costs of investigation, prosecution and implementing sentences, the dispensation of justice, and harm to the victim). Dutch researchers

calculated that the behavioural intervention programme 'Begin inside', which resulted in a 24% drop in re-offending, yielded 3.50 euros for every euro invested. English estimates indicate that every English pound results in a profit of 4.83 pounds. In short: it pays to invest!

Developments in a number of Western countries

A number of countries have introduced measures to reduce the incidence of re-offending. Since the early 1990s, the Canadian Correctional Service has been conducting extensive studies of offenders to identify risk factors likely to lead them to crime and the effects of behavioural intervention. The Canadians have adjusted their policy in accordance with the results. The British Government started a policy programme at the end of the 1990s entitled 'What works'. This programme aims to reduce the incidence of re-offending by 5% within 5 years. In 2002, the Dutch Minister of Justice launched the 'Terugdringen Recidive' (Reduce Re-offending) programme, with the aim of reducing the incidence of re-offending by means of introducing an assessment instrument, providing effective behavioural programmes and case management of offenders.

The Scandinavian countries are using studies carried out in Canada and United Kingdom to explore ways of reducing re-offending. Denmark has a special 'open-unless' prison system; as far as we know, Sweden is testing the English behavioural intervention method.

Countries do occasionally consult each other. For example, behavioural programme methods developed in Canada and the United Kingdom have been purchased by a number of other countries. The Dutch assessment instrument is largely borrowed from the English instrument OASys (Offender Assessment System) which, in turn, comprises elements of the Canadian model LSI-R (Level of Service Inventory-Revised), recently revised into the LS/CMI (Level of Service/Case Management Inventory). Canadian experts take part in the English accreditation committee for behavioural intervention.

Exchanging information ad hoc

Although information is certainly being shared, distribution currently depends on the actions of enthusiastic individuals and personal contact. Of course, international networks for prison and probation do exist: the CEP (*Permanent European Conference on Probation*), the IRCE >>

(*International Round Table for correctional excellence*) and the ICPA (*International Corrections and Prisons Association*). But there is no network which integrates prison and probation, and there is no structured system for sharing information focused on evidence-based multimodal approaches for reducing re-offending of both prisoners and offenders in the community.

Therefore, not all new information is passed on directly and everyone is dependent on the good will of the current contacts. This 'system' is by no means infallible.

The solution

If the various countries were to work together and share their insights with each other on a structural basis, every country would benefit. New information would be distributed, and we could avoid the situation whereby every country wastes time trying to re-invent the wheel. We could also avoid the situation whereby we take steps that have already failed in a neighbouring country. Policy would benefit, and we would make enormous savings.

The following subjects would be interesting

Policy: What is the policy in the various countries with regard to reducing the incidence of re-offending? Which instruments are available for determining the risk and needs in certain offenders that could lead them to re-offend? (Which instruments actually work? How do they differ? Do the target groups vary between the countries? What effect does this have on policy?) Which forms of behavioural programmes are used? What is effective and practical? Are special programmes being developed for new target groups (cultural or religious differences)? How is case management put into

practice? Do the various countries have (or intend to set up) an accreditation committee to evaluate behavioural programmes? How should such a committee be formed and how should it set to work? Would a single European accreditation committee be an option or would it be possible to use similar quality criteria and share information?

Implementing policy: What can go wrong when the policy is implemented? (For example, changes to staff working practices, resistance on the part of organisations, effects of cutbacks; in short, how do the countries implement their policy and what can be learned from their experiences?)

Effects of policy: What is known about the effects of policy? How are problems that arise during studies solved? (Data collection, forming control groups, condensing psychometrics; could we join forces to develop and validate new research instruments?)

Questions like these could be answered if the countries involved were to meet regularly to exchange information and experiences. We would all be able to quickly take note of and learn from each other's results.

