

Script for round table discussion on best practice at the 6th CEP conference on Electronic Monitoring, Egmond aan Zee, 7th-9th of May 2009.

Has EM made probation better?

I must admit I got a bit carried away while working with my script for this session – it ended up nothing like I intended and also a bit too time consuming for this session. I have been doing this for a long time now - dealing with EM that is - since the early 90's and I have been poking my nose into most aspects of EM. I attended the first CEP on EM in 1998 – at that time gathering some 30 or 40 participants - and any way you count I guess you could say I am an oldtimer in this field of correctional work. I think this is what came over me while working with the script and made end up in a kind of biography over my “EM-life” – or it could also have been all the free drinks at the venue..... I'll do my best to squeeze it in to the desired time window.

I think my oldtimer status gives me the right to be a bit retrospective and I intend to lead you through a glimpse in the rear view mirror for a view on times before EM and in the early days of EM – at times perhaps in a bit of a bantering way, which also is a well earned prerogative. If you will bare with me you will eventually - I hope - see that this builds up to my view on EM today and the impact this new tool in the correctional work have had on probationary work and above all on the use of imprisonment.

But let me start even further back in time.... Once upon the time as a very young and clueless man I was dead set on being an architect. A couple of years later I found myself studying psychology, sociology and whatever classes there were around on social and anti social behavior.

The story on this – since we are on the clock - goes something like this: left mummy - architecture on the university - beautiful young woman - lost head and direction - new town - new university - whatever courses available.

On my third term I was supposed to practice as an assistant at the personnel department on a big company in the city. After only two weeks it became clear to me that my supervisor was much more into drinking than me and working and hardly never showed up at work - and I realized I had to find another place to do my practice. A couple of weeks into the term there was only one vacant place available in the area – as an assistant at a local mid security prison. A couple of phone calls and one day later I was installed at the prison – totally unprepared and without any clue of direction or what to expect from prison.

I was very surprised over what I learned during that term at the prison. Most of the men I met in prison was quite ordinary people - sometimes not fully ordinary, but at least quite ordinary - and to me in many cases it felt like an overkill to lock them up in prison, especially since it was quite obvious that the imprisonment did them no good and in most cases did not lead to any desired changes on their direction in life and if any changes at all where to be found they were most often in a non desired direction, further into anti social behaviour and crime.

It was also quite obvious to me that most of them felt quite degraded and humiliated by the incarceration and that this made them most reluctant to play the games

provided by the prison administration, such as motivational or treatment programmes. I was then - as I am now - all for prison in cases where it is the matched choice, but it felt quite obvious that the imprisonment in many cases was more a result of lack of reasonable alternatives than anything else.

I left the prison in frustration – glad not being a tax payer... and that my friends did not know what I learned during my term at prison.

After leaving the university a couple of years later I started working in the Probation Service. In those days most of my colleagues in the PS felt that being a buddy with the offender and that the occasional motherly hug could fix most problems and probably – probably since there were no scientific support for this – and because a large portion of the offenders kept on misconducting and reoffending in a big way – this would eventually lead the probationers into the right and narrow track. Myself I experienced a huge lack of control and with the feeling of always ending up at the short end of the stick in the relation to the offenders - and I mostly felt like an assessor in continuous anti social behaviour and crime....but that is a story for another occasion and a wider time window.

In the late 80's the first discussions on the use of EM in correctional work started in Sweden – since it was previously only launched in the US we had to take the traditional detour by first calling the Americans crazy for doing what they were doing and then a couple of years later do it ourselves but with a Swedish manual. In 1990 and 1991 the discussion went off in a big way and in the spring of 1994 the parliament passed the law on home detention with EM.

This was really early days in the history of EM and to most people using EM in this context was something brand new and quite confusing, possible even a bit suspicious. Even so I was quite surprised that most comments focused on the monitoring possible being too intrusive and possible being a risk to the integrity of the offender – the way I always get whenever EM or any other alternative means used to build good alternatives to prison is commented without references to the conditions in prison and the outcome of using imprisonment, which still happens from time to time. Of course you have to mind your step when applying and performing EM, but in my book there is nothing more intrusive and more threatening to the integrity of the offender than stripping him of everything and lock him up in prison. You will have to do really, really bad to do worse in this respect with probation and home detention, whatever tools you are using to constrain the offenders.

