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Is probation effective? Yes, but....

A literature review



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Introduction

- Part of the STRREAM project co-funded by the European Commission
- Still work in progress – your assistance is most welcome
- Some preliminary conclusions
- Initially – the impact of one to one supervision but in the literature great overlap between 1to1 supervision and traditional probation:
 - ‘... one-to-one contact is the main method used to supervise millions of people subject to probation and similar community sentences world-wide...’ (Raynor et al., 2013)

Inclusion criteria

1. published and unpublished papers describing the impact of one to one supervision or the impact of probation in general,
1. only young and adult supervision is included,
3. impact can be evaluated statistically but also in a narrative form,
4. issued after 1970,
5. research produced or/and published in one of the EU countries (mainly).

Exclusion criteria

- No juveniles
- No specialized forms of probation programs
- No groupwork

Sources of information

- Electronic databases – journals and websites of different ministries and national institutes.
- Specialized networks: COST Action, CSM Working Group of ESC, CEP etc.
- Project partners

What is effectiveness?

- Merrington and Hine (2001) - 'does the intervention achieve its intended objectives?' (2-2).
- But what objectives?

Probation objectives in Europe

Based on Durnescu (2008) and Shapland et al.(2012) – taxonomy of probation in Europe based on their purposes (different ways and concert):

Model of probation	Characteristics
Promoting community sanctions and measures	Increase the proportion of the community sanctions and measures as compared with imprisonment.
Assisting judiciary decisions	Judicial satisfaction with reports and supervision
Public protection	Controlling offenders in the community
Punishment/Enforcement	Compliance and recall
Rehabilitation / Preventing reoffending / Promoting desistance	Reduced reconviction and improve social inclusion
Victim's interest	Victim satisfaction and redress

I. Impact of probation in promoting CSM

- The oldest purpose
- Measured by comparing the 'market share' of csm with other sanctions, mainly imprisonment
- But net widening – probation alternative to softer options
- Literature focused more on how and to what extent probation divert prison-eligible cases to community supervision
- Evidence – quite ambivalent:
 - Oatham and Simon (1972) – only 40-50% people of suspended sentence would go to prison otherwise
 - Bottoms (1987) – E & W - introduction of suspended sentence (1967) led to reduction in the use of fine and probation not imprisonment. Longer sentences if suspended.
 - Rozum ar al. (2005) in Czech Rep – sometimes alternatives replace suspended sentence
 - Tait (1995) – Australia – introduction followed by decrease in imprisonment but once they start breaching the order – 'back-end net widening'
 - Brownlee and Joanes (1993) – evaluating 'The Edge', Leeds – targeting young offenders with high risk of custody, intensive supervision – natural experiment – 89% diversion rate, 2% decrease in custodial rate and 3% increase in the use of probation.
 - Seppala (2004) – Finland – not only probation but other mechanisms – reform the treatment for fine defaulters, transform the sentencing practices for theft, look at pre-trial detention etc.

Conclusion 1

- Prison / Probation – complex relationship
- ‘The paradox of probation’:
The paradox of probation model posits that probation simultaneously serves as both an alternative to prison and as a net-widener that expands carceral control.’ (Phelps, 2013: 57)
- To enhance the diversionary power of probation – inter-related:
 - To regulate csm for medium and medium-high risk offenders
 - To reform the sentencing policies – e.g. divert drug offenders
 - To allow smart policies for breach
 - To promote probation practice that support compliance
 - Do not look at probation as ‘a magic bullet’ – adopt flanking measures

II. Impact of probation on decision making

- Pre-sentence reports
- After the 70s
- Stanley and Murphy (1984) – 63% agreement
- Gelsthorpe and Raynor (1995) – the importance of quality (151 PSR):

‘the better reports were more successful in enabling sentencers to pass community sentences with confidence and to rely correspondingly less on imprisonment.’ (197)
- Tata et al. (2008) – what is quality?
 - realism and ‘engagement through narrative’