How to set up a network

This spring, the Dutch Ministry of Justice organised a meeting with experts from prison and probation in the United Kingdom and Canada, to speak about establishing a network. For 2006, a small-scale meeting will be organised as well. In addition, the possibility of writing a proposal for the European Union is being discussed. The 'AGIS' programme could be a source of funding for the establishment of an international network. This programme is meant to promote the exchange of information between Member States on the subject of preventing

and combating crime. However, submitting a proposal is time consuming. It may be as effective to organise a network that is funded by the prison and probation organisations themselves. For sure, we will start small and perhaps broaden the network in the coming years. If countries are interested in sharing information focused on evidence-based multimodal approaches for reducing re-offending, and if they can provide knowledge and expertise, we would like to hear from them. And, last but not least – could the organisation of the proposed meetings fall 'under the umbrella' of the CEP? The CEP of course already has many members and experts all over Europe. If a CEP-meeting could be combined with colleagues from departments of Justice and prison organisations, this would save time and money. Let's think about it. <<



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Report on the International Project 'BEST: Alternatives for Juveniles'

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(SPJ, Czech Association of Probation and Mediation in Justice)

The 'BEST: Alternatives for Juveniles' project brings together practitioners and officials from European countries to exchange information about trends, innovative programmes and 'what works' in dealing with juvenile delinquency.

History of the project

»» In 2003, a new juvenile justice law came into effect in the Czech Republic. The new law created a system of juvenile courts and defined a wide range of possible reactions to juvenile criminal activity. As part of the new law, probation programmes, which the act defines as 'educational measures', were developed. It was also necessary to develop other programmes and services as part of a range of non-custodial approaches. Because there already exist models and trends of work with young juveniles in Europe that have proved to be effective regardless of boundaries, the SPJ (the Czech Association of Probation and Mediation in Justice) decided to prepare a project that would collect information about these practices and establish a platform for the exchange of this knowledge in the future.

The Association of Probation and Mediation in Justice (SPJ) is a private, non-profit organization that has been active for over 10 years in the field of Czech criminal justice, supporting new and alternative ways of resolving criminal issues. The project is a joint initiative of the Czech Republic, Catalonia (Spain) and France. Two key institutions active in the field of youth justice in Catalonia and France are partners in the project: Direcció General de Justícia Juvenil – Departament de Justícia, Barcelona (Catalonia, Spain) and Protection Judiciaire de la Jeunesse, Ministère de la Justice, Paris (France). The project emphasizes interdisciplinary co-operation not only between project partner organisations, but also between experts from other European countries.

The target groups for the project are workers in the legal professions and professions associated with the administration of alternative sentences in the Czech Republic, France, Catalonia (Spain) and across Europe. The results of the project are intended to inspire new practices and highlight themes to work on in future.

Project content and expected results

The project uses different methods to achieve its aims: seminars, case studies, analysis and WebPages.

The first seminar 'Juvenile Justice: Which Innovations' took place on 4th to 5th July 2005, in Barcelona, and was organised as the first of three events planned within the project. Its focus was the different models of work with juveniles across Europe, particularly in Catalonia, France, the Czech Republic, Romania and Switzerland.

The event was opened by Josep Font, Director General of Juvenile Justice (Catalonia), Joan Xirau, Director of CEJFE (Centre d'Estudis Jurídics i Formació Especialitzada) (Catalonia) and Lenka Ourednícková, Vice President of CEP and Vice Chair of SPJ (Czech Republic).

Various experiences with juvenile offenders were presented:

- the results of research into the reduction in juvenile re-offending (CEJFE, Catalonia, Spain)
- the 'Roma Mentor Project', designed to improve protection and equal opportunities for Roma people within the criminal justice system (the Czech Republic)
- a model of training for those working with juveniles implemented by the CNFE-PJJ Training centre of Vaucresson (France)
- a new competence centre for child and juvenile forensics, its contribution to a stronger cooperation between judges and forensic experts, Kanton Zurich (Switzerland).

The event attracted 141 delegates and was hosted by Direcció General de Justícia Juvenil -Departament de Justícia, Catalonia and Centre d'Estudis Jurídics i Formació Especialitzada CEJFE- >>>

Departament de Justícia, Catalonia. It was organised in partnership with the Conférence Permanente Européenne de la Probation (CEP).