Still the introduction was successful and the trip from there on has been a fantastic journey to have had the privilege to be a part of – both when referring to the Swedish operation and when looking at what has happened, and is still ongoing, in the rest of Europe. During these 15 years it has been a massive – and during the last 10 years also a rapid evolution of both the technology and the number of users and programmes using the technology.

According to the information gathered by CEP before this venue close to 100 000 sentences in Europe alone was enforced during last year in programs using EM as a constraining tool and on any given day today there are close to 30 000 offenders under EM in Europe - and the numbers are continuously rising as programmes still are growing and new countries are enrolling to the community of EM users...and the

peak is still far off! 30 000 people that most of them otherwise would have been imprisoned - and a huge increase of people under probation!

As stand alone facts these numbers are quite remarkable – both from a political and policy perspective, but also from an economic point of view. Without doing the mathematics in detail it is quite obvious that the use of EM in Europe in a big way is cutting costs in the correctional work – based on my experience from the Swedish operation we are talking about yearly savings of at least 400.000.000 Euros or a little bit more than 300.000.000 USD only when referring to the replacement of prison – adding on the secondary decrease of expenses for society in terms of keeping the offender in his every day situation, working and paying tax, providing for himself and his family, not being or getting dependent on economic support and with limited negative effects from the execution of his sentence...., we are talking really big money – probably at least twice the amount of the direct or prime saving from not having to pay for the incarceration.

It is obvious that we are talking big money to any society and to any corrective administration - constantly under economic pressure. This picture makes it obvious that EM has become a most important factor in the European correctional work - and certainly for most administrations using EM today a necessity to make ends meet. This conclusion tells you that EM is a most economically effective tool in this scenario... and it also suggests that we are stuck with it and dependent on it for the future to come.

So, we are saving a lot of money – or rather cutting costs in a big way – but have the corrective work and the ambition to restore the offender to be a good community member, not reoffending and contributing to society improved from this rapid growth and massive use of EM - have probation gotten better because of EM?

To begin with I would like to point out the obvious - that EM unfortunately has very little healing powers of its own, as you sometime could be fooled to think when listening to discussions on the subject or expectations on the programmes. EM has made the introduction of a lot of new measures in the line of corrective work possible, but whether this work as a whole or probation specifically actually has improved by the use of EM or not in the end has very little to do with the technology it self or the application of EM to the programme, but with the content of the programmes – such as the directive rules, choice of target group, selection criteria, strategy for control, whether you allow alcohol and drugs or not and how you follow up on this and the over all policy on what is regarded to be misconduct and on breaches and what kind of regime that is used in this context.

It is of course tempting for someone like me to say that EM has improved the corrective work and made probation better, but this is a complex question and it should not be easily dismissed.

Since the use of EM makes it possible to in a large scale cut down on the use of prison - to where huge quantities of recourses, ambition and expectations goes in but from where very little good comes out - I would without reservation say that the corrective work apart from the economic upside also has improved in terms of humanity, diversity and better matching of offenders to appropriate measures.

This does of course not automatically mean that probation has improved – and I also think you will have to be a bit cautious when evaluating this. There are a few programs around today with the same basic rules and regimes, for instance the programs established and are being built in the Nordic countries, but most often the differences between the many European programs are just as big or even bigger than the similarities - and often one of the few common factors is the use of EM.

To settle with the label “EM-programme” on all these programs and measure them by the same standards will be misleading and will give you false perceptions when comparing or adding them up in terms of for instance breaches or reoffending. Never the less, this is frequently done.

At the end of the day the outcome of your programme will have to be measured and evaluated in reference to the specific demands set up for that programme – and what is referred to as a success in one program does not necessarily have to be that in the next programme.

Another problem in this context is that when looking at the outcome of different programs it not that easy to define what is directly related to the use of EM and what is not – a high rate of breaches could be an effect of EM but also of frequent interaction with the offender by the probation service in one program and the other way around in the next program. These are issues that keep bumping around in my head whenever I get the classic and frequently asked question - Does EM work?

To compare the programmes based on various volumes or on the total numbers, won't tell you much more than the differences in numbers - how many offenders are enrolled to the programmes and to what extend EM is used - and adding the numbers up to total volumes over different aspects of the programmes will give you a most disputable basis to draw any conclusions from. Therefore I won't get into that.