Conclusion 2

- Probation can influence decision making if PSR are realistic and coherent
- Caution – ‘second guessing’

III. Impact of probation on public protection

- Literature focused on post-release supervision: parole and indeterminate supervision (MAPPA)
- Parole:
 - Solomon et al. (2005) – SUA – **no significant difference** between postincarceration supervision and max outs
 - Schlagger and Robbins (2008) – New Jersey – **70% max out, 60% parolees** within 4 years, differences in survival time – **349 days max out/465 days parole**
 - Osterman (2013) – if the **active supervision time** taken out – difference of 1% between the groups – parole supervision effective on short term.
 - Rozum, Kotulan and Tomasek (2008) – Czech Rep – followed 672 parolees – 39,9% reconvicted – higher among the young offenders
 - Dawson and Stanko (2010) – impact of the Diamond Initiative – ex-inmates and their partners – **28%** within 6 months compared with control group from previous year – **43%** - Comparable groups (OGRS)
 - Lewis et al. (2003) – evaluated pathfinders – compared probation / voluntary led initiatives – probation led higher levels of contact continuity, change in attitude, beliefs and self reported problems, lower reconviction rates

- MAPPA:

- Co-ordinated supervision after full release for violent and sex offenders – E&W, FR,DE etc.
- More and more people on this arrangement – **55,002** on 31 March 2012, 76/81 per 100 000 inhabitants sex offenders between 2011 and 2012
- ‘only’ **145** offenders were charged with serious further offence
- Kemshall (2011) – in 2009 **only 0.26%** of probationers (out of 180 000 probationers) reoffended seriously harmfully.

Conclusion 3

- Post-release supervision seems to make a difference but not huge
- Even smaller difference with young offenders
- Older ones maybe desist anyway?
- MAPPA quite difficult in terms of human rights

IV. Probation as punishment

- In the literature measured as **revocation or recall** rate
- Padfield (2012) – new category of prisoners with lots of issues – recalled prisoners – E&W: 2,457 in 2001/**13,919** in 2010
- Causes: lack of programs inside the prison, recall decision making, the journey towards re-release.
- Digard (2010) – lack of **procedural fairness** in the eyes of the recalled prisoners

Conclusion 4

- Is it a good probation performance to have a high revocation rate?
- Maybe not: **compliance literature** (see for instance Robinson and McNeill, 2008) speaks about the importance of substantive compliance as opposed to formal compliance.
- Substantive compliance – active involvement and engagement to solve problems and change lifestyle – long term improvement

V. Impact of probation on reoffending

- Reconviction studies
- Especially after the 80s – when effectiveness became important
- In EU – the role of EU Commission – ‘culture of evaluation’
- Different designs: RCT, quasi-experimental, qualitative – all important, complementary to each other

Results

- USA – origin in the medical science
- USA - Bergman (1976), Petersilia, Turner and Peterson (1986) – prison and probation groups, controlled on different variables – probation lower prevalence in reoffending
- Europe – Tournier (2005) – France – quasi- experimental – large sample (5234 cases) – significant difference between prison and suspended sentence with probation in terms of severe recidivism (immediate imprisonment) – **61%/52%** within 5 years. The difference is **smaller of looking at all reoffending** types (72/68%) – the difference is in quality of reoffending
- Jolliffe and Hedderman (2012) – RCS in E&W, compared reconviction rates between community order/post-release supervision/release from prison – controlled for matching – **39,2%** (community order and post-release supervision), **53%** (release from prison);
 - Difference in the **frequency** of reoffending – 3.3 vs. 4
 - Differences **in survival time** - 135,4 vs. 122,5 days
- Browlee (1995) – E&W - ‘The Edge’ – the same result – natural experiment
- Leonardi (2007) – Italy – qualitative longitudinal – ‘probation is a valid solution to reduce recidivism’
- Villacampa et al. (2006) – Catalonia - longitudinal, 329 subjects – lower recidivism for community sentence