“The most frequent positive seminar outcome stated in the evaluation questionnaires was the opportunity to compare experience of Youth Justice themes across different European countries.” (Barcelona Seminar Evaluation – Comments to the Questionnaires Statistics)

Two other seminars are currently being prepared. One is to be held at the Vaucresson Training Centre near Paris in January 2006, and will be hosted by Protection Judiciaire de la Jeunesse - Ministère de la Justice, France. The main topic of the seminar will be ‘Mediation, Reparation and Restorative Justice in Juvenile Justice’. The third and final seminar will take place in Prague in late June 2006.

Two papers are to be prepared during the project: ‘Analysis of initial situation of youth justice in partner countries’ and ‘Needs analysis of further co-operation of partners’. Final reports from the seminars will also be produced. A ‘case study book’ will present a collection of ‘what works’ practices in partner countries and across Europe. These will be

collected during the project and will be linked to the seminars.

All documents are to be included in the project’s web site at <http://www.best.spj.cz>. This has been specially designed to meet the needs of the project. The web site serves as a tool for both external (presentation of analyses, case studies, seminar reports, etc.) and internal communication (a private section for the project’s organizers).

Project organization

The project is coordinated by the Project Steering Group; this comprises representatives from partner organizations. It will end in the summer of 2006.

The project receives financial support from the AGIS Program European Commission-Directorate General Justice, Liberty and Security. AGIS is an EU program designed to help police, the judiciary and professionals from EU member states and candidate countries co-operate in criminal matters and the fight against crime (http://europa.eu.int/comm/justice_home/). <<

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(Reference: Lenka Ourednicková’s (SPJ) Seminar Report, <http://www.best.spj.cz>)

Changes to how the end of a prison sentence is managed: ‘How to prepare better for release’

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On 18th November 2002, M. Jean-Luc WARSMANN, député (equivalent of MP) for the French Ardennes area, was given the portfolio - by the Prime Minister - of reviewing short prison sentences, preparation for release by prisoners and alternatives to incarceration.

>> After a five-month listening exercise involving movers in the legal world and grass-roots analysis, as much within courts as prison establishments, M. WARSMANN presented a report containing 87 concrete proposals around one general statement and three priority action points:

- To give back credibility and effectiveness to punishments not involving prison;
- To carry out short prison terms in a fair and appropriate way;

- To reduce the number of releases from prison without preparation on the part of the offender, in order to fight against recidivism.

On 9th March 2004 a bill, proposing adapting the criminal justice system to changes in crime, was passed by the French Parliament, significantly modifying the Code de procédure pénale (CPP – the Code of Criminal Procedure) and putting several proposals from the WARSMANN report back into what is known as its ‘prison chapter.’

1) Change to the remission system

Statement from the WARSMANN report

A detainee does not know his release date, which can vary with presidential pardons and remission. He does not even know his exact conditional release date. Simplification is needed, because knowing the precise end of the sentence means being able to prepare better for release.

Act of 9th March 2004

With article 721 of the CPP, which introduces remission credit, each sentenced prisoner will benefit from a credit, calculated by the length of the sentence; this consists of 3 months in the first year and 2 months for each successive year.

In cases of bad behaviour, the juge de l'application des peines (JAP¹ – judge overseeing a prisoner's sentence) can order that all or part of the remission be withdrawn.

New article came into force: 1st January 2005

2) New procedure for sentence application

Statement from the WARSMANN report

Prison releases without preparation have never been so numerous, and all the mechanisms for sentence adjustment to avoid this type of release are in decline: There were 5056 conditional releases on French soil in 2002, amounting to a drop by 14% over the year to reach an all-time low. There were 2550 external work placements in 2002, 800 fewer than in 2000, which was again an all-time low.

Act of 9th March 2004

All sentenced prisoners who:

- still have three months to serve in prison, from one or more sentence(s) equal to or longer than six months but shorter than two years, or
- still have six months remaining, of one or more sentence(s) equal to or longer than two years but shorter than five years must benefit from a sentence adjustment.