What I can do though, is to give you my evaluation on the use of EM in correctional work and specifically in probation based on my experience from working in and managing the Swedish programme on home detention and from independent evaluations of this operation. Since this programme is an alternative for prison my experiences and conclusions are limited to this kind of set up.

A short introduction to those who does not know the Swedish program:

It has been on since -94 and it is an alternative way to execute prison sentences.

Participation in the programme is not decided by the courts but by the administration.

It is a home detention programme with two schemes - frontdoor and backdoor. The rules in the programme are quite strict and reactions to non compliance are quick and strict. The level of control is high. There is a total ban on alcohol and drugs.

Motivational programmes are mandatory to all offenders being assessed to be in need for this. Over all you could say that the programme is characterized by an interventient approach with the aim to make a difference where needed. The technology is RF-based and fully operated by the administration. There are no private companies involved in managing the programme.

Today almost 15% of those sentenced to prison in Sweden serve their time in home detention under EM. Most of them (80%) in the front door scheme, where sentences on six months or less gives you eligibility and the rest in a back door scheme where all imprisoned offenders are eligible - but due to a complicated set up of rules applies only for those with a sentence of at least 6 months.

I must admit I am getting a bit tired of hearing myself describing the success story of the Swedish home detention schemes – but what can I do? The basic objectives for the Swedish home detention programme were to create a trustworthy and humane alternative to prison... to a lower cost than imprisonment – and the programme have of course been a success in economic terms, but also in terms of acceptance from the public. Also all the directly involved parties accept most parts of the program, the offenders and the probation service included, and finds it to be a good alternative - and when it comes to the back door scheme also an addition to prison.

The EM have made it possible, in a way that would not otherwise have been possible to achieve, to build a new measure for the these target groups, almost as intervenient as prison, with constraining and restraining capability enough to be accepted as an alternative to prison - perceived to be almost as punitive, but at least punitive enough - but much less stigmatizing and with less unwanted side effects and with a significantly better position for most efforts you may want to apply in the correctional work. On top of this it is also much less expensive than prison. Sounds like something the wizard pull out from is hat.., almost too good to be true!

A receipt suggesting a good choice of target group and possible also a good content and performance of the program is that the reoffending rate for both schemes is lower than for the comparable offender group doing their time in prison – in the front door scheme the reoffending rate within 3 year equals to approximately half the rate of those serving their time in prison (13-24%) and also in the reoffending rate for those taking part of the back door scheme there is a small but still significant difference in reoffending. Also the rate of misconduct is quite low, approximately 10% in both schemes.

Of course there are limits also on how you can apply EM. The most obvious one is that EM is not for all offenders - some has to be incarcerated for reasons of public conception of justice and the public opinion on the use of alternatives to prison, reasons of public safety and due to assessed risks of misconduct and reoffending during the execution of the sentence.

The risk assessment is a critical tool since you do not need - or cannot take - to much misconduct and to many breaches in your program before risking to expose yourself and the program for criticism and cries for more punitive alternatives. At the same time working with the Swedish approach you need to reach those in most need of the support of the program by all the time stretching your boundaries as far as the programme can handle in terms of risks.

When designing your target group and matching it to the content of the program you will also be limited by the fact that you are dependent on the offender free will to participate in this alternative - and you will have to come up with a design that makes the EM programme a desired alternative to something default and less attractive to the offender.

The home detention program has made it possible to stop the overkill I experienced in my term in prison. There is a group of offenders without any obvious problems or specific needs - that cannot be labelled as having a typical anti social behaviour or being described as criminals in the popular sense of the word...and not posing a

challenge for the probation service - but traditionally being locked up in prison simply because there were no constraining and intrusive alternatives good enough around. I would say that this applies for almost half of the group in the front door scheme - which on a daily basis means some 250 people less in prison. Today they are serving their sentences as probationers in home detention constrained by EM.

I am all for prison where no alternatives apply - but generally speaking I would say that the massive redirection of offenders from prison to probation is something good and also presents a much better possibility to achieve whatever you want to achieve during the execution of the sentence.... and that you - again generally speaking - should have much better prerequisites for this work in probation than in prison.