Conclusions

- Reconviction rates seem to be **slightly lower** after community sentences than after imprisonment even when checked for comparability.
- More research is needed in Europe with more creative post-qualitative/quantitative discourse to understand why, what, with whom, by who and in what circumstances can make an impact on recidivism/desistance

V.1 The impact of different contents of interventions

- US and Canada research produced evidence that programs that adhere to the RNR principles can reduce *reoffending* significantly.
‘programs that incorporate all of these principles into their therapeutic framework are associated with the strongest reductions in recidivism, with an average reduction of 26 to 30%’. (Dowden and Andrews, 2004:204)
- *Europe – small scale studies*
 - Hankinson and Priestley (2010) – OTO – 21 sessions, cogn-behav, problem solving and so on, evaluated longitudinally between 2002-008: ‘very useful’, **13.3%** difference between expected and actual reconviction.
 - Farrall (2002) – longitudinal, 199 subjects, interviews: desistance was related to **overcoming the obstacles**, overcoming the obstacles was associated with prior **motivation and change in the social circumstances** and desistance took place **outside** probation interventions in most cases (like in Leibrich, 1993, New Zealand)
 - McCulloch (2005) – Scotland – solving **welfare needs** associated with desistance (family and practical problems)
 - Sobottka (1990) – Germany – **practical problems** (jobs) and professional relationship
 - Van der Geest – Netherlands – **employment** significantly related to reducing reoffending
 - Werdmolder – Netherlands – regular work, marriage and permanent place of living. Also **discipline, taking up responsibilities and motivation**

Conclusion V.1.

- Interventions based on RNR can reduce significantly reoffending – between 12-30%
- The reduction depends on: age of offenders, criminal history, type of offence, contextual factors (access to social capital, opportunities etc.)
- Professional relationship and practical help seem to be essential !!!

V.2. Who works

- The impact of skills and characteristics
- Canada (Andrews et al., 1979; Bourgon et al., 2012) or in Australia (Trotter, 1990) demonstrated that **use of cognitive-behavioral technics, pro-social modeling, problem solving approach, reinforcement and empathy** have a strong impact on recidivism.
- Europe:
 - Rex (1999) – 60 probationers and 21 PO: PO needs to be experienced, knowledgeable, reasonable and also to display ‘expert qualities’ (371). Other qualities: empathy, capacity to understand, show respect etc.
 - Raynor et al. (2013) – 95 interviews – 2 year follow-up – staff using more skills (**26%**), staff using fewer skills (**58%**)

Conclusion V.2

- ‘who works’ can be a ‘scientific revolution’ that is still expected to change a lot in the way interventions are delivered.
- Importance of training and professional culture !!

VI. Impact on victim interest

- Little research on the impact of probation supervision on victim's interest – severely underresearch
- Some research on restorative justice - RJ(Shapland et al., 2011)
- Some research on victim-offender mediation (VOM) (Hammerschick et al., 1994; Pelikan, 2009; Altweger and Hitzl, 2002 – Austria; Aertsen, 1993, Lemone et al., 2007 – Belgium)
- Conclusions:
 - when victims are **informed and agree** to participate they tend to be happy and very happy with the outcome of VOM
 - One of their main need to **be the heard and recognized**
 - VOM decreases in the fear of crime, gets a better chance that the offender will pay the compensation, generate a redefinition of the crime and a more realistic image of the offender.

General conclusions

Probation can be effective but only in some specific circumstances.

Three pillars:

- 1. Smart and flexible legislation** – to regulate csm for medium and medium-high offenders, to allow for flexibility in case of breach, to promote access to legitimate opportunities (see the access to jobs) and new identities etc.
- 1. Evidence-based practice** – practice based on RNR, desistance and other proved theoretical models. Flexible breaching practices. Engage with practical problems.
- 1. Well trained and motivated staff** – staff trained in RNR, pro-social-modeling, problem solving who are able to develop meaningful relationships with offenders and treat them with empathy and respect.



Thank you!!

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