Measures which the regional DSPIP² can propose are:

- semi-liberty
- external work placement
- electronic tagging

The DSPIP, having consulted the prison governor, proposes the option most suited to the detainee except where:

- s/he has a record of bad conduct in prison;
- s/he has no serious plans for rehabilitation;
- there is no material way to implement the measure;
- s/he refuses to take advantage of what is proposed.

The DSPIP may make a request for the JAP, who has a period of three weeks from receipt of the case to:

- recognise as valid the DSPIP's proposal by ordering it;

- refuse to recognise it;
- decline to respond, in which case the DSPIP can decide to bring back into effect the adjustment measure after notifying the JAP and the Public Prosecutor, the latter of whom can lodge a suspensive appeal within 24 hours.

Came into force on 1st October 2004

National assessment of the new sentencing procedure (NPAP³) for the period 01.10.2004 to 01.04.2005:

12,848 detainees considered eligible (i.e. three or six months from their release date);

10,016 detainees interviewed;

6,422 detainees refused to draw up a plan under the NPAP (for two main reasons: either they preferred the traditional judicial procedure (1,594 of these), or their release was too near);

Of the 3,594 detainees who consented:

- the DSPIP did not request the JAP in 3,217 cases;
- the DSPIP requested the JAP in 377 cases, in which 220 detainees were freed by an adjustment to their sentence in accordance with this procedure.

Beyond the inherent difficulties in putting all the new laws into action, and the currently low numbers of social workers within SPIP⁴s, these changes are likely, on the one hand, to encourage a more effective integration into society for offenders by improving their preparation for release. On the other hand, the changes will ensure greater public safety by contributing towards the fight against recidivism.

Glossary

¹ JAP : Juge de l'application des peines. In France, this is a specialised magistrate in the tribunal de grande instance (the equivalent of a country court) who oversees sentences in prison but also in the area of probation.

² DSPIP : Director of the area SPIP (Service pénitentiaire d'insertion et de probation)

³ NPAP : Nouvelle procédure d'application des peines – new procedure for sentence application

⁴ SPIP : Service pénitentiaire d'insertion et de probation – the prison service's probation and integration section which, overseen by the JAP, brings together the social workers who have impartial involvement during the sentence, in preparing for release, and in an open environment during probation, working with adult offenders. <<

Enhancement of Parole in the Czech Republic

Robin Parker

Probation Service for England and Wales

Information on a new European Union funded project

»» A European Union Twinning Contract, designed to assist in the development of the Czech parole system, commenced in June 2005. The project runs for 16 months and is funded through the EU Transition Facility for new member states. It is managed by the national probation service for England and Wales and draws on a number of experts from England and Wales and Finland to provide short term consultancy and training for staff in the Czech probation and mediation service (PMS) and Czech prison service (PS).

A parole system has existed in the Czech Republic since 2002. Prisoners are eligible for early release once they have served half their sentence, or, for more serious offences, two thirds of their sentence. The decision on early release is made by a judge in open court within a prison. The judge receives reports from the prison service and, if the prisoner has previously made voluntary contact, with the probation and mediation service. The judge decides on the conditions which should be attached to early release. These conditions can include supervision from the probation and mediation service.

Since the introduction of parole, the statistics indicate that there is considerable variation between regions in the extent to which prisoners are being granted parole.

As in other countries, there is pressure on the prison service to manage an increasing prison population within the existing resources. Wider use of early release is one way in which the prison population can be reduced. This requires the clarification of mutual professional activities and the co-operation and coordination of work by the various parties who have a role to play in operating the parole system.

The key theme of the project is to enhance this co-operation. Training in assessment skills will be provided for groups of probation and mediation staff and prison staff. This will be done to increase the quality and comprehensiveness of parole assessment reports, including attention to the position of victims. Training will also be provided to a group of probation and mediation staff and prison staff to enable them to run offending behaviour groups for offenders before and after release. A series of seminars on parole will be run for state prosecutors and judges. A dialogue between the judges and probation and mediation services should assist in developing the use of supervision conditions that will effectively deal with the offending-related problems of individual parolees and, therefore, reduce the risk of re-offending.