In my mind there is no doubt that EM the way it is used in Sweden has been and still is making probation better. Already the fact that a lot of people are redirected from prison to probation is a good prerequisite for this since the service is growing bigger, getting a better status in society and in relation to the prison organisation and a strengthened self image.

In the Swedish set up we do not use any service provider for any part of the EM and the probation service manage also the technical enrolment of the offenders to the system and the actual monitoring. I think that also this solution with the service in charge of all steps of the process of home detention and the EM has been a most important factor in the way I feel the service has grown in self respect by working with home detention, making them to do a better work.

Also the new operation has made work within the service more diversified and interesting, making it more interesting to work in the organisation. The massive public interest for the home detention programme and the EM over the years have put this former most hidden part of the administration on the map and contributed even further to the new role of the service.

Sensibly used EM can also directly improve probation in terms of managing the offenders. You cannot do much with an offender not being present as agreed and it takes a lot of recourses to keep running around looking for him all the time – which is not unusual in the ordinary probation work. This was my second frustration in the early days in the administration, when working in the Probation Service in the 80's. The EM presents a possibility to provides the stability and continuity in the relation to the offender that otherwise in many cases would not be that easy to accomplish and again in many cases impossible to establish.

The word from the Probation Service is that the EM gives them an advantage in the work with the home detention clientele compared to their work with other offenders. The tag and the receiver is a most physically and always present reminder of the restrains applied, making the control an obvious and undisputable part of the programme - and saving a lot of discussions on how, why and when the control should or could be organised and applied. The awareness of the EM for sure prevents a lot of detours by the offenders during the execution of the sentence, helping them to comply with the program and to be able to follow the program through.

Looking at the complete home detention program, enabled by the use of EM there are a lot of parameters improving the possibility for the Probation Service's work with the

offenders. The basic one is that you usually meet the offender in a context much better suited for reaching out to him - and also the concept with home detention as an alternative to the default imprisonment is a most effective tool for having the ear and mind of the offender.

For many offenders the home detention presents a salvation on the door step to hell, after being processed all the way from the initial police intervention and down to court and the sentencing to prison – finally rescued by home detention on the threshold to prison, this often give an extra push to their motivation to play along with the service.

Especially in the front door scheme there are a lot of first timers that traditionally used to be imprisoned but thanks to the home detention programme can be kept out of prison – which most certainly will contribute to keep reoffending down in these cases. Due to the mandatory motivational programmes many first timers in the home detention programme – especially those with alcohol related issues - are for the first time confronted with the concept of possibly having or being on the road to a behaviour they cannot handle, working as an incentive for a change in behaviour - the chance of this happening in a Swedish prison is substantially lower, close to zero.

All together there are a lot of good features and characteristics in the home detention programme presenting a much better possibility for an improved probation.

Finally, a word about the evaluation on the use of EM. For starters I would, once again, like to emphasize the importance of not evaluating apples and pears by the same standards, the way it is frequently done when looking for answer to the “one-million-dollar-question” – does EM work?

When EM is used the Swedish way - as an alternative to imprisonment - you need to compare whatever findings you may come up with to those you can observe in a control group serving their time in prison or to a scenario from prison, otherwise you will loose your perspective – it goes without saying that it would be nicer sitting at home serving your sentence without EM, but since the home detention is only accomplished by the use of EM this is a none relevant issue.

Also when looking at the outcome of the alternatives accomplished by the use of EM you need to appreciate that there are a lot of other issues than long term recidivism to study when evaluating what have been achieved in the programmes – for instance the humanitarian aspect. I would also like to point out that an EM programme does not have to better than prison to be a success. As long as you can show results on the important aspects of execution of sentences in your programme - for instance on recidivism - that are in comparison to those of the offenders doing prison time you have most likely achieved something good with your programme.

So, to conclude from a bit of a private angle:

I can look back at a fantastic journey - a magic mystery tour - an evolutionary tour perhaps best described as a revolution, especially when referring to the decrease in the use of prison. During this journey both the correctional work as a whole and probation specifically without any doubt has changed for the better in a big way - and I have been restored from my experiences during the term in prison and my early years in the probation service. I also feel like I have been a part of something really big. Perhaps one of the biggest single steps forward taken in the correctional work in Sweden since the last executioner was fired, which would be more than a century ago.

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