Multi-agency working groups on parole already exist; they are also developing an offender assessment framework that can be used by both the probation and mediation and prison services. The project will be able to assist in the work of these two groups. A series of visits to England, Finland and Scotland will allow the Czechs to study how each country manages its parole system in the context of its legal and criminal justice system.

The work of the project is coordinated through a Residential Project Advisor, Robin Parker, currently based at the probation and mediation service headquarters in Prague. <<

For further information or enquiries, e-mail rparker@pms.justice.cz.

For information from the Czech side, you can contact Czech project leader Pavel Štern, Director of PMS, pstern@pms.justice.cz, or Bohuslav Burkiewicz, Deputy Director of PS, bburkiewicz@grvs.justice.cz.

Victim-Offender Mediation in Nantes – Observations by a Young Hungarian

Edit Törzs



Ministry of Justice, Probation Service, Hungary

In autumn 2004, the Nantes Rotary Club's 'training scheme' allowed 25 Hungarian young people the opportunity to complete a two-month work experience placement in the town. It was through this that, soon after finishing my law studies in Hungary, I was able to observe French victim-offender mediation up close.

>> During the course of the placement, I visited the SPIP (*Service Pénitentiaire d'Insertion et de Probation* – the Prison Service's resettlement and probation section) in the Loire-Atlantique area and spent three weeks in the mediation office at the Nantes *Palais de Justice* to broaden my knowledge of the theory and practice of mediation. Victim-offender mediation was introduced by law to the French judicial system in 1993. There had already been several pilot projects in operation since the 1980s, however, which were put in place by different courts, *parquets* (public prosecutors) or NGOs. Nantes had also taken part in this kind of scheme.

Legal basis

The aim of introducing victim-offender mediation was partly to reduce the administrative burden on the courts and partly to ensure an effective outcome, on the part of the state, in the many cases perceived to be of low criminal severity by the law; these are normally closed by the prosecutor without further explanation. The peculiarity of the 1993 law lies in the fact that no new organisation was created to take on mediation, nor was any existing institution tasked with it. The law sets out

that budgeted funds be allocated for the plan, and that public prosecutors orchestrate and put into action a system for mediation. As a result, a great variety of solutions have been arrived at. In some towns, the mediation office is within the public prosecutor's office itself, whereas in others independent organisations or volunteers run the mediation scheme. The major inconvenience of this varied system, proposed by the law, is that it does not encourage nationwide, unified practices, and the success of its work depends very much on the level of commitment of local prosecutors. On the positive side, however, the system is flexible enough to adapt to local circumstances and requirements.

How it works

It is the prosecutor who can and should make the decision to start the mediation process. If this is the case, he/she will provide the mediator with access to the file and set the timeframe for the process. The mediator meets the parties involved in the crime (the perpetrator and the victim) individually, one after the other, to explain the procedure, as well as to learn the two views of the crime and the expectations of the participants. For the duration of the process,

a lawyer is on hand to assist all parties. Once the consent of each party has been obtained, the mediator organises the meeting between them. The aim of this meeting is to establish dialogue between the perpetrator and the victim of the crime, with a view to resolving the conflict and drawing up a written document to show the agreement reached by the parties. This document can also be signed in the absence of one of the parties, depending on the conditions of the case. When an agreement has been reached, the mediator prepares the document setting out the conditions, signs it and obtains a signature from both parties. He/she must also make sure that the conditions finalised in this document are respected and put into practice. If all the conditions have been fulfilled and respected, the mediator brings the case to the prosecutor, who then decides whether or not the case can be closed. If the case has been closed, it will not be included in the criminal record, which means that a procedure of this kind carries no stigma. If the process fails – when the offender does not meet the mediator, or if the parties do not come to an agreement, or do not respect the conditions laid down by the agreement – the mediator >>>

then takes the case to the public prosecutor. The next step depends on the decision of the prosecutor, who can bring it before the judge, find other alternatives or even close the case.

Mediation in practice in Nantes

The practice of mediation dates back a long way in the town of Nantes. In the majority of cases, the public prosecutor seeks to suggest alternatives. In order to achieve this, the town needs a constant professional group in charge of

mediation. The service in Nantes is provided by an NGO, the Association d'Action Éducative (educational action group) of Loire-Atlantique. This group has been in operation since 1961 and has also been involved in child protection and carrying out alternatives to criminal prosecution, such as official warnings, composition pénale and other measures. The group maintains good relations with legal institutions and bodies, a situation illustrated by the mediation service having its office within the Palais de Justice

building. Its mediators also work in the two Maisons de la Justice et du Droit (the equivalent of courts liaison offices) set up in the Nantes suburbs. There is currently no professional training for the mediators of the future in the French university system. Most mediators in Nantes have a background in psychology, pedagogy or law. In 2003, 70% of the 827 cases of mediation were managed successfully by the Association. The average length of each process was between one and three months. <<

'MAPPING RESTORATIVE JUSTICE – DEVELOPMENTS IN 25 EUROPEAN COUNTRIES'

Publisher: European Forum for Victim-Offender Mediation and Restorative Justice, <http://www.euforumrj.org>
ISBN 90-901-8752-9, edited by David Miers and Jolien Willemsens

It is appropriate that this book on European restorative justice should be reviewed in the same edition of the Bulletin in which a lawyer, working for the Hungarian probation service, writes about her experiences of Penal Mediation in France.

Mapping Restorative Justice does us all a sterling service in providing a comprehensive handbook that outlines, in a standard comparative format, the present situation of restorative justice from Albania to Iceland.

This volume is not for the uninitiated: the reader is expected to be familiar with the basic tenets and principles of restorative justice. However, the editors have done an excellent job in first securing the information from a wide range of contributors and then polishing the English to publication standards – no mean task, if the experience of the CEP is anything to go by. The result is an extremely useful reference

book that both marks the achievements so far in the development of restorative justice in 25 European countries, and one which provides a much needed summary of the current evaluations that some countries have achieved.

It also provides a wealth of material in an easy-to-read format that allows the reader to compare and contrast jurisdictions and developments. The spread of the range of practice achieved across Europe is well illustrated by references to the legal basis and the scope for action. (It is reassuring that the absence of the former does not inhibit the latter in such places as Denmark and the Netherlands.)

This is a book that maps the unevenness of development in both mediation and restorative justice models across Europe. It is a valuable addition to any practitioner or researcher's bookshelf and an essential handbook for anyone who takes an interest in the development of Restorative Justice in a world where the retributive response is still the dominant model.

Kevin Barry

The 'Goldstein' Programme in Romania

Dalina Groza

Probation Service Arad, Romania

An experiment conducted by the Probation Service in Arad, Romania

>> The author of this approach, Arnold Goldstein (1933 – 2002) developed this learning programme as a method that is responsive to the lifestyle and world of underprivileged clients. His method is directed towards increasing skills. This includes giving the participants the opportunity to practice new skills in their own lives; motivating them to apply the learning points in their own environment; equipping them to deal with or avoid future problems; helping them to maintain a positive self image and confidence, and encouraging them to understand how social skills can lead to social success.

The experiment in Arad consisted of 5 sessions (each of them lasting 2 hours) and the main topics were: beginning a conversation, listening and talking, expressing and reacting to anger, giving criticism and replying to criticism, expressing personal opinions, expressing and reacting to gratitude.

The main techniques employed were: presentations, illustrating with examples, repetition of good examples, approval, debate, role-play and brainstorming. The monitoring and assessment methods were simple, creative and, in addition, stimulating the participants' involvement: summarizing, observation, questionnaire, role-play and essay.

The techniques used were well received by the participants because the trainers paid attention to their level of understanding, something that is usually very low.

The trainers felt that the Goldstein Programme was very useful and strongly connected with the offenders' needs. They noticed positive changes in behavior and attitudes toward themselves, the other group participants, the authorities (including probation staff) and other people from their own life and social environment. The programme resulted in a significant improvement in communication skills, an increased ability to express feelings, and regard for the feelings of others. Now, when a client comes into our office and says "Hello, how nice to see you again," or when he thinks, "The poor victim! I'll never offend against somebody again because now I know how the victim felt," we know that this client has participated in the Goldstein Programme. <<

If you are interested in reading more about the programme, the following books will be useful: Goldstein, A.P., "Structured Learning Therapy. Towards a Psychotherapy for the Poor", 1973, New York, Academic Press; Goldstein, A.P., "Psychological Skill-training Structured Learning Therapy", 1981, New York, Academic Press; Goldberg, A.D., "Arnold Goldstein: From Counselor to Psychoeducator"; <http://www.uscart.org/Graphics/AGoldsteinProfile.pdf>. Or write to: srssarad@yahoo.com.

Handbook for Working with Volunteers

In 2005, the Swedish Prison and Probation Administration issued new governing principles for its work with lay-supervisors (volunteers). While these rules are complementary to Swedish laws and other regulations and are intended, primarily, to support the officers in the Probation Service, they should also inform lay-supervisors and prison officers.

The idea of the participation of the 'ordinary citizen' in the penal system is still politically acceptable. In earlier days, the role of the lay-supervisor could be quite independent but now the stress is on the volunteer as a role-model in everyday life.

The main chapters of the document cover: the arguments for volunteer participation (for society and the offender); general requirements for the role of volunteer; matching; enlistment (14 different ways); probation officer's guidance of the volunteer; financial conditions for the lay-supervisor; and important points for local services.

There are several links to sub-chapters, for example, to the historical background and a report on the effectiveness of volunteer supervision in crime prevention in the U.S. The results of several projects are very encouraging, but one has to consider the impact of differences in judicial systems. It would be interesting to replicate this kind of research elsewhere.

When training lay-supervisors, the handbook recommends the material constructed by the National Association for Voluntary Society Workers, the RFS (Riksförbundet Frivilliga Samhällsarbete), in co-operation with the National Administration. Website: www.rfs.a.se.

These new principles will be followed up by the relevant managers in accordance with the administration's Quality System.

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Family House in Denmark

The 'Engelsborg' halfway house, run by the Danish Probation Service, is situated in the outskirts of Copenhagen, Denmark.

For 25 years, inmates serving the last period of their sentence, as well as parolees and probation clients, have been able to live there with their children.

The experiences drawn from this work, combined with research about the problems for the children of prisoners, led to the establishment of a family house closely linked to Engelsborg. There the needs of the children can be met in order to - as far as possible - counteract the negative impact of a parent in prison.

The aim is to secure a proper and safe setting for the families during the period of incarceration. At the same time, goal-oriented and comprehensive work is undertaken with a particular focus on the development of the parents' competencies and their responsibility towards their children. Special emphasis is placed on the development of the children, with a view to deflecting them from a criminal career.

The staff will be trained as Marte Meo therapists and as systemic case managers.

For further information please contact the head of the half way house Kirsten Neimann: kirstenmargrethe.neimann@kriminalforsorgen.dk.

CEP Agenda, 2006

16-17 January, Vauresson, France. Seminar (English-French) on 'Mediation and Reparation in Juvenile Justice'. This is the second of a three-seminar series planned to be held as part of the project 'BEST: Alternatives for Juveniles'.
Information: www.best.spj.cz.

26-27 January, Madrid, Spain. Workshop for the Director Generals of Probation Services in Europe. Information: www.cep-probation.org.

2-3 March, Budapest, Hungary. Seminar on 'Setting up a Probation Service in Central and Eastern Europe'. Information: www.cep-probation.org.

June, Prague, Czech Republic. Seminar (Czech-English) on 'Juvenile Justice'. This is the third of a three-seminar series planned to be held as part of the project 'BEST: Alternatives for Juveniles'. Date not yet fixed at the time this Bulletin went to print. Information: www.best.spj.cz.

21-23 June, Jersey. Conference on the 'Future of Probation', 25th anniversary of the C.E.P. Information: www.cep-probation.org.

21-22 September, Lisbon, Portugal. Workshop on 'Improving Standards of Probation Work'. Information: www.cep-probation.org.

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